

Transfer of Development Rights (TDR)



TRANSFERABLE DEVELOPMENT RIGHTS (TDR)
DCR 32



HISTORY OF T.D.R.

- The concept of Transferable Development Right (T.D.R.) was introduced in the City of New York in the Year 1968. By 1970, the said concept was introduced in another 17 Cities in the U.S. And by 1990, 30 countries of the world has excepted the concept as in Draft D.C. Regulations. Today, you can see that large pockets of open land are available in the City of New York and all surrounding Cities.
- Between 1975 and 1978, the Government of Maharashtra and the B.M.C. both have started similar concept known as “Floating F.S.I.” At that time 0.5 floating FSI was against handing over the reservation of 1.0 sq. mtr area, in the Building / Layout over and above the plot potential, as additional F.S.I.
- In 1978, the Government has given a Stay. Thereafter, the TDR concept was introduced In 1989 by B.M.C as in Draft D.C Regulation.
- Under this regulation BMC got public land appx. 117 lac sq. mtr of land between 1991 -2016 (Valued appx _____ cr) free of cost . The said data given below.
 - Implementation of 1st DP / 1967 – 17 %
 - Implementation of 2nd DP / 1991 – 23 %

RECORD OF TDR AS PER DCR 1991 AS ON DATED 16.04.2016

| | No. DRC Issued | Land Acq. Lac / Sq. Mts | Utilized Lac/ Sq. Mts | Balance Available Lac/ Sq. Mts |
|-------------|--|-------------------------------|--------------------------|--------------------------------------|
| Road | 730 | 11.11 | 10.48 | 0.63 Lac sq. Mts |
| Reservation | 911 | 30.65 | 29.96 | 0.69 lac Sq. Mts |
| Slum | 1201 | 76.04 | 73.61 | 2.43 lac Sq. Mts |
| Heritage | 5 | 2100 Sq. Mts | 1300 Sq. Mts | 800 lac Sq. Mts |
| Total | 2847 Nos = i.e. 113 DRC through 25 years | 117.80 lac Sq. Mts | 114.05 | 3.75 Sq. Mts |

Major modification proposed in TDR Policy

| Reg. No. | Provision of DCR/1991 | Provision of DCR/May 2016 | of PEATA suggestion |
|-----------------|---|----------------------------------|----------------------------|
| 32 | (i) TDR can be allowed only on north side | Deleted | |
| | (ii) corridor restriction between S.V. Road/W.Railway/W.E. highway/ LBS Marg / E Railway / E E Highway | Deleted | |
| | (iii) TDR not permitted up to 50m shopping line on certain road | Deleted | |
| | (iv) 80% General TDR & 20% Slum TDR | Deleted | |

| Reg. No. | Provision of DCR/1991 | Provision of DCR/May 2016 | PEATA suggestion |
|----------|--|---------------------------|--|
| 32 | (v) 25% additional TDR for construction of roads | Deleted | Need to reintroduce in lieu of cost of construction. |
| | (vi) TDR in Industrial Zone | Deleted | Need to allow to facilitate Redevelopment of Industrial – building/ Industrial Estate /Small Scale Industry etc. for all small local needs |
| | (vii) TDR will not be permitted where basic zonal F.S.I. is less than 1.00 (One) | Retained | |

| Reg. No. | Provision of DCR/1991 | Provision of DCR/May 2016 | of PEATA suggestion |
|----------|--|---------------------------|---------------------|
| 32 | (x)No TDR in 33 (5) (6) (7) (9) (10) MMRDA, TDA, MHADA , MIDC, NDZ , Heritage Building , CRZ – I-II-III etc. | Retained as it is. | |

➤ New Provision

| | | | |
|--|--|-------|---------|
| | TDR now allowed in entire city of Mumbai by indexing as per R.R. Value | Added | Welcome |
|--|--|-------|---------|

