



ट्रेडर्स वैलफेयर एसोसिएशन (रजि०)

B-20

बी-ब्लॉक, डी०डी०ए० मार्किट, प्रशान्त विहार, दिल्ली

कार्यालय: दुकान नं० 22, बी-ब्लॉक, डी.डी.ए. मार्किट, प्रशान्त विहार, दिल्ली-85

दूरभाष : 9891068243, 9899989977

OFFICE OF UDM

Dy. No. 4591.....

Date 20/12/11.....

दिनांक : 16-12-2011

Secretary

श्री कमल नाथ जी,
माननीय केन्द्रीय मन्त्री महोदय,
शहरी विकास मंत्रालय, भारत सरकार,
निर्माण भवन, नई दिल्ली-110001

19/12 PS to UDM
Sec (UDM)

विषय:- बी ब्लॉक डी.डी. ए. मार्किट, प्रशान्त विहार में मौजूद कुछ अतिरिक्त निर्माण जो कि भवन उपनियमों एवं मास्टर प्लान के अनुसार नियमितीकरण की सीमा में है, के नियमितीकरण के सम्बन्ध में निवेदन।

मान्यवर,

हम आपका ध्यान अपनी गंभीर समस्या की ओर दिलाना चाहते हैं जिसके समाधान के लिए हम काफी समय से प्रयासरत हैं परन्तु दिल्ली विकास प्राधिकरण ने आज तक उसका समुचित समाधान नहीं किया जिसका संक्षिप्त विवरण निम्नलिखित है:-

उक्त मार्किट में हमारी अपनी भूमि पर निर्मित कुछ अतिरिक्त निर्माण है जो कि भवन उपनियमों एवं मास्टर प्लान के अनुसार अनुमेय एवं नियमितीकरणकी सीमा (40 ग्राउन्ड कवरेज एवं 100 एफ. ए. आर.) में आता है जिसका नियमितीकरण भवन उपनियमों (Appendix 'Q' of the Building Bye Laws) के अनुसार निश्चित रूप से नियमित किया जाना चाहिए इस सम्बन्ध में हमने दिनांक 30.12.2010 को निवेदन पत्र (विस्तृत विवरण सहित) उपाध्यक्ष महोदय दि. वि. प्रा. को लिखा था (जो कि आपकी जानकारी हेतु इस पत्र के साथ संलग्न है) परन्तु बहुत प्रयास करने के बावजूद यह निवेदन अस्वीकार कर दिया गया है। जबकि शहरी विकास मंत्रालय भारत सरकार एवं दि. वि. प्रा. द्वारा दिल्ली में विभिन्न नागरिक समूहों को विभिन्न प्रकार से (मास्टर प्लान एवं भवन उपनियमों में) भारी राहत दी जाती रही है जबकि हमारा निवेदन जो कि अनुमेय सीमा एवं नियमितीकरण सीमा (Permissible Limit & Compoundable limits) में है।

उसके बावजूद उसे अस्वीकार किया जाना वास्तव में अन्यायपूर्ण निर्णय है।

अतः हम आपसे विनम्र निवेदन करते हैं कि हमारे निवेदन को स्वीकार करके हमें राहत एवं न्याय प्रदान किया जाए।

सहयोग हेतु हार्दिक धन्यवाद,

संलग्न

निवेदक
कृते ट्रे. वे. एसो.

प्रधान/महासचिव
(हरीश कु. बरेजा) / (ए. के. चोपड़ा)



ट्रेडर्स वेलफेयर एसोसिएशन (रजि०)

बी-ब्लॉक, डी०डी०ए० मार्किट, प्रशान्त विहार, दिल्ली

कार्यालय: दुकान नं० 22, बी-ब्लॉक, डी.डी.ए. मार्किट, प्रशान्त विहार, दिल्ली-85

दूरभाष : 9891068243, 9899989977

दिनांक : 30-12-2010

To

The Vice Chairman
Delhi Development Authority,
Vikas Sadan, INA,
New Delhi-110023

Sub: Regularization of certain constructions made prior to the permission of DDA, which does not infringe any of the provision of Building Bye Laws and Master Plan.

