

NO OBJECTION CERTIFICATE

No.R/NOC/F-²⁹⁴⁷/10431 /M.B.R.& R. Board-2023
Dated:-

04 DEC 2023

To,

M/s Buildarch Land Developers Pvt. Ltd. (C.A. or P.A. holder),
101, 1st floor, Sankalp S.H.Paralkar Marg,
Shivaji Park, Dadar-West, Mumbai-28.

Sub :- Redevelopment of Property situated at C.S.No.1855 of Mahim Divn, Plot No.146, Shivaji Park Scheme, Situated at Dr. M.B. Raut Road, Shivaji Park, Dadar(W), Mumbai-400 028, known as "Wasudeo Niketan"

- Ref :-
- 1) Notice u/s 79-A of MHAD Act, 1976 bearing issued by Executive Engineer, "G/North" Divn./M.B.R.& R.Board vide No.EE/GN/DE-III/1915/2023 dated 23.05.2023.
 - 2) Your letter dated 19.07.2023
 - 3) The order dated 18.7.2023 passed by Hon'ble High Court in Writ Petition(L) No.33671 of 2022.
 - 4) Jt. Secretary Ministry Of Environment, Forests And Climate Change's letter dated 29.09.2015.
 - 5) Ministry Of Environment, Forests And Climate Change's Notification dated 16.06.2015.
 - 6) Government in Housing Department's GR dated 05.11.2020, and 05.03.2021.
 - 7) Govt. in Urban Development Department's Notification No. TPB-4320/107/CR-72/2020(Part-I)/UD-11 dated 08.07.2021

With reference to the above subject matter and letter under reference "No Objection Certificate" is hereby granted for redevelopment of captioned property with FSI 3.00 or the FSI required for rehabilitation of existing occupiers plus **78%** incentive FSI, whichever is higher, in accordance with the modified D.C. Regulation 33(7) and Appendix - III of this Regulation sanctioned by the Govt. in Urban Development Department Mantralaya vide Notification published in Govt. Gazette dated 25th January 1999, Notification No.TPB 4308/ 3224/ CR-268 /08/UD-11 dated 02nd March 2009 Notification No.TPB 4308/ 3224/CR-268 / 2008/A/UD-11 dated 21 May 2011, No.TPB-4312/CR-5/2012/UD-11, dated 14.08.2013, Notification No.TPB 4317/ 629/CR-118(III)/2017/ EP(DCPR) /UD-11 dated 21 September 2018 & Notification No.TPB 4317/ 629/CR-118(III) / UD-11, dated 12 November 2018, Notification No.TPB-4320/107/CR-72/2020(Part-I)/UD-11 dated 08.07.2021 and Ministry Of Environment, Forests And Climate Change's Notification dated 16.06.2015 on the following terms and conditions. **The percentage of incentive FSI is worked out on the basis of ratio of LR/RC as per prevailing ASR rates as per Clause 5(a) of Notification dated 08.07.2021.**

- 1). All the occupants of the old cess building and non-cess building/ structure (prior to 30.09.1969) as certified by M.B.R.& R. Board shall be re-accommodated in the redeveloped building on ownership basis free of cost. Each occupant shall be

rehabilitated and given the equivalent carpet area as occupied by him for residential purpose in the old building subject to the minimum carpet area of 27.88 sq.mt. (300 sq.ft. fixed exclusive of free of FSI and fungible area) and/or maximum carpet area 120 sq.mt. (1292 sq.ft.). In case of non-residential occupier, the area to be given in the reconstructed building will be equivalent to the area occupied in the old building. Provided that if carpet area for residential purpose exceeds 120.00 sq.mt. (1292 sq.ft.) the cost of construction shall be paid by tenant/ occupant to the developer. The cost of construction shall be as per Ready Reckoner rate of that year. However, the carpet area exceeding 120 sq.mt. (1292 sq.ft.) shall be considered for rehab FSI but shall not be considered for incentive FSI. In addition to above each occupants shall be eligible for additional rehab carpet area as provided in Clause 5(a) & 5(b) of modified DCR 33(7) dated 21.09.2018, 12.11.2018 **and 08.07.2021**. Provided further the each eligible Residential cum Commercial occupants shall be entitled to a tenement of minimum carpet area of 27.88 sq.mt. (300 Sq.ft.). Accordingly the plans be got approved from M.C.G.M. as per the provisions of the Notifications dated 21.09.2018, 12.11.2018 & 08.07.2021.

