MPD Review 2021

135

OFFICE OF UDM
Dy. No. 1104
Date 21/3/12

PS to UDM

Dated:- 13.03.2012

To
Shri Kamal Nath, Hon'ble Minister,
Ministry of Housing & Urban Development,
South Block,
New Delhi-110001

SUB:- SUGGESTIONS AND OBJECTIONS TO MPD-2021 TO BE CONSIDERED DURING REVIEW OF MPD-2021 WHICH IS UNDERGOING.

Dy. Dir. I (Plg.) MPPR-2021
DDA Vikas Minar N. Delhi
Dy. No. 1519
Dt. 2-4-12

OFFICE OF THE DIR (Plg.)
MPR/TC, D.D.A. N. DELHI-2
Dy.No. ~~1950~~ 1940
Dated 28-03-12

Respected Sir,

I would like to bring to your kind notice that there are teething problems for the citizens to get the benefits under the Master Plan-2021 and Bureaucrats, Engineers and Planners will not allow the Government to make changes in MPD-2021, which are in the interest of General Public at large.

General public is facing lot of difficulties, few of which are as under:-

"Secy. (UD)"

i) **Sub-division of plot**

Sub-division of plot be permitted in whole of Delhi including colonies carved out by Ministry of Rehabilitation, Private Builders or any other Govt. Agencies like L & DO, DDA, MCD etc and give the benefit of coverage & FAR to the plots so formed after sub-division, as was the practice and policy of MCD earlier.

ii) **Amalgamation of plot**

Amalgamation of plots be permitted in whole of Delhi including colonies carved out by Ministry of Rehabilitation, Private Builders or any other Govt. Agencies like L & DO, DDA, MCD etc and the coverage & FAR be permitted to the plots so achieved.

iii) **Villages**

DDA & MIUA annual.

Although Govt. of India has issued Notification dt. 17.01.2011 thereby allowing sub-division in the special area, un-authorised regularized colonies, villages etc., thereby permitting the sub-division, but coverage has to be proportionate to the plot.

Now there is a Circular issued by MCD dt. 28.09.2011 in pursuance to Notification dt. 17.01.2011. All officials are creating problems after problems. They had framed policy that Affidavits, Undertakings, I-Bond be taken from the owners duly approved by Revenue Authorities that it is part of Lal Dora.

First of all the question arise as to how Authorities will determine that there is sub-division of plot, specially when in Villages there is no layout plan prepared by DDA or MCD at any point of time. It is only Regularization Plan when the village was developed. But that plan cannot be termed as layout plan because said plan was merely prepared on the basis of existing structures. Whereever the officials found the open land, the same was earmarked by them for public utility like park, tot-lots, hospital, dispensary, primary school etc. without caring that these plots are owned by Private/Individual and have not been acquired by Authorities in exercise of powers conferred under Land Acquisition act, so all those owners whose plot fall in those earmarked places are finding it difficult in raising construction. So, this anomaly has to be removed.

This anomaly can be removed by stating that whosoever is the owner of plot can get the plan sanctioned for construction even if it is earmarked for public utility in Regularization Plan prepared by the Authorities. This way, construction will be raised in accordance with law

and discretion of concerned Engineers will be curtailed considerably and corruption will be eradicated, which is now a bane or cancer on the society.

iv) <u>Sub-division of Village Property</u>

Almost in all Villages in Delhi, people started living in abadi area way back when Delhi was established. In 1908, settlement of village boundaries had been made by Britishers thereby making a plan with red circle delineating that inside the circle is Village Abadi and Red Circle is Phirni.

After freedom, East Punjab Holdings (Fragmentation & Amalgamation) Act, 1948 made applicable to Delhi as well. In exercise of provisions of the Act in some of the Villages in Delhi, the boundaries of Village had also been extended and Abadi living therein are stated to be living in "Ëxtended Abadi Area". Even the Village boundaries had also been extended in exercise of powers conferred under Delhi Land Reform Act, also known as Ëxtended Village Abadi".

There was a Notification dt. 24.08.1963 issued by MCD that Building Regulations are not applicable in rural area and forming part of old village abadi within "Phirni". The question came up for consideration before High Court of Delhi, whether this Notification is applicable to "Extended Abadi Area" or not and the Hon'ble High Court in case titled as "MCD Vs. Dalmia Dairy Industries" had held that this Notification is equally applicable to "Extended Abadi Area" as well.