➤ **Table 12 (A)**
Proposed following Categories

| Sr. No. | Instances | Extend of TDR | |
|---------|---|---|---|
| 1(a) | TDR in lieu of surrender of reserved land | BUA as per Zonal FSI + BUA equal to plot area | City – $1.33 + 1 = 2.33$ Sub – $1.0 + 1.0 = 2.0$ |

Condition :-

- Land is not handed over
- FSI benefit not approved on remainder plot
- No monetary compensation is received
- Award is not declared u/s 11 of L.A. Act

➤ PEATA suggestion –

(a) TDR in lieu of surrender of land can be offered min. 3 times instead of 2 times

Reason : -

i) Modified L.A. Act now known as “Right to fair compensation & Transparency in Land Acquisition, Rehabilitation and Resettlement Act 2013.”

The Compensation now are available minimum two times R.R. Land value. The actual value of two times T.D.R. is much less than said compensation /to encourage owner



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| | | | |
|---|--------------|--|--|
| 1 | Heritage TDR | Balance potential of plot i.e. Basic FSI + BUA Equal to Plot area (-) Existing BUA | Loss of FSI due to Restriction as per DCR - 52 |
|---|--------------|--|--|

Example:- In City – plot area 2000 sq.mts.

$$\begin{aligned}
 & 2000 \text{ sq.mts.} \times 1.33 \\
 & \text{(Basic FSI 2660 sq.mts)} \\
 & \quad (+) \\
 & 2000 \text{ (Area of plot)} \\
 & \quad (-) \\
 & 800 \text{ (BUA already consumed)} \\
 & = 3860 \text{ sq.mts.}
 \end{aligned}$$

Condition: -

With the permission of M.C. in consultation with MHCC

| | | | |
|---|--|--|--|
| 2 | Unreserved Land – Accessible Land Not under NDZ or N.A | BUA as per basic Zonal FSI + BUA equal to plot area | City - 1.33 + 1.0 = 2.33 Sub - 1.0 + 1.0 = 2.00 |
|---|--|--|--|

Condition:-

If M.C requires this land for public purpose for POS/SWM (SWM – Solid Waste Management facility) facility/Municipal chowky/PSC ,blocks/(Public service convenience)

| | | | |
|---|------------------------|--------------------------------|--|
| 3 | Land in DP Road in NDZ | BUA equal to 0.8 times Land | |
|---|------------------------|--------------------------------|--|

Suggestion:-

Earlier notification of government permit 1 TDR with prior approval of government . Owners need to encourage hence it should be minimum two times TDR.

The important categories not taken into consideration For TDR

(1) The Land under Nalla of private ownership.

sketch

(2) In – N.A. (Natural Area) = proposed D.P. Road/
Land under Nalla/
Nalla widening

sketch

(3) NDZ = Land under Nalla/
Nalla widening

sketch

(4) TDR for unutilized BUA in lieu of removal of contravening structures in T.P. Scheme and on removal of structure as per DCR 33 (12-A).

(5) No provision for TDR in lieu of designated reservation

(6) TDR in lieu of construction of road with SWD, street light, excluding water line, sewer line etc.

The Land under Nalla of private ownership.



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In - N.A. (Natural Area)

