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Item No.: 31:2019

Date: 31:2019

AGENDA FOR SCREENING COMMITTEE

SUBJECT: Part Modification in the layout plan of Safdarjung Residential Development Block-B w.r.t. Plot No. B-5/1 and vacant plot adjoining to Plot No. B-5/1 of Block B-5 Safdarjung Development Area (Safdarjung Enclave) in Planning Zone-F.

FILE NO.: F.3 (18)2005/MP

SYNOPSIS: The proposal is regarding modification in the size of the freehold residential plot B-5/1 from 500 sq. yards to 513 sq. yards for which conveyance deed has already been executed by Lands Department of DDA for 513 sq. yds. and the court ordered vide dated 04.01.2018.

1.0 BACKGROUND:

Layout plan of the Safdarjung Development Area (presently known as Safdarjung Enclave) Residential scheme was prepared by the DDA under the provisions of MPD-1962. Safdarjung Enclave residential colony is denotified and is under the jurisdiction of MCD.

- 1.1 As per earlier screening committee's agenda; Modification in the layout plan of Safdarjung Development Area of the left out pockets / plots for residential use was initiated on the request of Land Disposal Department since as per their report a number of plots in different locations of SDA have undergone sub-division at the Land's Branch end to facilitate the disposal. Certain adjustment in plot numbering / plot profile were also made in a number of locations by the Lands Branch based on the site information/feasibility, which neither form part of the approved layout plan nor have any planning concurrence. Hence, to accommodate those changes, modification in the layout plan has been placed before 251st Screening Committee meeting held on 13.10.2006 vide item no. 119:2006 for the plot no's. B-5/47-A, B-5/47-B, B-5/47-C, B-5/47-D, B-5/47-E, B-4/190-D, B-4/190-E. Wherein screening committee approved the proposal and directed that such incidents should not re-occur and plots should not be disposed by Lands Department without getting the proposal of sub-division approved from the Competent Authority.
- 1.2 Land Department of DDA in file bearing no. F.4 (192)65/LAB(R) DDA on 22.06.2010 had noted to take up modification in the layout plan w.r.t. size of the plot by adding 13 sq. yards land in the plot measuring 500 sq. yards, as this additional land was regularised by the Hon'ble LG Delhi at Page-72/N on 07.11.1985. The plot B-5/1 is a freehold residential plot.
- 1.3 Earlier a modification with respect to Block B-5 in Safdarjung Enclave was approved by the Screening committee in its meeting held on 14.01.1993 vide item no. 91/93, wherein plots B-105/C, B-105/D & B5/1-A and a side road of 3 meter width adjoining to B-5/1 was planned. Minutes of screening committee of 14.01.1993 are not available but the decision of Screening Committee is recorded on drawing which was available in file of Land Department. At present, the said property file is not traceable as reported by Lands Branch in concerned legal file bearing no. HC/Plg. (21486)15/L.

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- 1.4 In the present case, reference is invited to the Screening Committee's agenda vide item no. 45:2011 which was discussed in the 299th Screening Committee meeting held on 02.06.2011. Copy of the agenda & minutes is annexed (**Annexure-A**). The decision of the Screening Committee is reproduced below:

"that a complete Total Station Survey of the entire area be carried out, including the vacant plot and the layout showing exact quantum of the land and be presented to the Screening Committee again".

- 1.5 Accordingly, the matter was referred to the Engineering Department to carry out a total station survey of the entire area including the vacant plot and the layout showing exact quantum of land of B-5/1, Safdarjung Enclave. The Ex. Engineer, SWD-1/DDA has forwarded a copy of the survey plan vide his letter no. DB (9) AE (P)/SWD-1/DDA/5 dated 02.01.2012 and the proposal was further discussed in the 304th Screening Committee meeting vide agenda item no. 19:2012 held on 27.02.2012. Copy of the agenda & minutes is annexed (**Annexure-B**). The decision of the Screening Committee is reproduced below:

"The proposal as reflected in the agenda was withdrawn to have a detailed examination".

