

**MINUTES OF THE THIRD MONITORING COMMITTEE MEETING HELD ON
10.01.2007 AT 11.00 A.M. IN THE CONFERENCE HALL OF CMDA.**

Members Present:

1. Thiru R. Santhanam, I.A.S.,
Vice Chairman. CMDA.
2. Thiru Hansraj Varma, I.A.S.,
Chairman, TNEB
3. Thiru Rajesh Lakhani, I.A.S.,
Commissioner, Chennai Corporation.
4. Thiru Shiv Das Meena, I.A.S.
Managing Director, CMWSSB.
5. Tmt. R. Jaya, I.A.S.,
District Collector, Chennai.
6. Thiru Bholanath, I.P.S.,
Director of Fire and Rescue Services.
7. Thiru Louis Menezes, I.A.S. (Retd.)
8. Thiru M.G. Devasahayam, I.A.S. (Retd.)
9. Dr. A. Srivatsan,
Architect and Urban Planner.
10. Prof. Suresh Kuppuswamy,
School of Architecture and Planning, Anna University.
11. Thiru Durganand Balsaver, (Leave of absence)
Architect and Urban Planner.
12. Thiru P.T. Krishnan (Architect) (Leave of absence)

Vice-chairman, CMDA, welcomed all the M.C. Members.

AGENDA ITEM NO.1

Confirmation of minutes of the second meeting of the Monitoring Committee held on 21.12.2006

Minutes

The minutes of the 2nd Monitoring Committee meeting were taken up for discussion and confirmed with the following modifications:

Agenda item No: 5

The following may be added after the word 'not available'

“While applying for the Planning Permission, (PP) the Builder never applies in his/her name. Either the power of attorney holder or the landowner applies for PP whereas the Builder is only a Contractor in most of the cases. While doing the documentation, the land owner/power holder directly conveys the undivided share of land to the prospective purchaser/buyer. As a result the Builder/promoter does not come in the process of legal documentation or obtaining approval for the development of the property. Hence the Committee suggested to examine whether responsibility can be fixed provisionally on the owner/applicant wherever information on builders is not available. The question of levying penalty can be decided later.” The last sentence “Hence the Committee suggested to fix responsibility on the owner/applicant wherever information on builders is not available and levy penalty” stands deleted.

Agenda item No.6

It was decided to include the following after the word “Section 113-A (6)” It is felt that Monitoring Committee after being consulted on a Reg application, cannot be consulted on the appeal petition of the same application”.

Hence, it was decided to seek clarification from the Hon’ble High Court.

Agenda item No.10

In Para-1, the first sentence may be read as, “ The Monitoring Committee discussed in detail the question of fixing the responsibility on the Officials in CMDA, Corporation of Chennai, and Local Bodies within CMA for their failure to enforce the Laws relating to Planning Permission and Building Permission Rules.”

In Para-2, in the starting of the sentence the term “Monitoring Committee” should be substituted by “CMDA”

In Para-3, in the starting of the sentence the term “Monitoring Committee” should be substituted by “CMDA”

In Para-3, last sentence may be read as, “The Monitoring Committee felt that in the long-term the existing system has to be looked at comprehensively as also better system that may be available in other States, before the Monitoring Committee takes a view separately”.

AGENDA ITEM NO.2

Action taken on the minutes of the second meeting of the Monitoring Committee held on 21.12.2006

Minutes:

With reference to Sl. No. 2(b) of the Action Taken Report on the minutes of the second meeting of MC held on 21.12.2006, it was decided that evolving a system for public participation and sensitization as part of monitoring process can be taken up later.

AGENDA ITEM NO.3

Base paper on the Reg. scheme with background and factual information prepared by CMDA placed for discussion

Minutes:

The Base paper on regularisation scheme was taken up for discussion.

Members discussed the High Court's Order dated 23.08.2006 in detail, specially the operative portion in para 32 and the observations made in para 29.

The following portions in para 29 and 32 of the Judgment of the High Court dated 23-08-2006, came in for detailed discussion.

“ We hasten to add that the extension of date for making applications for regularisation, as well as the reduction in fees cannot be said to be illegal and the construction made prior to 28/02/1999 may be regularized, provided the application for regularisation has been preferred before the extended date i.e. 30/06/2002.”

Para 32

“ In the result in view of the foregoing discussion, we pass the following order: -

The amendments to Section 113-A of the Tamil Nadu Town and Country Planning Act, 1971 by amending Acts 31 of 2000, 17 of 2001 and 7 of 2002 and the consequential amendments to the Application, Assessment and Collection of Regularisation Fee (Chennai Metropolitan Area) Rules, 1999 as far as applicable to the constructions made after 22.02.1999 are hereby declared ultra vires Articles 14 and 21 of the Constitution. All orders for regularisation of such buildings (constructed after 28.02.1999) passed pursuant to the amending provisions stand quashed.”

After discussions, finally it was resolved as follows:

- To recommend adopting the criteria suggested by High Court to prove that the building was completed on or before 28-02-1999.
- To follow the 1999 Scheme in its entirety with regard to the norms as well as the fees.
- It was also decided to consider the applications received up to 30-06-2002 in respect of buildings constructed and also subdivisions effected on or before 28-02-1999.
- The Committee decided that intimation regarding the decision taken on the applications should be sent individually to all applicants by CMDA.
- The Committee recommended reopening of all the cases where approvals had been given under the extended schemes and examining them afresh with reference to the norms of 1999 Scheme.
- Database for 139 Commercial Multi-storied Buildings

The MC reviewed the database for 139 multi-storied commercial buildings and observed that in some cases the data furnished were incomplete/erroneous. The MC also felt that the data base structure has to be slightly modified and additional particulars with

reference to DCR have to be included. The Committee suggested that a Sub-committee comprising the following may look into the data base structure and recommend suitable modifications:

- (i) Dr. Srivatsan,
- (ii) Prof. Suresh Kuppusamy &
- (iii) M&CP, CMDA.