File No.: F.67 (Misc.) 04 / CE / PT.

Sir,

With due respect, we submit that while hearing the argument on our Petition WP(C) 2696/2007 on 31.08.2010, the Hon'ble Justice Sh. S.N. Aggarwal suggested, it would have been better if we approach to the DDA for the regularization of the unauthorized constructions in question. We replied that we already filed the representation and Vice Chairman DDA had virtually even agreed to regularization, only the composition fee which we had to pay had to be intimated by the DDA, but in the meanwhile what had happened that DDA reversed its decision with unfounded intent, which had resulted this petition for the adjudication by this Hon'ble Court.

The Hon'ble Court then turned toward Mr. Ajay Verma the Council of DDA who promptly gave assurance to the Hon'ble Court that if we move any such representation to the DDA for the purpose, the DDA shall decide the same with reference to the relevant law and disposed it off expeditiously.

We then agreed to withdraw our Petition subject to the protection of our interest with liberty to file the petition with the same ground, if necessitated.

The Hon'ble Court has very kindly acceded to our request and passed the order accordingly and as such we are hereby submitting our representation with relevant details as under:-

That the constructions of the Shopping Complex B-Block Prashant Vihar Delhi was made on a plot measuring 1925 Sq. mtrs. In pursuance of Master Plan and BBL (Building Bye Laws) then prevailing the construction on ground floor @ 40% of the total plot area (with FAR 100) was imperative but the DDA constructed the Shops with coverage @ 27.5% (525.68 Sq. mtrs.) approximately instead of 40% (770.00 Sq. mtrs) as was required under the rules regulating the constructions. A projection in front of each shop approximately 1 mtr. in width protruding on the open space of the market was also constructed.

The DDA although had to sell out the Shops on 'Predetermined Rates' arrived at by clubbing the cost of whole developed land of the complex and the cost of super structure with other ingredients, such as Administrative charges, Depts. charges, Economic Weaker Section charges, interest on the amount spent by the DDA for the purpose of construction of shops and development and other ancillary charges etc. which represent to 'Reserve Price' but the DDA preferred to sell the Shops in "Auction" contrary to the said procedure of the law.

Since, the DDA was formed for providing accommodations residential/commercial to the intending Buyers on 'No Profit No Loss' basis hence the procedure adopted by the DDA for selling the Shops through auction, though was quite repugnant to the approved procedure of the DDA's Law yet, we did not object, with the result that the Shops keeping similar view and frontage and even of the same size were sold on different price to the different buyers and that too on much higher price (with huge profit) over & above the price set as 'Reserve Price'.

That after selling out the Shops the DDA had categorically stipulated in Perpetual Lease Deed, to the owners of the Shops in complex to make a "Registered Agency" of the Shopkeepers so as to whole land of the complex i.e. underneath the Shops and appurtenant thereto be transferred on lease hold tenure basis to the said Registered Agency / Constituent members which actually stands transferred, for the purpose of Control, Regulation, Up-keeping and proper maintenance of the complex as a whole. This directive of the DDA was got implemented by inserting a clause in lease deed itself, and thus the possession of the entire land was demised / transferred to the Registered Agency/constituent members as for the purpose mentioned above.

This stipulation in the perpetual Lease Deed clearly indicates that the Registered Agency and its Constituent members are the Lessees for whole land of the complex with all rights, retaining control with the DDA regarding the exercise of provisions of drainage, Building Bye Laws (BBL) and Master Plan.