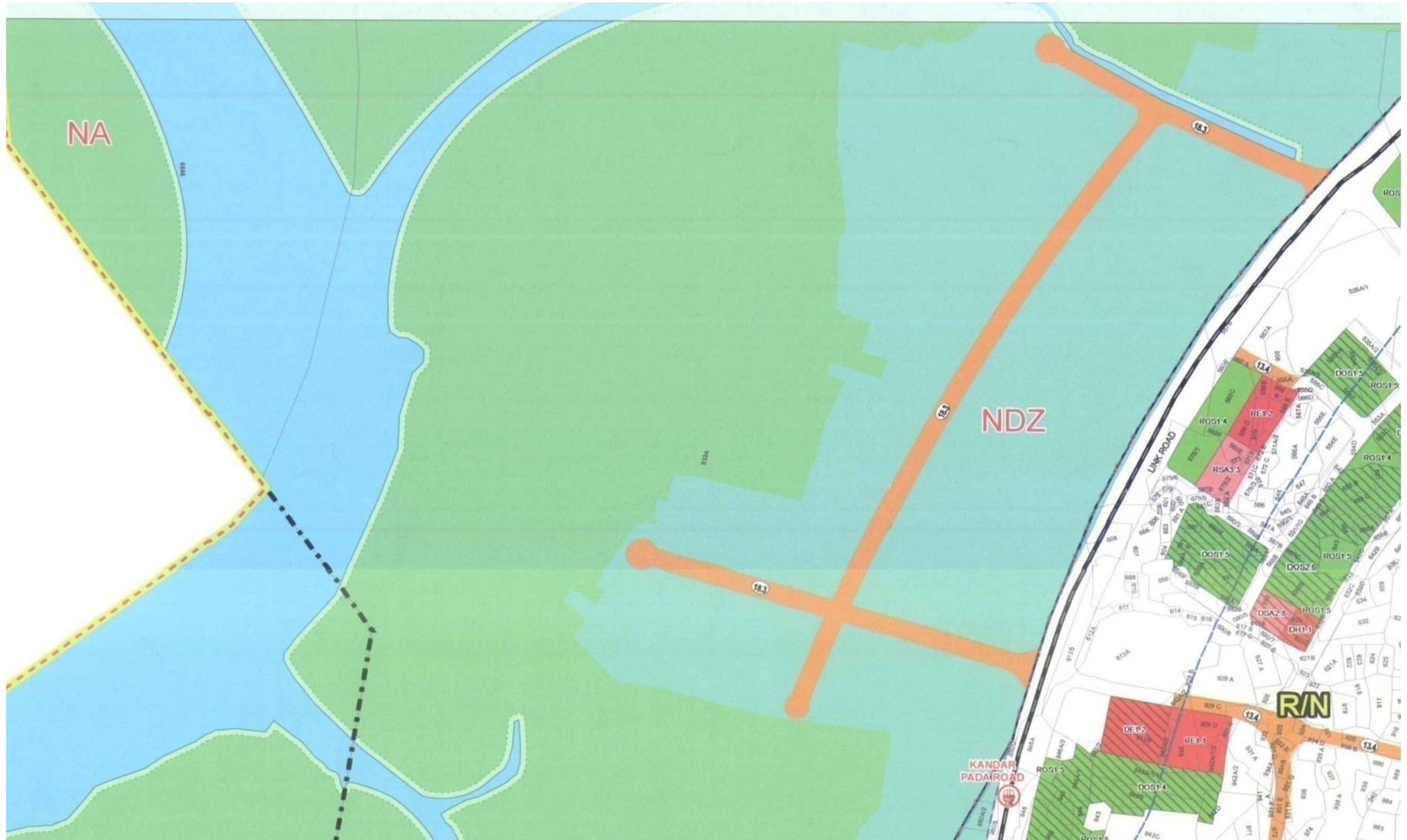


TRANSFERABLE DEVELOPMENT RIGHTS (TDR)
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"Viewing Through"



NDZ



TRANSFERABLE DEVELOPMENT RIGHTS (TDR)
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"Viewing Through"



The important categories not taken into consideration

- (7) D.P. reservation under CRZ /I-II-III subject to Principal clarification from CZMPA if so required.
- (8) Clarification for ongoing development in case where land under reservation is not handed over since this provision of TDR DCR 32 is applicable to only **PROSPECTIVE DEVELOPEMNT** .
- (9) The Validity will not be applicable of DRC.



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The important categories not taken into consideration

(10) The Government clarification dt.8/3/1995 states that The concept of TDR is introduced for speedy implementation of the D.P. & to get the land required for Public Purpose without payment of heavy compensation.