In Village, Khasra number for whole of village is one. Inhabitants of village are owners by virtue of possession only of respective land in their occupation like 100 sq.yds, 200 sq.yds & 300 sq.yds. etc. They started occupying their respective land much before partition of country in 1947. D.D. Act, D.M.C. Act came into force in 1957. MPD-1962 came

into force w.e.f. 01.09.1962. Prior to that when there is no layout plan how can the Authorities say that plot has been sub-divided.

The officials of MCD & DDA are under misconception that Village Abadi settled in Khasra being occupied by the various occupants means that they have sub-divided whole of village khasra, as such they will give the benefit of sub-division, but they will give coverage after determining the total area of village and then calculating the whole coverage and then proportionately they will give to the occupants.

This approach of officials of MCD is ill-founded. When there is no benchmark/layout plan of village, clearly showing the respective identified plot having definite boundaries and prior to 1957, there was no question of sub-division of total land of Village. The provisions of sub-division are not applicable in built up properties. Section 312 & 313 of D.M.C. Act or layout plan's object is to provide access to each individual land having definite boundaries through public road. This needs clarification and the same shall be as under:-

"*The sub-division of plot is accepted in old Village Abadi or Extended Abadi or in the Colonies established on the land acquired by Government and regularized later on. But size of plot shall be as per the size in occupation of each individual based upon Affidavits, Indemnity Bond and Undertakings stating therein that they are owners of property having this area and definite boundaries and there is no sub-division after 08.02.2007*". The approach taken by MCD in their Circular so far as Affidavits etc is concerned, the same is correct, but, they faltered in giving benefit of coverage & FAR and calculating the permissible ground coverage and FAR. Same has to be based upon individual plot size; rather

than their contention of area to be determined in respect of whole village. So, this confusion has to be removed from the mind of officials of MCD. Only because of this confusion created by the officials of MCD, people living in villages are not getting benefit granted by Government to citizens.

v) **Local Shopping Centres**

The officials of DDA had created anomalous situation in respect of properties situated in the mix-land use markets like Defence Colony, Lajpat Nagar, Kailash Colony, Greater Kailash, Green Park, Patel Nagar, Rajori Garden etc. All these areas were established prior to 1962. In all these area as well as other area in Delhi, there are specific areas earmarked for shop cum residence.

All the owners of respective properties are using the Ground Floor for shops and upper floors for residence. **As per the provisions of MPD, those were granted coverages as was available to the residential properties. The same continued till 1972.**

DDA and MCD had prepared Standard Plans of their own in 1972 onwards, without inviting objection and without caring for respective coverages. Those Standard Plans were prepared on the basis of 80% Ground Coverage on Ground Floor and 80% on above floor and total 160 FAR, as at that time on Ground Floor, only First Floor and Barsati was permitted, that too to the extent of 25% of ground coverage. **But, when the ground coverage was enhanced in commercial area, then barsati was not designed in standard plan. Mezzanine was free of FAR.**

Thereafter Building Byelaws were framed in 1983. But at that time, no coverage was enhanced. **In MPD 2001, the permissible ground coverage was enhanced with FAR, but no standard design was**

changed. MPD 2001 was amended on 23.07.1998 thereby enhancing the ground coverage & FAR, but no standard plan has been changed. Standard plan remained of 160 FAR i.e. Ground Floor 80% and First Floor 80%, whereas the Authorities were sanctioning the building plans in those areas thereby giving benefit of residential coverages. Building were constructed accordingly.

Thereafter in Zonal Development Plan, DDA of their own declared these markets as Local Shopping Complex (LSC). Even after declaration in Zonal Plan, Authorities were sanctioning the building plans giving the benefit of Master Plan, residential norms.

MPD 2001 was amended on 22.09.2006 thereby giving substantial benefit of ground coverage and FAR, but still no standard plan has been changed and it remained for 160 FAR. MPD 2021 came into force w.e.f. 07.02.2007.

Problem started from 07.02.2007 onward, when officials of DDA & MCD started treating the individual properties situated in these market areas to be plot of Local Shopping Centre, as such to follow Regulation 5 of MPD 2021 i.e. 40% Permissible Ground Coverage and 100 FAR.

The officials have failed to appreciate that under Regulation 5, minimum plot size to be used for Local Shopping Centre is 0.3 Hectare i.e. around 3000 sq.mtr. Ground coverage of 3000 sq.mtr, residential plot is 40% and FAR 120 whereas ground coverage for 3000 sq.mtr of LSC is 40% & 100%.

The problem is on smaller size plots. i.e. in 100 sq.mtr plot or lesser and where the permissible ground coverage is 90% and permissible FAR is 350.

