

For consideration of Shri Kamal Nath
Hon'ble Minister of Commerce & Industry
Government of India
(On behalf of PHD Chamber of Commerce and Industry)

M.P.D 2021 Review
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PS to UDM
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Sickles

OFFICE OF UDM
Dy No. 1319
Date 2/4/12

Suggestion for consideration in the Midterm Review of Master Plan - Delhi 2021
(On behalf of PHD Chamber of Commerce and Industry)

Subject : Master Plan Delhi 2021 – Use of Residential Premises

In Master Plan 2001 prior to Master Plan 2021, all residents were allowed to use their premises for non residential but non nuisance activities for rendering services based on their professional skills upto a percentage of the total area of their premises upto the maximum limit prescribed, whichever was less. It did not specify only professionals who had special qualifications governed by the Bar Council or Institute of Engineers or Institute of Chartered Accountants etc., nor was any registration or associated charges required for such personal Professional Activity which is a basic constitutional right of any citizen. This position was also endorsed by the Tejinder Khanna Committee. However notwithstanding this, this basic right of any citizen has been denied except to very highly qualified professionals and has in fact, to all intents and purposes, been more or less classified as a Commercial Activity. In fact the Supreme Court has already struck down registration and the levy of charges etc. and in any case this inherent right of every citizen is being denied and amounts to unauthorized activity insofar as Master Plan 2021 is concerned. A detailed note on the use of Residential Premises vide Master Plan 2021 is enclosed (Marked Enclosure-A) and we trust that suitable amendments are made allowing what is called "SOHO" i.e Small Office, Home Office for all citizens for the use of their own professional skills and/or any other personal requirements. As a Chamber of Commerce and Industry this is absolutely essential to allow hundreds of Managers in Industry and Commerce with varying skills such as Production, Finance & Accounting, Marketing, Purchasing, HRD, Documentation, Computerization and Secretarial Activities etc who do not have MBAs or IIT qualifications or are not Chartered Accountants etc. to have "home based professional work stations" as recommended in the Tejinder Khanna Committee Report specially constituted to make recommendations in this regard.

The above suggestion had already been submitted by the PHD Chamber to DDA in response to Public Notice dated 4.10.2011 and was to be considered at the Second Meeting of the Management Action Group "Enforcement & Monitoring" held on 28.12.2011. However the subject did not come up for a detailed discussion and consequently now requires to be considered for review so that necessary amendments to the Master Plan as proposed in Enclosure-A, allowing for all citizens residing in their premises to have small offices/home offices (SOHO) in line with their own professions or personal requirements.

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Suggestion for consideration in the Midterm Review of Master Plan - Delhi 2021
(On behalf of PHD Chamber of Commerce and Industry)

Subject : Master Plan Delhi 2021 – Use of Residential Premises

We understand that the Master Plan Delhi 2021 is due for a midterm review and we would like to submit the following on behalf of our Members engaged in Commerce and Industry as well as the Citizens of Delhi insofar it applies to the use of Residential Premises in NCT of Delhi.

Both at the time the Draft of the proposed Master Plan Delhi 2021 was notified and also after the final Plan was brought into effect we had drawn your attention to one of the aspects which is of particular concern to our Members and that is the new norms governing non nuisance, non hazardous, non commercial activities pursued by residents in their homes. In this regard we wish to emphasize that the new Master Plan 2021 has at one stroke taken away the basic constitutional right of any resident to pursue any personal non nuisance activity, unconnected with any public dealings (in short noncommercial) in his home, which he had so far been free to do for the last 40 years under the last two Master Plans up to a specified area and which "right" was also fully endorsed by the Special Committee formed to review this aspect headed by Mr. Tejinder Khanna the Hon'ble Governor of Delhi. The Tejinder Khanna Committee recommended that all Citizens without insisting on qualification norms in respect of their individual professions could use their Residential Premises including in A& B category upto 50% of the covered area, without any other restrictions or payment of Registration or Annual Fees. It only mentioned Lawyers, Doctors etc. as examples.

In the above connection we would like to draw your attention to the relevant passage in the Second Master Plan 2001 covering use of Residential Premises which is detailed below :

Quote

The resident of the premises shall be permitted to use part of his residence to the maximum of 25% or 50 sqm whichever is less for a non-residential but non-nuisance activity which is for rendering services based on his professional skills. In case of residential plots any one floor may be used provided the whole premises is occupied by the same professional.

Unquote

As will be obvious from a plain reading of these rights as enunciated therein, any resident could use part of its premises for any non nuisance activity based on his professional skills. No qualifications were prescribed. In short a Small Office/ Home Office (popularly terminated as SOHO) were permitted to all Citizens for use for their own Professions. The same was also endorsed by the Tejinder Khanna Committee as reproduced below :

Quote

8.20.3 Finally, in line with the recommended differentiated approach, in relation to the better-off Tier-1 colonies, non-residential use of residential buildings should be permitted only to the extent of professionals, such as Doctors, Architects/Chartered Accountants/Lawyers, Computer Specialists etc. using a portion of the premises self-occupied by them as residence, not exceeding 50% of the covered area, as home-based professional work stations.

Unquote

It appears that for reasons which have not been publicly debated nor even envisaged in the Draft Master Plan – 2021 gazetted and notified on 16th March, 2005, that the utilisation of residential premises for certain categories of Professionals who are rendering service to the public have been equated with commercial activity/nuisance activity and therefore asked to register their activities and pay annual charges for area utilised by them over and above property tax paid. In addition such use is subject to a whole lot of restrictions such as location on certain street widths and/or notified roads and providing parking facilities etc. If so it is upto such Professionals to take up with the Central Government, Ministry of Urban Affairs/DDA the onerous restrictions imposed on them. In fact the Hon'ble Supreme Court has already stayed the conditions imposed.

On the other hand Master Plan 2021 does not appear to recognise the basic freedom and parcel of rights of any house holder to carry out personal work from his own premises. Such Home Owners who are not rendering Professional Services to the Public but only utilizing their premises for their own non nuisance personal activities, unconnected with any services to the public and/or public dealings, should be allowed to utilise their premises upto 50% of their built up area, as best described in the Tejinder Khanna Report as "home based work stations". To ensure this it is suggested that a paragraph on the following lines be included in Master Plan-2021, perhaps as item "vi" under "15.1 Governing Principles for Mixed Use".

Quote

"vi"

Any resident may utilise the premises occupied by him upto a maximum of 50% of the floor area for non residential but non nuisance/non hazardous personal activities such as a home office/home work station not involving services to the public or public dealings, on any floor. Such activity would not require any registration or payment of fees beyond Property Tax applicable for the premises.

Unquote

Such a change would allow hundreds of Managers/Consultants etc. engaged in Industry and Commerce to work from home as and when required without fear of contravening the provisions of the Master Plan. In this regard it would not be out of place to bring your notice that every single M.P., Members of the Delhi Assembly and all Corporators of the Municipal Council of Delhi etc. have functioning Offices in their residences without having any of the qualifications laid down in the Plan. Moreover their activities can hardly be termed as non-nuisance, insofar as their neighbours are concerned though admittedly, they serve a public purpose.

We would request you at this stage, when a Midterm Review of Master Plan 2021 is due, to kindly accept the above suggestion and incorporate the suggested amendment in Master Plan 2021.