- Hence “TDR shall be granted in all such cases where possession has been delivered by the owner where he has not received any compensation prior to 12 years from 14/12/1989 (i.e. 14/12/1977 onwards) This decision of Govt. shall be final and binding both – BMC & applicant”.
- It can also be concluded that where Award has been declared but money has not received by owner or possession has not been given due to Court matter, title problem, site condition etc. and now comply forward for TDR is eligible for grant of TDR.
- Government clarification u/s 154 dated 03-02-2007 directed no TDR if that if case award is pass and possession is delivered.
- Hence additional clarify in view of above clarification may be added in RD-DCR-2034 for speedy implementation.

Table 12 **Floor Space Indices in Residential, Commercial and Industrial Zones**

| Sr. No. | Areas | Zone | Zonal (Basic) | Additional FSI on payment of Premium | Admissible TDR | Permissible FSI (4+5+6) | T.D.R. in lieu of reserved land |
|---------|-------------|-------------------------|---------------|--------------------------------------|----------------|-------------------------|---------------------------------|
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1 | Island City | Residential/ Commercial | 1.33 | 0.34 | 0.33 | 2.0 | 1.33 +1.0 =2.33 |

Table 12 Floor Space Indices in Residential, Commercial and Industrial Zones

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|---------|---|-------------------------|---------------|---------------------------------------|-----------------|--------------------------|---------------------------------|
| II | Suburbs and Extended Suburbs | | | | | | |
| 1 | (i) The area of BARC from M Ward and the areas comprised in N Ward bounded on of N Ward | Residential/ Commercial | 0.75 | - | - | 0.75 | 0.75+1.0=1.75 |

Table 12 Floor Space Indices in Residential, Commercial and Industrial Zones

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|--------|--|-------------------------|----------------|--------------------------------------|----------------|-------------------------|---------------------------------|
| ii | Areas of the village of Akse, Marve and CRZ affected areas of Erangal in P/North Ward and Gorai and Manori in the R Ward excepting gaothan proper. | Residential/ Commercial | 0.5 | - | - | 0.5 | 0.5 + 1.0 = 1.50 |
| iii | The remaining area in Suburbs & Extended Suburbs | Residential/ Commercial | 1.0 | 0.5 | 0.5 | 2.0 | 1.0 + 1.0 = 2.0 |

Table 12 Floor Space Indices in Residential, Commercial and Industrial Zones

| Sr. No. | Areas | Zone | Zonal (Basic) | Additi onal FSI on Premiu m | Admissi ble TDR | Permiss ible FSI (4+5+6) | T.D.R. in lieu of reserved land |
|---------|------------------------------|------------|----------------|-----------------------------|-----------------|--------------------------|---------------------------------|
| III | Island City | Industrial | 1.0 | - | - | 1.0 | 1.0 + 1.0 = 2.00 |
| IV | Suburbs and Extended Suburbs | Industrial | 1.0 | - | - | 1.0 | 1.0 + 1.0 = 2.00 |

Procedure of generating TDR

– No major changes

Procedure of Transfer/ Utilisation of TDR

- No major of changes



TRANSFERABLE DEVELOPMENT RIGHTS (TDR)
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2. Utilisation of TDR :- As Per RR value

Example:-

$$\text{Formula - TDRr} = \text{TDRo} \times \frac{\text{RRLo}}{\text{RRLr}}$$

Case – 1

TDR originated at Village Borivli - Area = 2000 sq.mts.