The sub-committee will meet on 13.01.2007 to finalise the data structure.

Agenda Item No.4

(Regularisation of unauthorized sub-division of vacant plots)

i) *Minutes for Agenda Item No. 4-I to 4- XXIV (Table circulation)* The MC took note of the information placed on individual cases of Regularisation of Plots in unauthorized layout/unauthorized sub-division. The MC recommended that the vacant plots may be regularized by adopting the 1999 scheme rates based on the sale deed submitted by the applicants. However, wherever the Reg. Fee demand was sent based on rates other than 1999 Scheme, it has to be recalculated at the 1999 Scheme rates and intimated to all the applicants, for payment.

ii) *Minutes for Agenda item No.4-XXV (B. Anbumani Vs. CMDA)*

The MC took note of the following in the Court Order dated 21.09.2006

“ In view of the above, the Writ petition is ordered, as ordered by the Full Bench in the above paragraph cited supra. The exercise for suggesting less stringent measures shall be completed by the Monitoring Committee within a period of two months from the date of receipt of a copy of this.”

- . The Committee decided that suggesting less stringent measures for residential buildings shall be taken up for discussion in the ensuing MC meeting.

iii) Minutes for Agenda Item No.4 - XX VI (Table circulation)

(Response of Reg. Applicants to the Public notice)

The MC took note of the response of the applicants in furnishing evidences. It was decided that no more extension of time beyond 02.01.2007 can be given for furnishing of evidences. Accordingly, it was decided that individual rejection letters can be sent to all those who have not produced evidence to prove that their construction was completed on or before 28-02-1999.

The format of rejection letter was gone through and cleared by MC. (Annexure – A)

ADDITIONAL ITEMS:

Agenda Item 5 (i) :

CLARIFICATION SOUGHT BY CMDA ON HIGH COURT ORDER

Para 32 (xii) of the High Court Order reads as follows:

“The Monitoring Committee shall be consulted for applications claiming exemption under section 113-A of the Act as well as appeals under section 113-A (6). The Monitoring Committee shall also be consulted for changes in the Master Plan and Development Control Rules, which affect construction activity in the City.”

The issue of individual applications for reclassification of plots / land was discussed. In this regard the Advocate General's opinion obtained by CMDA was taken note of.

The MC concurred with the views of the Advocate General and resolved that this being a routine statutory work under the Act, the CMDA may continue to process such applications without referring the same to the Monitoring Committee.

However, it also reiterated that while drafting the New Master Plan or proposing any amendments to the DCR, the Monitoring Committee should be consulted.

5(ii) The MC also resolved that an Action Taken Report on the High Court judgment dated 23 Aug. 2006 may be filed before the Hon'ble High Court by the end of Jan. 2007.

The next meeting will be held on 23-01-2007 at 3.00 p.m.

ANNEXURE - A

Draft Rejection letter from the Member-Secretary

Lr.No.....

Dated:.....

Sir/Madam,

Sub: CMDA – Reg.Unit – Reg. MSB/REG-I/REG-II/REG-III/REG I & I/REG L & O B Division - Regularisation of unauthorized/deviated building / Sub-division of plots at Public Notice dt. 2.12.06 - Particulars not received within 30 days from the date of publication - Rejected – Reg.

- Ref: 1. Your PPA Received in Reg.No.....dt.....
2. Orders of Hon'ble High Court dt. 23.8.06
3. Public Notice dt. 2.12.2006 in news papers

Your Regularisation application received in the reference 1st cited for the residential / commercial building / Institutional/ Industries/Sub division of plot at the above referred site has been examined.

Pursuant to the orders of the Hon'ble High Court of Judicature at Madras by its Judgement dated 23.8.2006, the amendments to Section 113-A of the Tamilnadu Town & Country Planning Act, 1971 by amending Acts 31 of 2000, 17 of 2001 and 7 of 2002 and the consequential amendments to the Application, Assessment and Collection of Regularisation Fee (Chennai Metropolitan Area) Rules, 1999 as far as applicable to the constructions made after 28.2.99 are declared ultra vires. Therefore all the applications received for regularisation either for plots, Ordinary Buildings / Special Buildings / Multi Storied Buildings / Institutions / Industries / Commercial / Residential Buildings under the extended scheme 2000, 2001, 2002 shall be deemed to be rejected. The Hon'ble Court has also quashed all the orders for regularisation of such buildings (constructed after 28.2.1999) passed pursuant to the amending provisions. However, if the construction/building/sub-division is completed prior to 28.2.1999, the following evidences shall be furnished to determine the veracity of date of completion of the building/date of purchase of the plot to CMDA/Local Body concerned. i.e.

- (a) Date of Planning Permission and proof of completion;
- (b) Electricity Service Connection and Water Connection; and
- (c) Registration of Sale Deed conveying constructed area/plot

You were also requested to furnish the above particulars within 30 days through a public notice notified through news papers dated 2.12.2006.

As per the Court order, your application has been examined and it is found that your application does not satisfy the conditions prescribed by the Court. Hence the same is rejected.

Yours faithfully,

MEMBER-SECRETARY.

Encl: Two copies of refused plan.

Copy to: 1. The concerned Local Body.

2. The concerned EC Division.