- 2) The tenements in the reconstructed building shall be allotted by the landlords / occupants' co-operative housing society to the occupiers as per the list certified by the Mumbai Building Repairs & Reconstruction Board.
- 3) In respect of any additional carpet area over & above entitled rehab area if any provided to rehab tenants / occupants, then in that case, the Stamp Duty, registration fees & all other taxes shall have to be paid as per the prevailing rates of the Govt. by the concerned tenants / occupants.
- 4) The Transfer of Tenancy shall be governed as per Clause 18 of Appendix-III under DCR 33(7) which is also confirmed by Hon.'ble High Court Orders dated 07.07.2015 in Writ Petition No.1482 of 2015 & Writ Petition No.186 of 2014 and also confirmed by Government in Housing Department vide GR dated 02.03.2017.
- 5) The NOC holder will have to pay an expenditure, amounting to ₹2,32,860/- incurred by the Board towards structural repairs/propping / demolition, processing of reconstruction scheme/land acquisition etc. at the office of the Asstt. Accounts Officer (Zone-IV) /M.B.R.& R. Board & produce certified xerox copy of receipt of payment to this office before applying for grant of NOC of M.B.R.& R. Board for obtaining Occupation Certificate from MCGM. In future, if additional expenditure over & above ₹2,32,860/- found incurred by the Board, the same will also have to repaid to the Board as & when Board demands.
- 6) The plans of the proposed building shall be submitted to MCGM within six months from the date of issue of this NOC positively for its approval, failing which right is reserved by this office to cancel the NOC. The carpet area certified by M.B.R.& R. Board of each residential/ non-residential occupant shall be clearly shown on the building plan submitted to the Corporation.
- 7) The NOC holder will have to communicate the actual date of commencement of work and shall submit progress report of the redevelopment scheme every 3 months, till completion of scheme to the Executive Engineer, "G/North" Divn/ M.B.R.& R. Board under intimation to this office. The Executive Engineer, "G/North" Divn./ M.B.R.& R. Board shall supervise the construction work for rehab portion of existing tenants & surplus tenement made available to the Board as per the norms of building bye laws & DCR 33(7). He shall also ensure that the condition No.6 should be strictly adhered to.

- 8) Recovery of cess shall be discontinued from the date of issue of Commencement Certificate by MCGM. The NOC holder will have to furnish the certificate from the concerned Officer of MCGM to the effect that the repair cess is paid upto that date, before demanding occupation certificate to the newly constructed building.
- 9) During the period of reconstruction, (i.e. till physically rehabilitating tenants / occupants), it is obligatory and binding on the part of the NOC holder to provide temporary transit accommodation to the occupiers of old building. Such Transit Camps if constructed with permission of MCGM on the same plot should be demolished within one month from the date of Occupation Certificate granted by M.C.G.M. for the reconstructed building.
- 10) If NOC holder fails to start the redevelopment work within 12 months from the date of issue of NOC, the right to cancel the NOC is reserved by M.B.R.& R. Board. However, M.B.R.& R. Board may grant extension on merit provided that NOC holder applies to M.B.R.& R. Board with reasoned justification.
- 11) (a) As per the prescribed percentage of the tentative surplus Built up Area as provided in the Table 3 & 4 of Schedule- III of the MHAD Act 1976, an area admeasuring **36.42m²** if the new building is reconstructed for residential or mix use as per the Provisions of DCR 33(7), Clause 9, shall be made available to the M.B.R.& R. Board for accommodating the occupants in transit camps of cessed buildings which cannot be reconstructed, **free of cost.** Provided that the area equivalent to the market value (as per ASR of that year) of area admissible as per the prescribed percentage of BUA to MHADA can be made available within the same or adjoining municipal ward of MCGM as per Clause 4 of DCR 33(7).
- (b) As far as possible provision of tenements of 300.00sq.ft. to 350.00sq.ft. carpet area shall be made in the proposed building plans for handing over to this office on account of surplus Built Up Area to be surrendered to the Board.
- (c) The exact surplus built up area if any as prescribed in the IIIrd Schedule of MHAD Act-1976, shall be communicated to you after receipt of the plans duly approved by MCGM and the said surplus area shall be surrendered to M.B.R.& R. Board as per provisions of DCR 33(7) as amended from time to time.
- (d) The M.B.R.& R. Board reserves the right to modify the exact Surplus area as communicated above if the NOC holder amends the plan afterwards.
- (e) After communicating the exact surplus area to be surrendered to M.B.R.& R. Board as mentioned above 11(c), the NOC holder shall execute & register the agreement for surrendering the said surplus area to M.B.R.& R. Board within 30 days from the receipt of letter communicating the same and prior to issue of M.B.R.& R. Board's NOC for grant of obtaining Commencement Certificate above plinth from MCGM.
- 12) The reconstruction of new building for the rehabilitation of old occupiers shall be completed within a period of 36 months from the date of issue of Commencement Certificate from MCGM, extension to the above time limit may be granted depending on the merits of the case and on payment of an extension fee prevailing at that time or as may be decided by M.B.R.& R. Board from time to time.
- 13) After issue of NOC, during course of demolition of old buildings & during course of redevelopment work if any mishap/collapse occurs, the entire responsibility of the same will lie with NOC holder. However all the necessary precautionary