The R.R. rate is = Rs.72,700/- Per Sq. Mts. (RRLO) (2016)

TDR to be consumed at Khar (West) where - RRLr = Rs.1,82,000/- Sq. Mts. (2016)

So TDR utilization at Khar (W) will be as follows:-

$$\begin{aligned} \text{TDRr} &= \text{TDRo} \times \frac{\text{RRLo}}{\text{RRLr}} \\ &= 2000 \text{ sq.mts.} \times \frac{72,700/- \text{ Per Sq.Mts}}{1,82,000/- \text{ Per Sq.Mts}} \\ &= 2000 \text{ sq.mts.} \times 0.40 \\ &= 800 \text{ sq.mts.} \end{aligned}$$

Result:- The 2000 sq.mts. TDR generated at Borivali will be equal to Utilisation 800 sq.mts. on receiving plot of Khar West.

2. Utilisation of TDR

Case – 2

Suppose TDR to be utilized at Parel where RRL is 1,45,000/- Sq. Mts (2016)

$$\begin{aligned} \text{TDRr} &= 2000 \text{ sq.mts} \times \frac{72,700/- \text{ Per Sq.Mts}}{1,82,000/- \text{ Per Sq.Mts}} \\ &= 2000 \text{ sq.mts.} \times 0.50 \\ &= 1000 \text{ sq.mts} \end{aligned}$$

Case – 3

Suppose TDR to be utilized at Malabar Hill where RRLr = 3,00,000/- sq.mts. (2016)

$$\begin{aligned} \text{TDRr} &= 2000 \text{ sq.mts.} \times \frac{72,700/- \text{ Per Sq.Mts}}{3,00,000/- \text{ Per Sq.Mts}} \\ &= 2000 \text{ sq.mts.} \times 0.24 \\ &= 484 \text{ sq.mts.} \end{aligned}$$

2. Utilisation of TDR

Case 4 :

Suppose TDR to be utilized at Dahisar (West) where RRLr will be 29,000/- sq.mts. (2016)

$$\begin{aligned} \text{TDRr} &= 2000 \text{ sq.mts.} \times \frac{72,700/- \text{ Per Sq. Mts}}{29,000/- \text{ Per Sq. Mts}} \\ &= 2000 \text{ sq.mts.} \times 2.50 \\ &= 5000 \text{ sq.mts.} \end{aligned}$$

Hence TDR deduction in DRC will be 2000 sq.mts. but utilization will be 5000 sq.mts.

Caution:-

The Income tax authority may value TDR of original land as R.R. = 72,700/- per sq.mt. and calculate value of land is Rs. 2000 sq.mts. x 72,700/- = 14.54 Cr

But actual realistic sale value of TDR is approximate = Rs.4.0 Cr.

Hence, Income Tax authorities may put the original TDR owner in trouble under various provision of Law.

GOVERNMENT OF MAHRASHTRA

No.TPB 4395/98/CE,
Urban Development Deptt.
Mantralaya, Bombay - 32.

Date : 8th March 95

To,
The Commissioner,
Municipal Corporation of Greater Bombay,
BOMBAY

Subject : Clarification under rule 62 (3) of the Development Control Regulations, 1991 for grant of TDR.

Sir,

The Development Control Regulations, 1991 for the area covered by the Municipal Corporation of Greater Bombay were sanctioned by the Government on 19.2.1991. In the said regulations, there is a provision to grant TDR to the owner/developers of the land as provided under Rule 34 of the said regulations.

In order to clarify queries/doubt in the mind of Municipal Officers, series of meetings were held by the Secretary, Urban Development Department with the officers from the Urban Development Department, Government of Maharashtra. Once such meeting was held on 17th June 1994 wherein grant of TDR in cases where not mention of TDR in the award is made was discussed, It was decided in the said meeting that in cases where possession of land has been delivered without having received part or full consumption under either MR&TP Act or private negotiations or under any Act they being in force within 12 years prior to 14.12.1989, TDR be granted. However, it is observed that the Municipal Corporation, in cases where amount of compensation is deposited with the Land Acquisition Officer or in cases where amount of compensation is deposited by the Municipal Corporation with SLAO who in turn has deposited amount in the Court under sec.10 of the Land Acquisition Act, is not granting TDR. The intention of the Government was to grant TDR wherever amount of compensation is not actually received by the owner. This is so because the concept of TDR is introduced for speedy implementation of the Development Plan Proposals as well as to get the land required for public purposes without Municipal Corporation has to pay heavy amount of compensation. In view of this policy of the Government, in cases where amount of compensation be given benefit of availing TDR in lieu of compensation.