2.0 EXAMINATION:

- 2.1 The Sh. Giyan Chand Kumar has purchased a residential plot measuring 500 sq. yds. bearing Plot No. B-5/1 through auction in Safdarjung Enclave and accordingly lease was executed by the Delhi administration (Land and Housing Department) for 500 sq. yds. on 23.11.1970 and a site plan / sketch plan / possession plan (in the form of line diagram) for the area measuring 500 sq. yds. was issued by the Lessor/Vender, DDA. As per the lease document and as per the site plan / possession plan (in the form of line diagram); there is an 'Under Ground Barrel' on the North side of the plot u/r (**Annexure-C**).
- 2.2 As per the site inspection report dated 21.12.1982 of the then Dy. Director (LA) DDA; the plot u/r (B-5/1) was inspected on 17.12.1982 by the then Dy. Dir. (LA) along with Asstt. Engg. & Jr. Engg. of Lease Administration Branch in the presence of Sh. G.C. Kumar (lessee) & Sh. Mahesh Kumar (S/o. Sh. G.C. Kumar). After thorough check up, it was revealed that the lessees had really unauthorised occupied DDA land measuring 48 sq. yds. However, about 13 sq. yds. of land is constructed upon under a garage block and the remaining is being used as a passage and open space.
- 2.3 The proposal regarding 'determination of the lease by the lessor/Lt. Governor on account of unauthorised construction by the party and take back possession of the plot alongwith structure standing thereon thereafter' was submitted for approval by the Commissioner (Lands) DDA vide note dated 07.02.1985 and the same was approved by the then L.G. vide note dated 26.02.1985.
- 2.4 The then Commissioner (Lands) DDA vide note dated 30.10.1985 on the basis of reasons stated in the note dated 29.10.1985 of AC (L) submitted that the 'lease may be restored subject to the conditions', whereas the conditions was as under:
- That the ex-lessee will pay for additional 13 sq. yds. covered by garage block at the rate determined by the finance i.e. Rs. 3,363/- per sq. meter.*
 - That the ex lessee will pay normal restoration charges.*

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(iii). That in addition to above the ex-lessee will also be liable to pay compounding fee and other penalties recoverable for violation of building by-laws which may be necessary for compounding the unauthorised construction.

The same was approved by the then L.G. vide note dated 07.11.1985.

- 2.5 Chief Legal Officer, DDA vide note dated 18.03.1991 pointed out the following:
Nazul land Rules do not contemplate allotment of land to a person who encroaches upon the land of DDA/Government. Allotment of land, even at market rate, to a person who has encroached upon it illegally amounts to putting premium upon illegal act committed by the encroacher and regularization of such encroachment is neither provided for nor permissible under the Nazul Land Rules.
And suggested to take appropriate course of action and initiate proceedings under Public Premises (Eviction of Unauthorized Occupants) Act. 1971.
- 2.6 As per the letter dated 16.06.2003 of Dy. Director (LAB/Residential) DDA; the lease deed of Plot No.-B-5/1, Safdarjung Enclave, New Delhi was cancelled by the lessor vide order dated 26.02.1985 on account of non-recovery of premium.
The Coordinating Officer (Damage) DDA was also requested to initiate proceedings for eviction under the Public Premises (Eviction of Unauthorized Occupants) Act 1971 by the Dy. Director (LA) DDA vide letter dated 21.09.1993, Sr. No. 11219.
- 2.7 As per the letter of Dy. Director (LA) Residential, DDA, dated 01.08.2003; Mutation of Plot No.-1, Block B-5 in Safdarjung Enclave, New Delhi, was allowed in the joint name of (i) Sh. Hardev Kumar, S/o. Sh. Sukhdev Kumar (ii) Sh. Gokul Kumar, & (iii) Sh. Atul Kumar both sons of Sh. Mahesh Chande Kumar being the grand-sons of the deceased lessee Late Sh. Giyan Chand Kumar.
- 2.8 A Conveyance Deed was also executed on 29.09.2003 for the area measuring 513 sq. yds. in the names of owners (i) Sh. Hardev Kumar, (ii) Sh. Gokul Kumar, & (iii) Sh. Atul Kumar, whereas site plan / sketch plan / possession plan (in the form of line diagram) was not issued by DDA.
- 2.9 The Dy. Director (LA) L.A.B. (Residential) DDA vide letter dated 17.12.2003 addressed to Sh. Gokul Kumar & others, R/o. B-5/1, Safdarjung Enclave, with reference to their letter dated 16.10.2003 (copy not available in record of Plg. Deptt.) informed that, "the property under reference has already been converted into free hold and Conveyance Deed has been executed on 29.09.2003. You are, therefore, requested to approach the Planning Deptt. of M.C.D. for doing the needful".
- 2.10 As per the letter of Advocate for the Petitioner, addressed to VC DDA and as per the copy of unsigned Synopsis of the case WP (C) 5859/2015 (Page-629/C - 632/C); The petitioner Sh. R.K. Jain purchased the said property from the legal heirs of Sh. Gian Chand Kumar. The copy of ownership documents in respect to present owner is not available in planning department.
- 2.11 As per the note dated 02.04.2008 of LA Deptt./DDA; the present owner of Plot No. B-5/1, Safdarjung Enclave, New Delhi had made a request for issuance of the Line Diagram for the area measuring 513 sq. yds.