measures shall be under taken to avoid mishap/ collapse and the work of demolition & redevelopment shall be carried out under strict supervision of Architect and R.C.C. Consultant.

- 14) After issue of NOC & till demolition of old cessed building, it shall be sole responsibility of the NOC holder to carry out repairs to the old cess building at his/her risk and cost. Further, M.B.R.& R. Board reserve the rights to direct the NOC holder to carry out necessary repairs as deemed fit by M.B.R.& R. Board.
- 15) The proposal of issue of NOC for obtaining occupation certificate from MCGM to the newly constructed building will have to be submitted in the office of the Executive Engineer, "G/North" Divn/M.B.R.& R. Board alongwith the following documents / information.
 - a) Copy of approved plan alongwith copy of IOD & C.C. from M.C.G.M. The name of the occupiers against concerned tenements proposed to be allotted in new building & due surplus area tenements should be clearly shown in the plan alongwith carpet area to be given. Matching statement i.e. Name of occupant, Room No., existing area & proposed allotted area.
 - b) The concerned Architect & NOC Holder/Developer should give certificate that the newly constructed building is in accordance with the plans approved by MCGM & the tenements constructed for rehabilitation of the occupiers of cessed building are as per the areas and amenities as prescribed in the agreement executed with the occupiers.
 - c) Certified copies of agreements executed & duly registered between the occupiers & NOC Holder/Developer.
 - d) Photographs of the newly constructed building taken from various angles.
- 16) NOC for full and final Occupation Certificate for any free sale building/ component will be given only after all the old occupants, as certified by the Executive Engineer, "G/North" Divn/M.B.R.& R. Board including those who may be staying in the Board's transit camps (provided No Dues Certificate to the effect is granted by Estate Manager (TC)/M.B.R.& R. Board), have been re-housed in the newly constructed building(s) by complying with the requirements as stated in Sr. No. 15 (a) to (d) above and only after surrendering surplus built-up area as per IIIrd Schedule of MH&AD Act, 1976, if any as specified in 11 (a) to (e).
- 17) If it is subsequently found that the documents/information submitted with your application for NOC are incorrect or forged, mis-leading then this NOC will be cancelled and NOC holder will be held responsible for the consequences/losses, if any thereof if arises in future. If authenticity of no. of occupants prior to 13.06.1996 as per list found fake or bogus the surplus area will be worked out accordingly & the same will be binding on NOC holder. In such cases the NOC holder have to make good the losses if any to the Board.
- 18) In case of mix of the structure i.e. cessed & non cessed structure and if the area of non cessed structure existing prior to 30.09.1969, area of land component under non-cessed structure works out upto a limit of 45% of plot area, then FSI shall be considered on total plot area. If this area exceeds 45% of the total area, then area above 45% shall be deducted from plot area. FSI for deducted area shall be as per Regulation No.30 and the FSI for the remaining plot area shall be as per 33(7). Provision of clause No.2 of amended DCR 33(7) shall be made applicable to non-cessed occupier.

