

**MINUTES OF THE FOURTH MONITORING COMMITTEE MEETING HELD
ON 23.01.2007 AT 3.00 P.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,
Architect and Urban Planner.
12. Thiru P.T. Krishnan (Architect) (Leave of absence)

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

Item No.1 : Confirmation of minutes of the 3rd meeting of the Monitoring
Committee held on 10.1.2007

Minutes

The minutes of the 3rd Monitoring Committee meeting was taken up for discussion and confirmed with the following modification:

In respect of Agenda Item No.10 of the 2nd Monitoring Committee meeting, the minutes therein should be replaced by the following:

Item No.10:

“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”. The procedures followed in CMDA in detecting the unauthorised building and serving notices under section 56 & 57 of the Town & Country Planning Act were explained to the Committee by CMDA Officials. The Enforcement of the planning laws are kept in abeyance till the other avenues available in the Act are exhausted, such as submission of plan for approval under section 49 of the Town & Country Planning Act, appeal to the Government under Section 79 of the T&CP Act, etc., Further it was noted that a number of applicants obtained stay from the courts against the notices served by CMDA. It was pointed out that in view of the various provisions in the Act, enforcement of the planning laws is taking much longer than expected by the common citizen. It was also explained that limited availability of staff for enforcement activities is a constraint.

The **CMDA** felt that when an unauthorised construction has been booked by CMDA or the Local Body and a notice issued following inspection, it is sufficient to prove that they have taken prompt action. Any delay in view of other provisions in the Act should not implicate the concerned officers as defaulters.

The **CMDA** was also of the view that with just four inspecting Officers CMDA cannot do justice in identifying the unauthorised construction in the entire CMA and hence suggested to strengthen Enforcement Wing with adequate number of staff for effective enforcement. It was also felt that CMDA being primarily a planning and regulatory body, it should not be burdened with enforcement activity. Ideally enforcement activity should lie with the local bodies, which are better equipped to undertake this task.

The Monitoring Committee examined the issue of fixing responsibility at various levels in CMDA, Chennai Corporation and the Local Bodies and felt that this needs careful examination to determine whether the legal responsibility has been fulfilled or not and hence this can be discussed later. The Monitoring Committee felt that in the long-term the existing system has to be looked at comprehensively as also better systems that may be available in other states, before the Monitoring Committee takes a view separately.”

Item No.2 Discussion on Status Report to be filed before the Hon'ble High Court on 29.01.2007

Minutes: Monitoring Committee approved the status report with the following modifications.

(a) Para 32 (vii)

The Monitoring Committee examined the issue of fixing responsibility at various levels in CMDA, Chennai Corporation and the Local Bodies and felt that this needs careful examination to determine whether the legal responsibility has been fulfilled or not and hence will be discussed later. The Monitoring Committee felt that in the long-term the existing system has to be looked at comprehensively as also better systems that may be available in other states, before the Monitoring Committee takes a view separately.

(b) Para 32 (ix):

The Monitoring Committee discussed about the issuance of Completion Certificate for compliance of Planning Permission and other applicable laws and felt that a new system has to be evolved in which all the applicable laws should be enumerated and parameters set out clearly. Accordingly CMDA convened a meeting with all concerned agencies on 9.1.2007 to evolve a new system and to fix the parameters in respect of applicable laws.

The Committee was informed that in the meeting convened on 09.01.2007, various agencies had pointed out the parameters to be insisted upon before issue of Compliance Certificate. Monitoring Committee decided that the new system should be applicable from the date of court's order i.e. 23.8.2006. Monitoring Committee noted that no single Department could take responsibility for certifying that the building has complied with all applicable laws. Further, the details of various applicable laws, the parameters to be insisted, under each law / agency, category of buildings for which the new system has to be insisted upon for giving electricity, water and sewer connections and the agency for issuing Compliance Certificate need to be worked out and finalised diligently. This will take some time.

During discussion, it was also noted that there are about 100 applications pending for water supply and sewer connections because of non-furnishing of compliance certificate as the same is not being issued by the agencies in view of the High Court's order dt. 23.8.2006. Similarly some applications are pending for electricity connection. In order to avoid hardship to the applicants, till a new system is finalised, as an interim measure, the Monitoring Committee directed that the buildings that are awaiting these connections should be inspected by the concerned Departments, viz., Electricity Board, Fire & Rescue Services Department, Traffic Police, CMDA and Corporation / Local Bodies in the next 2 weeks to ensure that the conditions imposed at the time of giving planning permission are complied with in each case. Based on the Compliance Certificate to be issued by these agencies, CMDA will give the Completion Certificate.

(c) Para 32 (xi):

With regard to the above aspects the Committee felt that the consultation on the application at two different stages i.e. in the application stage and appeal stage by the same body may not be in order and therefore, it would be better to seek clarification from the Hon'ble Court on the issue.

While drafting the new Master Plan or proposing any amendments to DCR the Monitoring Committee would be consulted.