It is therefore clarified under the owners vested under regulations 62(3) of the Development Control Regulations that TDR shall be granted, if possession of the land has been delivered by the owner where he has not received part or full compensation and either MR&TP Act, BMC Act, private negotiations or under any time being in force within 12 years prior to 14.12.1998. The decision of the Government shall be final and shall be binding both on BMC - and the applicant parties.

Yours faithfully,
Sd/-

(N. S. Kulkarni)

Under Secretary to Government



TRANSFERABLE DEVELOPMENT RIGHTS (TDR)
DCR 32

"Viewing Through"



Maharashtra Regional & Town
Planning Act, 1966
Directives under section 154
about TDR.

GOVERNMENT OF MAHARASHTRA
Urban Development Department
Mantralaya, Mumbai 400 032.
Dated 3rd February, 2007.

ORDER

No. TPS/Sankirna-06/CR-527/06/UD-13: Whereas the provision of Transferable Development Rights (hereinafter referred to as "the said TDR") has been incorporated in the sanctioned Development Control Regulations (hereinafter referred to as "the said DCR") with a view to reduce the financial burden of acquisition of lands reserved for public purposes in the Development Plan and for early possession of these lands;

And whereas, sanctioned Development Control Regulations of some Municipal Corporations contain the provision of rules regarding the said TDR;

And whereas, sanctioned the said DCR of some Municipal Corporations also have provision to grant the said TDR for the lands acquired either under Maharashtra Regional & Town Planning Act, 1966 (hereinafter referred to as "the said Act"), Bombay Provincial Municipal Corporation Act, Private Negotiation or any other Act and possession of which has already been delivered to the Municipal Corporation;

And whereas, it has come to the notice of Government that the rule regarding the grant of TDR such acquired lands have been misinterpreted and misused;

And whereas, once the possession is delivered after acquisition the rights of the owner are transferred to the Planning Authority and the application by the land owner demanding TDR thereafter can be said to be made without having any rights in the land;

After considering the facts and circumstances referred to above, in exercise of the powers conferred under section 154 of the said Act, Government is pleased to issue directives to all the Municipal Corporations as follows:

DIRECTIONS

All the Municipal Corporations which have the provisions regarding grant of Transferable Development Rights (TDR) for the lands which are acquired under either the MR&TP Act, BPMC Act, Private Negotiation or any other Act shall initiate modification proposal after following procedure laid down under section 37 of the said Act so as to replace the provisions in this regard by new rule as follows:

New Rule:

- 1) Transferable Development Rights (TDR) shall not be permissible once an award has been declared under the acquisition process and or the

- possession has already been delivered to the Municipal Corporation under any Act.
- 2) Municipal Corporation shall publish a notice inviting suggestions and or objections regarding the modification within sixty days from the date of issue of this order.
- 3) After completing the procedure as laid down under section 37(1) of the said Act Municipal Corporation shall submit the said modification proposal to the Government for final sanction.
- 4) Pending the approval to the aforesaid modification the new rule mentioned hereinabove shall come into force with effect from the date of issue of this notification.

By order and in the name of Governor of Maharashtra,

(Nandkishor Patil)

Under Secretary to Government.

Note: This order is also published on government web site at www.urban.maharashtra.gov.in

To

- 1) All Municipal Commissioners, Municipal Corporation of Brihanmumbai, Thane, Kalyan-Dombivali, Navi Mumbai, Ulhasnagar, Bhiwandi, Nijampur, Mira-Bhayander, Nashik, Malegaon, Ahmednagar, Jalgaon, Pimpri-Chinchwad, Dhule, Pune, Sangli Miraj Kupwad, Solapur, Kolhapur, Aurangabad, Nanded Waghala, Amaravati, Akola, Nagpur.
- 2) Managing Director, CIDCO, Nirmal Bhavan, Nariman Point, Mumbai.