Provided that the 45% land component of non-cessed structures will be eligible for FSI as per Regulation 33(7) only.

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- 19) Necessary trial pits/trial bores shall be taken at the captioned property to ascertain the bearing capacity of the soil and foundation shall be designed accordingly. R.C.C. design of the new proposed building shall be prepared taking into account the aspect of Mumbai Seismic Zone and same should be got approved from R.C.C. consultant/structural Engineer, registered with MCGM.
- 20) As far as possible separate building for rehabilitation of existing tenants & for the purpose of free sale, taking into account the plot area of the captioned property shall be constructed. The NOC holder has to form the independent Co.Op.Hsg. Society for rehab building of tenants as well as for free sale component after giving possession to the existing tenants & prospective buyers.
- 21) If any tenant/occupant of existing building is staying in M.B.R.& R. Board's Transit Camp then it shall be binding on the NOC holder to shift them from Transit Camp and provide them suitable alternate accommodation from the date of issue of NOC till rehabilitating them in newly constructed building at his risk and cost. The rent for tenant / occupant staying in Board's Transit Camp shall be paid as per the prevailing policy of MHADA from the date of NOC till occupant is rehabilitated in the new redeveloped building.
- 22) The NOC holder shall execute, enter into & duly registered the agreement for Permanent Alternative Accommodation with all the tenants / occupants certified by M.B.R.& R. Board on the terms & conditions as agreed by & between NOC holder & tenants / occupants. The copy of such registered Permanent Alternative Accommodation agreements shall be submitted to M.B.R.& R. Board before applying for grant of NOC from M.B.R.& R. Board for obtaining Commencement Certificate above plinth from MCGM.
- 23) If the NOC holder proposes to construct separate buildings for rehab and free sale, then the Commencement Certificate for free sale buildings shall be issued only after the work of all rehab buildings reached above plinth.
- 24) A corpus fund is to be created by the developer which will take care of the maintenance of the new building. The amount of Corpus fund to be provided to the eligible occupants by the developer is being decided by MHADA. However till the same is decided developer shall create the amount of corpus fund as amicably decided between the occupants and developer.
- 25) The NOC holder/ MCGM shall abide by and act as per the guidelines issued by Maharashtra Coastal Zone Management Authority (MCZMA) dated 02.07.2011 for redevelopment of cessed or dilapidated or unsafe buildings in CRZ-II area of Greater Mumbai which are as under:
 - (i) Application should be submitted through concerned planning authority as illustrated above.
 - (ii) Documents required as per para4.2(i) of CRZ Notification, 2011.
 - (iii) Identification of cessed or dilapidated or unsafe buildings in CRZ-II areas of Greater Mumbai as on 06.01.2011 (Data is to be provided by the concerned planning authority).
 - (iv) Areas statement with FSI calculations, FSI will be in accordance with local Town and country planning regulation as on 06.01.2011.
 - (v) Undertaking from project proponent to get covered under RTI Act, 2005 and Comptroller and Auditor General.
 - (vi) Report of the Public Consultation with legally entitled tenants of the dilapidated or cessed or unsafe buildings.
 - (vii) List of eligible tenants.
 - (viii) Certificate indicating cessed/ dilapidated/ unsafe buildings.

- 26) MCGM shall approve the building plans or issue IOD under revised CRZ guidelines and NOC holder shall obtain NOC from Maharashtra Coastal Zone Management Authority (MCZMA) prior to demolition of existing cess structure and furnish copy of same to this office.
- 27) **The NOC holder will have to engage experienced contractor to carry out the construction work of new building.**
- 28) **The NOC holder after obtaining IOD and before demolition of old cess building will have to deposit 10% amount of rehab component construction cost worked out as per prevailing construction cost mentioned in Ready Reckoner. The said 10% amount shall be in the form of Bank Guarantee or Fix Deposit Receipt of any Nationalized Bank for a period of 5 years in the name of Chief Officer / M.B.R.& R. Board and same shall be deposited in the office of Chief Account Officer/ M.B.R.& R. Board and receipt of same shall be submitted to the office of Resident Executive Engineer/MBRRB. It will be responsibility of the NOC holder to renew the Bank Guarantee or Fix Deposit Receipt one month prior to expiry date. If the NOC holder fails to do so then the amount of the Bank Guarantee or Fix Deposit Receipt will be deposited in the account of M.B.R.& R. Board. If the NOC holder fails to renew Bank Guarantee or Fix Deposit Receipt till the date of expiry then M.B.R.& R. Board will charge penalty of 12% interest per year for first 3 months and thereafter will charge 18% interest per year till completion of project. The Bank Guarantee or Fix Deposit Receipt shall be released with interest to the NOC holder by Chief Officer / M.B.R.& R. Board after completion of rehab component or completion of project.**

