



category set-backs in case coverage is not achieved with the given set-backs in respect of residential plot – plotted housing. Conversely, it follows that preceding category set-backs cannot be claimed as a matter of right in residential plot – plotted housing and MCD has to exercise its discretionary power in each case in favour of the owner (by examination of such cases and take a conscious decision in the matter).

4. It is with a deep sense of regret that I am bringing to your kind attention the fact that while processing the case for sanction of building plans for plot No.76, Paschimi Marg, Vasant Vihar, New Delhi – 110057, admeasuring 856.2 sq.mtrs., the concerned officials in MCD withheld information on file to the effect that the Architect for the proposed building on the plot in question had sought permission for preceding category set-backs since permissible coverage and FAR were not being achieved with the given set backs. Accordingly, MCD sanctioned the plan with preceding category set-backs without even a cursory examination of the case (relevant extracts of notes and correspondence relating to the sanction of the plan for the building on the aforesaid plot obtained under the Right to Information Act, 2005 whereby proving the afore-narrated observation / allegation are enclosed as annexures 'A' & 'B'). Further, the architect made a mis-statement in stating that FAR was not being achieved with the given category set-backs, which is contrary to facts.

5. Your kind attention is drawn to clause 4.2 of MPD-2021 dealing with Housing Strategy. Paragraph 3 therein makes it amply clear that "*it is essential to optimise utilization of land and space with a view to increasing net residential density*". In case of residential plotted housing this can be achieved, as is known, by increasing FAR, in which coverage is subsumed. The same paragraph also shows how increased density and FAR in residential plotted housing is required to be achieved. In this regard, it reads "*The norms should provide options to achieve the density and FAR both in Ground + 3 or 4 storeyed walk up structures*". Putting it differently, the framers of MPD – 2021 envisaged that maximum permissible FAR ought to be achieved in Ground + 3 or 4 storeys.

6. It would not be out of place to mention that several new buildings have come up of the plot size in question or thereabouts after the notification of MPD – 2021 and in each and every case owners / builders have adopted the recommended configuration, i.e., Ground + 3 floors over stilt parking to achieve permissible FAR, which is now accepted as the standard configuration. It will be recalled that houses in plot category in question (category No.6) were conceived as "*detached buildings*", the term being defined in the Building Bye-laws, 1983 as buildings with set-backs on all four sides. These houses, as is known, were built on the principle of reciprocity where each party left a minimum set-back on each side (3 mtrs. in the instant case) and were planned, designed and executed keeping the above principle in view. Accordingly, placement of doors, windows etc. was made for letting in light and air.

7. Whereas the owner of the plot in question operating under the name and style of M/s. Premium Estates Pvt. Ltd. has obtained sanction for a building plan with preceding category set-backs in a highly questionable manner, as already narrated in paragraph 4 above. Preceding category set-backs in this case means he is not required to leave a set-back on one side as he wishes to achieve his permissible FAR in Ground + 2 storeys over stilt parking and not the recommended standard configuration of Ground + 3 storeys over stilt parking. The implications of such a plan are the following:

- (i) As the building would have no set-back on one side, it would come right up to neighbouring plot's boundary wall thereby changing the character of two

buildings from “*detached*” to “*semi-detached*” in a row of otherwise similar character “*detached*” buildings;

- (ii) The aforesaid change would lead to visual disintegration and asymmetry in the colony, especially in one of its 3 main arterial roads, that also goes against the aim of MPD – 2021 which calls for planned and orderly development of the city;
- (iii) It would be violative of the principle of reciprocity causing direct injury and infringement of the neighbour’s easement rights to light, air etc.; and
- (iv) It would completely damage the neighbouring plot’s 144 ft. long boundary wall requiring it to be rebuilt.

8. To save themselves from an embarrassing situation in which they have placed themselves and rather than correcting their error, MCD has chosen the route of seeking an alibi in the form of a clarification from DDA by raising the issue of horizontal configuration (Ground + 2 floors over stilt parking) for simultaneously achieving FAR and maximum permissible coverage vs. recommended standard configuration (Ground + 3 floors over stilt parking) in which FAR is achieved without necessarily achieving maximum permissible coverage, by withholding the background, the context and the injurious implications of horizontal configuration. If the so called horizontal configuration were to be allowed in residential plotted housing for the sake of attaining both maximum permissible coverage and FAR in every case then Delhi would end up in becoming a mumble jumble – a free for all – instead of a world class city as envisioned. That is the rationale behind giving discretionary powers to MCD in such cases, which it has failed to exercise in the instant case.

9. The afore-narrated may please be kept in view while framing a reply to the clarification sought by MCD.

10. I am endorsing a copy of this letter to the Commissioner in-charge of the Master Plan.

Thanking you,

Yours faithfully,



(Sunil Khatri)

Encl.: 2 as above.