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- 2.12 The present owner (Sh. R.K. Jain) vide representation dated 06.05.2015 addressed to VC DDA raised the issue regarding "issuance of sketch / line diagram of property measuring 513 sq. yds. as part of the Conveyance Deed dated 29.09.2003 of plot no. B-5/1, Safdarjung Enclave, New Delhi" and vide representation dated 21.05.2015 addressed to VC DDA raised the issue regarding "Illegal allotment of vacant land by DDA over and above the Arjun Nagar Nallah / Drain adjoining Plot No. B-5/1, Safdarjung Enclave, New Delhi to Mr. Adarsh Sharma, whereas, the documents related to allotment of plot to Mr. Adarsh Sharma (i.e. Plot bearing no. B-5/1-A approved by Screening Committee meeting held on 14.01.1993 vide item no. 91/93) adjoining to plot no. B-5/1 is not available in Planning Department.
- 2.13 Further, as per the Para-4 of representation dated 21.05.2015, the line diagram requested by the owner is site plan / sketch plan / possession plan as was issued by Lessor/Vender, DDA at the time of lease execution (Dated 23.11.1970).
- 2.14 A P.T. Survey of the area in question has been carried out by Survey unit of Planning Department & provided to Area Plg.-I unit by the Director (S) Plg. vide note dated 04.08.2017.

3.0 COURT MATTER:

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- 3.1 In this subject matter there are two cases filed in the High Court of Delhi vide (i) WP (C) 5859/2015, titled as R.K. Jain V/s. Delhi Development Authority and (ii) WP (C) 5849/2015 & CM 10540/2015, titled as R.K. Jain V/s. Delhi Development Authority and CONT. CAS (C) 509/2014 titled Adarsh Sharma V/s. Balvinder Kumar & Ors.

In the matter of WP (C) 5859/2015, titled as R.K. Jain V/s. Delhi Development Authority the Hon'ble High Court of Delhi ordered vide order dated 04.01.2018 directed that upon hearing and on perusal of the counter affidavit filed by respondent-DDA, Hon'ble Court find that it would be futile to grant further time to respondent-DDA to act upon the stand taken in its counter affidavit. Since the additional area of 13 square yards has already been regularized, therefore, there is no impediment to direct respondent-DDA to issue fresh line diagram and accordingly modify the layout plan of the area within a period of 12 weeks from today. With aforesaid directions, this petition is disposed.

In the WP (C) 5849/2015 & CM 10540/2015, titled as R.K. Jain V/s. Delhi Development Authority and CONT. CAS (C) 509/2014 titled Adarsh Sharma V/s. Balvinder Kumar & Ors., the Hon'ble High Court of Delhi vide their order dated 16.03.2018 directed DDA to allot an alternative plot of 250 sq.yds. in Dwarka Zone, so that order of 19th July, 2006 is complied with in letter and spirit. Upon deposit of requisite payment within two weeks, respondent-DDA shall make the said allotment to petitioner-Adarsh Sharma within a period of six weeks. It is also stated in the order that, since it would not be feasible to allot plot in question (i.e. B-5/1-A) to any private party, therefore, respondent-DDA is called upon to take steps for optimum development of the plot in question without digging it, so that apprehension of respondent-SDMC of the whole area being flooded does not come true. If deemed appropriate, respondent-DDA may consider handing over the plot in question to respondent-SDMC for maintaining it as a park, etc., or as deemed appropriate in public interest.