Upto 100 sq.mtr	90%	350
100 to 250 sq.mtr	75%	300
250-750 sq.mtr	75%	225

When in residential area, above noted coverages were permitted. Prior to MPD 2021, the building plans were sanctioned for residential coverages. Now all of a sudden, merely DDA has declared the market as Local Shopping Centre, it cannot deprive the benefit being drawn earlier, otherwise there will not be any symmetry.

The adjoining property will be enjoying 350 FAR, all other properties in the market will be enjoying 350 FAR, but the person who want to erect new building, will have to provide parking, basement will not be permitted and have to get lesser coverage. This is creating lot of problems. This concept of LSC in the existing market is also based on misconceived notions.

Local Shopping Centre is a scheme to be formulated and in the scheme, requisite coverages are apportioned and accordingly plots were auctioned by concerned Authorities. But already existing markets have to be on the basis of residential character norms.

This is encouraging corruption as lot of discretion is available with the concerned Engineers, where to take action or not.

This anomaly has to be removed, specially when the person whose property fall on notified road is getting benefit of residential coverage norms and whereas the person who was in the established market area, later on converted into Local Shopping Centre by DDA themselves, earlier getting benefit of coverages of residential character, but now being deprived, **so this anomaly has to be removed thereby providing specific**

provision in Regulation 5 i.e. All markets which are earlier shop cum residence, converted into Local Shopping Centres in Zonal Development Plan shall be entitled for the benefit of residential development control norms i.e. permissible ground coverage and FAR shall be as that of residential character and basement shall be free of FAR, if used for the services/storage. Otherwise, it will be counted towards FAR or Standard Plans be modified with Residential Coverages and Basement with the remarks that will automatically deemed modified as and when coverages are enhanced as per M.P.D from time to time. This way, lot of problems of citizens can be removed by the Government.

vi) **Regularization**

In the Regulation 4.4.3, Notes-4, it is provided that 100% Ground Coverage with 350 FAR is permitted for construction existing on 22.09.2006 in respect of plot size between 100 to 175 sq.mtrs.

Problem:- Problem for the citizen arises, when the plot size is more than 175 sq.mtr, but, the permissible Ground Coverage for 175 sq.mtrs and 100% with 350 FAR is more than the coveages and FAR permitted for plots more than 175 sq.mtrs.

Although in Terms & Condition (ii), it is provided that the total coverages & FAR permissible in any lot in a category shall not be less than that permissible and available to the largest plot in the next lower category.

Suggestion:- So, it needs clarification that the terms & conditions (ii) is also applicable to regularization of plots even more than 175 sq.mtr,but, will be entitled for the coverages & FAR of 175 sq.mtrs.

In Regulation 15.9 (iii), it is provided that No Modification to the building for using residential premises for non-residential activities, under

mixed use policy shall be permitted unless allottee or owner obtained sanction of revised building plans and paid necessary fees and charges.

Problem:- Citizens are facing problems, as the modifications to the building has already been done or required to be done for non-residential purposes. The Authorities raises objections one after the other while pursuing for revised plan. Thus, citizens are not getting the benefit.

Suggestions:- Instead of revised sanction of building plans, it be replaced with the following:-

The owner/allottee/occupants can get their structure existing regularized on payment of fee, on the basis of coverage and FAR permissible under residential norms.

If the construction is proposed to be carried out, then the same be also regularized by showing it in red colour i.e. construction proposed to be carried out within the building envelope already existing.

vii) Conversion

In Regulation 7, dealing with Industries, it is provided in Notes (vi) that Industrial Plots abutting on 24 mtr road and above shall be eligible for conversion.

Problem:- There are many buildings in Industrial Area having two sides opening. One side on 24 mtr and above and other side on less than 24 mtr & above. But frontage is on less than 24 mtr road.

Suggestion:- So, it needs clarification that, if the plot abuts on two side than the larger size road can be considered for commercial even if frontage in the layout plan is on the road less than 24 mtr wide road, as is provided in Building Byelaws, 1983, Byelaw 12.7 (a).

You are, therefore requested to look into the matter personally and direct the concerned officials to consider the suggestions in its true perspective for the benefit of citizens of Delhi.

With regards,

K.B. GUPTA & K.N. SINGH
ADVOCATES,
X-32, CIVIL WING,
TIS HAZARI COURTS,
DELHI-110054

Copy to:-

1. Hon'ble Lt. Governor,
   Rajniwas,
   Rajniwas Marg,
   Delhi-110054

2. Hon'ble Chief Minister
   New Secretariat,
   I.P. Estate,
   Delhi-110091

3. Vice Chairman
   Delhi Development Authority
   Vikas Sadan, I.N.A,
   New Delhi

4. Director Planning
   Master Plan Delhi,
   New Delhi