The excerpt of Lease Deed prescribing the concept of the demise of whole land is reproduced hereunder for your kind perusal and consideration:-

"NOW THIS INDENTURE WITNESSETH that, in consideration of the premium of Rs. (Rupees only) paid before the executive of these presents (the receipt where of the Lessor hereby acknowledges) and of the rent hereinafter reserved and of the covenants on the part of the Registered Agency and its constituent members hereinafter contained, the Lessor both hereby demise unto the Registered Agency and its constituent members all that land under and appurtenant to the shops bearing Nos. Block No. containing by admeasurements as area of Sq. yds. / Sq. mtrs. or there about situated, at"

That after having occupied the Shops by the individual Shop Owners and when the smooth running of the Shops were apparent the Shop Owners felt inadequacy of the built-up portion hence amalgamated the open portion underneath the projection by enclosing with messnary walls and putting shutters ahead from the existing position. Here we agree that we did not seek prior permission of the DDA for this act yet, we did not infringe any of the BBL, and the total coverage of all the shops on ground floor including the enclosure under reference, the details of which is available in DDA's file at page No. 37C and 38C (copy provided to us under RTI Act, 2005) works out as 663 Sq. mtrs. (Approx.) which is still less by 107 Sq.mtr. to the permissible ground coverage i.e. 770 Sq. mtrs. @ 40%.

And for this very purpose, we had accordingly requested so many times to the DDA, to regularize the unauthorized construction so made under the provision of BBL. The regularization charges, if any we had agreed to pay under the appendix "Q" of the Building Bye-Laws. (BBL made applicable as per clause 13 of Perpetual lease Deed & clause 3 of the Conveyance Deed) are quite relevant the excerpt of which are reproduced below respectively.

Clause No. 13 of Lease Deed :

"The lessee shall in all respects comply with and be bound by the building, drainage and other bye-laws of the proper municipal or other authority for the time being in force"

Clause No. 3 of Conveyance Deed :

"The purchaser shall comply with the building, drainage and other bye-laws of the appropriate Municipal or other Authorities in force for the time being".

The Vice Chairman DDA having considered our request sympathetically and after having a detailed report from the concerning officials (Commissioner (LD) with other officials) of the DDA based on inspection of the Market and that having been satisfied himself in all respect that there would not be any irregularity in acceding to the request had ordered that the constructions be regularized on payment.

Now, there a point to be clarified i.e. whether the Association / Shopkeepers had paid or not the cost of land underneath the projection on which the additional constructions were made? And the same was admitted by the finance Department of DDA that the area underneath the projection was included in the costing of the shops. In this context the "Agenda" prepared by the office of Commissioner (LD) of DDA is reproduced hereunder for kind reference:-

DELHI DEVELOPMENT AUTHORITY

Office of Commissioner (LD)

Agenda for the Authority

Sub: Regularization of space covered upto Chhajja Project Line by the Shopkeeper of CSC, Block-B, Prashant Vihar.

The Shopkeepers of the CSC, Block-B, Prashant Vihar has occupied the space by installing extra rolling shutters. Space covered by the shopkeeper is shown in the Lay Out Plan – Annexure "A".

2. The encroachment are mainly in the form of extension from shutter to Chhajja Project line, Covering of this portion apparently does not effect the circulation of the market. DDA may therefore, regularize the portion subject to payment for this space and the proposal has been approved by the VC/DDA – Annexure "B".
3. The representation of Traders Welfare Association of the market claimed that the area below the projection (Chhajja) has already been counted in the area of the shop and rightly belongs to shop owners and shifting of the shutters to the Chhajja line should not be considered as an encroachment on Govt. land. The Association has requested to regularize this portion.
4. As per report of Finance Deptt. it has been confirmed that the area of Chhajja was included in the costing, as per the details submitted by the Engineering Wing photocopy of the details of area may be seen in Annexure "C" which shows the covering of verandha was including the costing.

The proposal is submitted to the Authority for consideration.

Besides above three authority's members (MLA's / Public Representative) had also recommended for regularization of so called unauthorized constructions, as the same are not repugnant to law / BBL.

Consequently, the concerned officials of the DDA then had to intimate the amount of composition fee to us but they adopted the dilly dallying practice and whimsically turned down our request saying that the constructions under reference form an encroachment on Public Land, which is contrary to the facts on record and their finding are arbitrary and illogical.