- 3.2 In this regard, the matter of issuing of line diagram is being dealt by lands disposal department as part of handing over of possession / repossession on the basis of allotment / regularization done by the lands disposal department and subsequently the layout plan modification, if any, processed by the planning department on the basis of clear direction and documentary proofs of approval of competent authority provided by the concerned branch of land disposal department. Accordingly, the Planning Department vide various letters dated 20.12.2017,

15.09.2017, 07.08.2017 & 18.09.2015, requested to Lands Disposal Department for providing all the facts relating to allotment and unauthorised construction of Plot no. B-5/1, Safdarjung Enclave, along with sketch plan of Possession / Repossession handed over with the exact dimensions & quantum of lands allotted and presently being occupied including unauthorised construction and approval of the Competent Authority regarding lease restoration as well as unauthorised construction and the drawings including line diagram/sketch referred by the Hon'ble Court relating to the allotment and regularisation for the plot under reference,

3.3 With reference to Planning departments note dated 21.02.2018, the office of DD(S)LD has prepared a fresh line diagram and forwarded in concerned legal file bearing no. HC/Plg. (21486)15/L to process to modify layout plan accordingly through Screening Committee in compliance of Hon'ble High Court orders. The copy of note and line diagram is annexed as **Annexure-D**

4.0 PROPOSAL:

The proposal is for "Part Modification in the layout plan of Safdarjung Residential Development Block-B w.r.t. Plot No. B-5/1 and vacant plot adjoining to Plot No. B-5/1 of Block B-5 Safdarjung Development Area (Safdarjung Enclave) in Planning Zone-F" in compliance to the Hon'ble High Court orders dated 04.01.2018 & 16.03.2018 is as under:

sq. 515 Yards

- a) Changing the size of the plot B-5/1 from 500 sq. yards to 513 sq. yards in compliance to the Hon'ble High Court order dated 04.01.2018 with the condition that, since the additional land measuring 13 sq. yards forms part of the plot beneath which the underground barrel is passing, therefore with respect to the Hon'ble court order dated 16.03.2018 the land measuring 13 sq. yards may not be used for any construction/excavation if it is confirmed that the underground barrel is passing below this land at the time sanctioning the building plan
- b) In compliance to the Hon'ble High Court order dated 16.03.2018; the use premise of the vacant plot adjoining to Plot No. B-5/1 to be decided later on as there is contempt application vide CONT. APP. (C) 6/2018 pending before Hon'ble High Court of Delhi and listed on 08.07.2019.

The proposed part layout plan is annexed as Annexure-E

5.0 RECOMMENDATION:

Keeping in view of the facts explained at Para-1.0 & 2.0 and Court matter at Para-3.0 the proposal as given above in Para-4.0 may be put up before the Screening Committee for the consideration & approval.


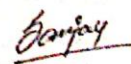
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6.0 FOLLOW UP ACTION:

Once the proposal is considered & approved by the Screening Committee, the same shall be forwarded to the following:

- (i). Engineering Department for protecting with boundary fencing and maintenance of vacant land adjoining to Plot No. B-5/1.
- (ii). Lands Department for necessary amendment of the earlier lease/allotment conditions in respect of Plot no. B-5/1 and issuance of fresh line diagram / possession plan.
- (iii). SDMC with reference to modifications in the LOP with respect to Plot no. B-5/1 & adjoining vacant plot.

DELHI DEVELOPMENT AUTHORITY
 HUDA-CO-ORDINATION UNIT
 Approved in 368
 Addl. Commissioner (Plg.)-III
 Committee Meeting Dated 22/07/19
 Vide Item no. 31 : 2019
 Dy. Director (H.) Co-ordn.


 Dy. Director (Plg.) Zone-F&H (part)

 Asstt. Dir. (Plg.) Zone-F&H part