Copy forwarded for necessary action please.

- 1) All Divisional Commissioner, Division
- 2) All District Collector,
- 3) Director of Town Planning, Maharashtra State, Pune.
- 4) All Divisional Dy. Director of Town Planning, Divn.
- 5) All Asstt. Director of Town Planning, Branch.
- 6) All Town Planner, Branch
- 7) All Desk Officer, UD-9, UD-11, UD-12, UD-13, UD-30.
- 8) Desk Officer UD-29 please publish this order on govt. web site.
- 9) Select File, UD-11.



TRANSFERABLE DEVELOPMENT RIGHTS (TDR)
DCR 32

"Viewing Through"



DCR
2034

34.3.4

No Development Zone (NDZ)

(NDZ is a zone comprising potentially Developable Land kept reserved for Future Development)

Special Development Zone (SDZ)

| | | Existing Provision | Suggestion | Reason |
|-----|--|------------------------------|------------------------------|---|
| (A) | Extend of Land for development | 4H | 1H | Not possible to get large chunk in kitty |
| | Access road | Two side 18.3 mts. wide Road | One min 9 mts wide road | No logic having two side road |
| | Land earmarked for ROS | 25% | 15% | Sizeable size of plot available to owner for development without deficiency in open space |
| | Land earmarked for construction of AH | 25% | 20% | |
| | Land earmarked for Owners use | 34% | 65% | |
| | If AH not constructed and only Land to be handed over to M.C.G.M. | 0.80 FSI | 1.00 F.S.I. | |
| | Maximum of 50% Cap of BUA in lieu of cost of construction of AH/amenity area | 50% restriction | Cap to be deleted | At least cost to be recovered |
| | BMC payment of development of AH + amenity area | As proposed | To be reduced to maximum 10% | |
| | ROS as per of DCR 27 | 8% on Owner's share | Nil - Not to be insisted | |

Other Development permitted in (NDZ) SDZ

- (i) Institutional
- (ii) Cinema/T.V. production
- (iii) I.T /I.T.E.S.
- (iv) Tourism (TDA)

| | | |
|----------------------|---------------------------|------------------------------|
| • FSI | 0.20 excl. D.P. Road area | 1.0 FSI incl. D.P. Road area |
| • Coverage of plinth | 10% | 30% |

No restriction of area/handing
Over for ROS

- (v) Amusement park
- (vi) Miscellaneous use

| | | |
|-------|-------|------|
| • FSI | 0.025 | 0.50 |
|-------|-------|------|

(vii) Newly added clarification for
Hotels/Motels/All Category

| | | |
|-----------------|---|--------------------------------------|
| Area | - | minimum 2000 sq.mts. |
| FSI | - | 1.0 |
| Plinth Coverage | - | 0.30 |
| Ancillary use | - | 1/3 |
| ROS | - | No land to be handed over for R.O.S. |



- **34.3.5**

Natural Areas (NA) – is an environmentally sensitive not amenable to buildable development

Use permitted -

- Board walks in mangroves, trekking, facility
- As per notification of MOEF.

Suggestion

- It is suggested to grant minimum 2.0 times FSI to these land being of important nature.

OR

To grant minimum 2.0 times TDR

To avoid unauthorized construction on such Land

OR

- FSI to be allowed on adjacent land and N.A. to be handed Over to MCGM Free to cost

Or

- To acquire land as per Act.

BUT

- Restriction of not permitting any
- Developments is not acceptable.



TRANSFERABLE DEVELOPMENT RIGHTS (TDR)

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"Viewing Through"



Thank You



TRANSFERABLE DEVELOPMENT RIGHTS (TDR)
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