Although, it was well in the knowledge of the officials of the DDA that the whole land of the complex i.e. underneath the shops and appurtenant thereto, stands demised to the Registered Agency / Constituent members on Lease Hold tenure basis on perpetuity, therefore it does not constitute encroachment on Public Land in any way, because the whole land stands demised to the Registered Agency / Constituent members on lease to its perpetuity by charging lease money / ground rent proportionately from all the shopkeepers therefore, the land does not call to be a public land and thus vests to the Registered Agency / Constituent members on lease-hold tenure basis / freehold tenure basis (in some cases).

Further, the constructions of the project upto the extent of 40% (Ground Coverage) of the total project land area with FAR 100 upto the height of 15 mtrs. was within the purview of law and for that the shop owners had paid all the costs & all other charges relevant to the said market having rights to raise further construction to the extent of legitimate provision of Building Bye Laws.

That according to the provision of the Master Plan as well as the Building Bye Laws (BBL) framed thereunder the deviations which are not repugnant to the provision of law cannot be restricted / debarred the members, if raised. The only provision of the law which we had skipped is the obtaining of the prior permission of the Authority. But that too does not give any lever to the DDA to repudiate our genuine request because it is obligatory under the provision of Appendix "Q" of the BBL, that the unauthorized construction which does not infringe any of the BBL must be regularized and not to be treated in any other way.

That we were intimated by the DDA under Right to Information Act that the cost of developed land of the said project which was actually incurred by the DDA was Rs.123/- per Sq.mtr. whereas this cost of land, while arriving at the cost of the individual unit as a "Reserve Price" was included more than

five times i.e. Rs. 615.96 per sq.mtr. in the case of shops having the area less than 25 Sq.mtr. and Rs. 3971.42 per sq.mtr. (which was thirty times more than the actual cost of the developed land), where the area of the shops more than 25 Sq.mtr. This clearly indicates that the DDA had charged the cost of land excessive to the actual cost in view of the constructions being allowed upto the height of 15 mtrs. on the analogy of the cost charged by the buyers in Community Centres, restricting the coverage as defined in Master Plan on Ground Floor with FAR permissible above.

A more crucial point which is relevant to our request is that the Building Controlling Authorities viz. DDA & MCD have been ignoring all the norms and laws which must have to be rigidly observed but not adhering to those while giving relaxation in the constructions even of non compoundable irregularities such as (i) increase in FAR, (ii) Excessive height allowing construction an additional floor on the existing buildings the foundation of which are not stable to lift the burden of another floor (iii) Inclusion of setback portion in construction (iv) Obstruction in natural air & light availability etc. etc. to those who do not honour the law. These relaxations are being given on the pretext of the payment of Development Charges.

As a matter of fact the laws are framed for the protection of the public / dweller / user of the properties and the relaxation if is repugnant to the safety norms of the Public / user of property is absolutely ultravires and therefore the charging of money for relaxation in any way is not within the parameter of law but still these facts are being ignored and irregularities in abundance are being allowed simply on this pretext that the Authorities have charged the relaxation fees. You may kindly appreciate that charging of development cost does not provide stability to the building and protection to institutions.

Here we would like to say that the infringement of laws which are not condonable and rather constitutes "Cognizable Offence" can not be allowed to be infringed on payment of penalty because the penalties are imposed only to

amend the criminal habit of the offenders and not to give bonanza to them, still this is being allowed on the cost of law abiding citizens even surpassing all those obligations which as a matter of law can not be surpassed in any way. The deviation on the part of DDA / MCD on this account straight away a whimsical act and misuse of the power.