The MCGM shall not grant Commencement Certificate till said condition is fulfilled by NOC holder and letter to that effect is issued by M.B.R.& R. Board.

- 29) **The NOC holder after obtaining approval to IOD/plans from MCGM and before demolition the old cess building / non-cess building shall open Escrow Account and deposit amount equivalent to 12 months rent to be given to all the tenants/occupants for temporary alternative accommodation prior to obtaining Commencement Certificate from MCGM. Further 12 months rent shall be deposited in Escrow Account 02 months prior to expiry of 12 months. The said procedure shall be continued till the tenants/occupants are rehabilitated in the newly constructed building. The NOC holder shall submit the proof of depositing the rent amount in Escrow Account every year to M.B.R.& R. Board and MCGM. The concerned Executive Engineer /M.B.R.& R. Board shall ensure that the NOC holder has deposited the rent amount in Escrow Account every year till all the tenants / occupants are rehabilitated.**
- 30) **In order to ensure the progress of scheme and quality of construction of rehab tenements a Committee of following officials and persons is formed as under:**
- i) Concerned Executive Engineer /M.B.R.& R. Board.**
 - ii) Concerned Deputy Engineer/ M.B.R.& R. Board.**
 - iii) Any 03 certified tenants/occupants of old cess/non-cess building suggested by majority of the certified tenants / occupants.**
 - iv) Architect appointed by the NOC holder.**

The above said Committee shall inspect the site and verify the progress of scheme as well as quality of construction, once in every 03 months. The concerned Executive Engineer/M.B.R.& R. Board shall submit the inspection report within 15 days from the date of inspection to this office.

- 31) **In order to complete the redevelopment project in time and to avoid dispute between tenants / occupants and Landlord / NOC Holder/ Developer with regard to Redevelopment as well as rent for temporary alternative**

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accommodation. This office reserves right to incorporate additional conditions as and when required.

- 32) As per the provisions of amended DCR 33(7) dated 21.09.2018, 12.11.2018 and **08.07.2021** M.B.R.& R. Board has considered total rehab carpet area of each occupant while calculating surplus area required to be surrendered to M.B.R.& R. Board as per 3rd schedule of MHAD Act. The total rehab carpet area is including of existing carpet area + proportionate common carpet area + balcony carpet area (wherever existing in old building). The NOC holder is required to get the plans of proposed new building approved from MCGM accordingly.
- 33) As per D.P. Remark the captioned property abuts the proposed Railway track Alignment or within influence Zone of station areas thereof. Hence remarks from concerned Railway Authority shall be obtained before commencement of redevelopment.
- 34) The captioned property belongs to MCGM and given on lease hence applicant shall have to obtain necessary permission for redevelopment from concerned Department of MCGM.
- 35) The applicant is required to update Property Card in their name and submit the copy of same to M.B.R.& R. Board..

Encl.: List of certified tenants.

(Arun Dongre)

Chief Officer,

M.B.R.&R. Board, Mumbai.

Copy submitted to Hon. Principal Secretary/Housing Department, 3rd floor Mantralaya, Mumbai-400 032, for favour of information please.

Copy forwarded to the Executive Engineer, Building Proposals (City-III), New Building, C.S.No.355, Bhagavan Valmiki Chowk, Opp. Hanuman Temple, Vidhyalankar Marg, Antop Hill, Wadala (E), Mumbai-400 037 for information.

Full occupation certificate for the free sale building will not be granted to the NOC holder under any circumstances till he rehouses all the occupants of old cessed buildings and surplus area if any is surrendered to Board. Further bearing capacity of the soil and R.C.C. design shall also be ascertained prior to issue of commencement certificate for the redevelopment work.