With heavy heart we have to mention here that DDA while selling DDA built up shops to the intending buyers in auction or otherwise, had categorically mentioned that besides these shops there would not be allowed commercial activity in any residential premises in vicinity and desired from the intending buyers to bid freely to acquire the shop one's choice. Accordingly the shops were purchased on much higher price then the price fixed by the DDA, but sorry to say that the DDA did not adhere to its declaration and statutory provisions and allowed unauthorized commercialization in residential premises (with Ground Coverage upto 100 and FAR upto 400) surrounding to the DDA markets everywhere, Jeopardizing the interest and cause of the innocent shopkeepers of DDA Mkts. forgetting that this would be a "Bonanza" to the Law brakers / Misusers and severe Jolt to the law abiding citizens. With the result we, the shopkeepers of DDA markets are badly suffering from the unlimited unlawful commercialization in the residential premises since long on Perpetuity.

In our case there is neither any irregularity nor it constitutes any infringement of BBL/Master Plan except being without prior permission, yet we are being harassed by not acceding our legitimate request and being whimsically handled. Although, we honour the law and deserve to be treated with the justified manner.

Hence it is requested that the constructions in the shops in the shape of enclosure underneath the projection which does not form an encroachment being on the land leased out to the registered agency / constituent members and that does not go beyond 40% of the coverage permissible on ground floor

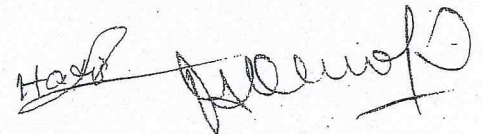
and also the construction raised in a few cases on the terrace with some alternations which also is within the permissible limit and also compoundable and does not infringe any of the BBL be regularized as in both the cases the only violation on the part of shopkeepers is that the prior permission of the DDA was not sought. Never the less in view of Appendix "Q" of the BBL the unauthorized constructions so made though raised without permission is compoundable.

Therefore it is reiterated that the said unauthorized constructions/ additions/alternations may kindly be regularized and obliged. We may further add that we are prepared to pay the legitimate composition fee on demand if any for the regularization.

Thanking you,

Yours faithfully,
For Traders Welfare Association

Encl.:



President / Gen. Secretary
(Harish Kr. Bareja)/(A.K. Chopra)

Copy to :-

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DELHI DEVELOPMENT AUTHORITY
(Receipt & Despatch Cell)

Acknowledgement

Receipt Number : REC / M / 10 / 8,023 Date: 30/12/2010 12:41 PM
Letter Date : 30/12/2010 12:41:32PM
Subject : SUBMISSION
DDA file Number : F67(MISE)04/CE/PT
Received From : PRES DT./GEN.SECY/TRDRSWELFASS
Addressed To : M VICE CHAIRMAN, DDA

Received By : NAWAL KISHOR SHARMA

DELHI DEVELOPMENT AUTHORITY
(Receipt & Despatch Cell)

Acknowledgement

Receipt Number : REC / M / 10 / 8023 Date: 30/12/2010 12:41:32 PM
Letter Date : 30/12/2010 12:41:32 PM
Subject : SUBMISSION
DDA file Number : F67(MISE)04/CE/PT
Received From : PRES DT / GEN. SECY / TRDRS WELFASS
Addressed To : M VICE CHAIRMAN, DDA

Received By : NAWAL KISHOR SHARMA

DELHI DEVELOPMENT AUTHORITY
BUILDING SECTION, C-1/204, INA, NEW DELHI-23

No. AE.1 (B) C&I/Misc/2010/98

Dated: 2-02-2011

To

The Deputy Director
Commercial Estate
INA, Delhi-23.

Sub: Representation from Traders Welfare Association (Regd) of B Block,
DDA Market, Prashant Vihar, Delhi.

Please enclosed herewith find the copy of the letter address to VC, DDA for
taking further necessary action.

Deputy Director (Bldg),
C&I, DDA.

Copy to

✓ President, Trader welfare Association (Regd)
B-22, B- Block, DDA Market
Prashant Vihar, Delhi for information please.

Deputy Director (Bldg),
C&I, DDA.

DELHI DEVELOPMENT AUTHORITY
(Receipt & Despatch Cell)

Acknowledgement

Receipt Number : REC / M / 11 / 2,487 Date: 12/05/2011 12:34:28PM

Letter Date : 12/05/2011 2:34:28PM

Subject : REGULARISATION OF CONSTN.

DDA file Number : F67(MISE)04/CE/PT.

Received From : PRES DT/GENSECY TRADERS WELFARE ASSO

Addressed To : M VICE CHAIRMAN, DDA

Enclosures Attached :-

Serial no.	code	Copy	Description
1	24	2	MISCELLANEOUS

Total Pages

The correctness of the above enclosures are subject to verification by the concerned Department

Received By : NAWAL KISHOR SHARMA

DELHI DEVELOPMENT AUTHORITY
(Receipt & Despatch Cell)

Acknowledgement

Receipt Number : REC / M / 11 / 3,685 Date: 07/07/2011 2:46:04PM
Letter Date : 07/07/2011 2:46:04PM
Subject : SUMISSION
DDA file Number : F67/MISC/04/CE/PT
Received From : TRADERS WELFARE ASSOCIATION
Addressed To : M VICE CHAIRMAN, DDA

Enclosures Attached :-

Serial no.	code	Copy	Description
1	24		MISCELLANEOUS
Total Pages		13	

The correctness of the above enclosures are subject to verification by the concerned Department

Received By : B. S. RANA

R & D System

DELHI DEVELOPMENT AUTHORITY
COMMERCIAL ESTATE BRANCH

No. F 67(Misc)2004 /CE/Pt/2152

Dated:- 2/9/11

To, /
President, Traders Welfare Association (Regd.)
Shop No. 22, B -Block, DDA Market.
Parshant Vihar, Delhi- 85

Sub :- Regularization of certain construction made prior to the permission of DDA, which does not infringe any of the provision of building bye laws and Master Plan.

Sir,

Reference your representation dated 30-12-10 address to V.C. DDA on the subject cited above, which was forwarded by Sh. Sanjay Khirwar, IAS, P.S. to the Ministry of state for Ministry of Woman & Child Development (Independent Charge) , Govt. of India, New Delhi -110001. In this connection I am Directed to inform you that the reply of your representation has already been given to Sh. Sanjeev Khirwar IAS Private Secretary to the Minister of State for Ministry of Woman & Child Development (Independent Charge) , Govt. of India, New Delhi -110001, vide letter No. F 67(Misc) 2004/CE/Pt/1711 dt. 20.7.11 Copy of the same is enclosed herewith for your ready reference.

Enclose : As Stated above

Yours faithfully,



Asstt. Director (CE) III
DDA

DELHI DEVELOPMENT AUTHORITY
COMMERCIAL ESTATE BRANCH

No.F67(Misc.)2004/CE/Pt./

1711

Date:- 20.7.11

To

Shri Sanjeev Khirwar, I.A.S.
Private Secretary to the Minister of State
For Ministry of Women & Child Development
(Independent Charge), Govt. of India
New Delhi-110001.

Sub:- Regarding regularization of certain construction made prior to the permission of DDA, which does not infringe any of the provision of Building Bye Laws and Master Plan.

Ref :- P.S. to MOS(IC)MWCD/2011-12/9880/C dated 05.05.2011.

Sir,

With reference to your letter dated 04.05.2011 on the subject cited above, in this connection I am directed to inform you that the representation of Traders Welfare Association(Regd.) dated 30.12.2010 has been examined by the Architectural Wing, DDA and it has observed that regularization of the unauthorized construction on Govt./Public Land will lead to additional ground coverage/FAR and additional Car parking space in the Complex for which the whole lay out plan shall require major revision. Hence, the request of the Association can not be acceded to.

Yours faithfully



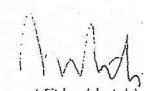
(A. K. Bisht)

Director(RL/LM)

Copy to :-

1. The OSD to V.C./DDA for information.
2. PS to CLD for information.

cl
/c



Director(RL/LM)

file
19/7/11