Commencement Certificate upto to plinth shall not be issued unless Condition No.28 & 29 are complied and a letter to that effect is issued by MHADA.

Further Commencement Certificate shall not be issued unless Condition No.11 & 22 are complied and a letter to that effect is issued by MHADA.

Copy forwarded to the Asstt. Assessor & Collector, "G/North" Ward, MCGM G-North Ward Office Building, Room No.27, Harishchandra Yelve Marg, off Woollen Mill Lane, Behind Plaza Cinema, Dadar (W), Mumbai- 400 028, for information.

You are requested to recover the upto-date repair cess in respect of the captioned property from the NOC holder and inform this office accordingly. However recovery of cess shall be discontinued from the date of issue of Commencement Certificate by MCGM as per the letter of Government in Housing Department dated 19.05.2011.

Copy forwarded to the -

- 1) Deputy Chief Engineer, (Zone-IV) /M.B.R.& R. Board.
- 2) Executive Engineer "G/North" Division, M.B.R.& R. Board.

He is directed to inform A.A.O. (Zone-IV) immediately the details of expenditure incurred by Board, alongwith the details such as agreement no., year of repairs, name of agency, phase of repairs etc. within 7 days positively. Further he is directed to go through the guidelines issued by this office under circular No.2160 dated 04.07.2002 & circular dated 13.05.2003 issued by the Hon'ble Vice President & CEO/A & take necessary action as prescribed in the said circular in time. He should also watch the progress of the work from time to time and submit monthly report to this office. He should see that all the conditions stipulated in NOC letter are complied in the NOC under & timely action be taken & report to this office and B.M.C. to that effect.

Further as per Government Notification No. TPB-4320/107/CR-72/2020 (Part-I)/UD-11 dated 08.07.2021, the non cesses structures existing prior to 30.09.1969 up to a limit of 45% of plot area is to be considered for computation of FSI on total plot area. You are therefore directed to verify / certify area and details of non-cess structures & furnish report through Dy. Chief Engineer (Zone-IV)/M.B.R.& R. Board.

Also intimate this office as to whether any draft scheme of reconstruction/ land acquisition proceeding in respect of the said property has been initiated by the Board or otherwise.

3) Assistant Accounts Officer (Zone-IV) M.B.R.& R. Board.

You are directed to accept an amount of ₹2,32,860/- from the NOC Holder & intimate this office the amount of expenditure incurred by Board over & above ₹2,32,860/- towards structural repairs, propping, demolition, framing of reconstruction scheme/land acquisition etc. in consultation with the concerned Executive Engineer of Repair Division within 15 days positively otherwise it will be presumed that no any expenditure over & above ₹2,32,860/- is incurred by Board on the captioned property and he will be held responsible for the consequences thereof, if arises in future.

4) Deputy Chief Officer (TC)/M.B.R.& R. Board.

You are directed to intimate this office as to whether the Board has given transit accommodation to the tenants of the property mentioned under subject or otherwise. If any tenant /occupant is found staying in the Board's transit camp, then you shall inform the NOC holder to shift him from the Boards Transit Camp immediately, since it is binding on NOC holder to provide suitable alternate accommodation to the tenant /occupant from the date of issue of NOC till his rehabilitation in newly constructed building. If the information is not received by this office within 15 days positively, it will be presumed that none of the tenant/occupant of the captioned property has been provided with temporary accommodation in Boards transit camp and you will be held responsible for the consequences thereof, if arises in future.

Encl.: List of certified tenants.

5) Deputy Chief Officer (RT)/M.B.R.& R. Board.

You are directed to intimate this office immediately as to whether the Board has given any permanent alternate accommodation to the tenants /occupants of the captioned property in the newly reconstructed building by the Board or otherwise. If the information is not received by this office within 15 days positively, it will be presumed that none of the tenant/ occupant of the captioned property has been provided with permanent accommodation in the newly reconstructed building by Board and he will be held responsible for the consequences thereof, if arises in future.

Encl.: List of certified tenants.

6) Copy to Resident Executive Engineer/M.B.R.& R. Board, for information (Computer Clerk).

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(Arun Dongre)
Chief Officer,

M.B.R.&R.Board, Mumbai.