(d) Para 32 (xiii):

The Committee was of the view that whenever the application is rejected, it would be proper to refund the money to the applicants. However, necessary guidance may be sought for from the Hon'ble High Court regarding refund. In respect of Para 32 (xiv), Monitoring Committee decided to incorporate details of action taken by the Corporation to remove encroachments on major roads.

Item No.3 Issuance of Compliance Certificates

Sub-para (ix) of Para-32 of the High Court Order reads as follows:

“To avoid future violations, buildings should be certified as having been constructed in compliance of planning permit and other applicable laws. The certifying officer will be personally responsible if any illegal building is certified. Electricity, water connection and occupation should be contingent on such certificate. In respect of the builders who have been identified by the Monitoring Committee as having put up illegal buildings, only the Chief Planner, who shall bear personal responsibility, should certify constructions by such builders for compliance.”

The minutes of the meeting convened by Member-Secretary, CMDA with the concerned organisations had already been circulated in the last meeting as one of the Agenda items for discussion. The same may be discussed in this meeting.

Minutes:

The Monitoring Committee discussed about the issuance of Completion Certificate for compliance of Planning Permission and other applicable laws and felt that a new system has to be evolved in which all the applicable laws should be enumerated and parameters set out clearly. Accordingly CMDA convened a meeting with all concerned agencies on 9.1.2007 to evolve a new system and to fix the parameters in respect of applicable laws.

The Committee was informed that in the meeting convened on 09.01.2007, various agencies had pointed out the parameters to be insisted upon before issue of Compliance Certificate. Monitoring Committee decided that the new system should be applicable from the date of court's order i.e. 23.8.2006. Monitoring Committee noted that no single Department could take responsibility for certifying that the building has

complied with all applicable laws. Further, the details of various applicable laws, the parameters to be insisted, under each law / agency, category of buildings for which the new system has to be insisted upon for giving electricity, water and sewer connections and the agency for issuing Compliance Certificate need to be worked out and finalised diligently. This will take some time.

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Item No.4 Guidelines suggesting less stringent measures for residential buildings (both Multi-storied Buildings and Special Buildings)

Sub-Para (v) of Para 32 of the High Court Order dated 23.08.2006 reads as follows: in Para 32 (v)

“Special buildings should be categorized as those with actual construction of ground plus three floors. In the case of commercial special buildings, the same measures that apply multi-storied buildings as above should be followed. In the case of residential multi-storied buildings and special buildings, the Monitoring Committee may suggest less stringent measures, bearing in mind the impact of retaining the building.”

While disposing of the W.P.No.5214 of 2001 filed by Thiru B.Anbumani against Member-Secretary, CMDA and others, the High Court in the order dated 21.09.2006 has directed that “ 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 Order”.

In the light of the above direction, the matter has to be discussed and finalised urgently.

Minutes:-

The Monitoring Committee took up the question of suggesting guidelines on the less stringent measures to be followed for residential developments of both MSB and Special Buildings.

The Committee felt that the exercise of suggesting less stringent measures for residential buildings both MSB and Special Buildings can be done after completing the processing of regularisation applications on MSB / Commercial buildings.

The Committee decided that meanwhile a Sub-Committee consisting of the following Members shall be constituted for suggesting less stringent measures in respect of residential developments:-

- | | | |
|----------------------------|---|-------------------------------|
| 1. Prof. Suresh Kuppaswamy | - | Anna University |
| 2. Dr. A. Srivatsan | - | Architect and Urban Planner |
| 3. Thiru. U.Perumal | - | City Engineer, Chennai Corpn. |
| 4. Thiru. C.Palanivelu | - | Chief Planner, CMDA |
| 5. Thiru. N.V.Raghunath | - | Chief Planner, CMDA |

The Sub-Committee will submit a paper suggesting less stringent measures, which will be taken up for discussion by the Monitoring Committee.

Item No.5 Finalisation of Database structure –

The Sub-committee constituted by the Monitoring Committee in its last meeting met on 18.01.2007 and accepted the already prepared database. However, the sub-committee also suggested to give the following particulars in the Remarks Column:

- a) Details of approval given earlier on this application
- b) Whether there is any G.O. under Sec. 113
- c) Application of OSR charges as per DCR
- d) Variation in the set back with relation to the height of the building.
- e) Eligible FSI given for Regularisation applications, provided they satisfy the other DCR parameters such as Road width, Plot extent.

The same may be discussed.

Minutes:

The Sub-Committee's recommendation was accepted for adoption.

Item No.6: Nomination of additional Member to the Monitoring Committee.

Minutes:

The Monitoring Committee took note of the withdrawal request of Thiru. P.T.Krishnan from the Monitoring Committee and decided to report the same to Hon'ble High Court. The Committee felt that it would not be appropriate for the Monitoring Committee to recommend to the High Court inclusion of any additional member to the Monitoring Committee.

Item No. 7: Examination of 14 Regularisation Applications:

Minutes:

Monitoring Committee examined each paper and disposed of the applications. Orders are recorded in the concerned individual files. The Monitoring Committee in general directed as follows in these cases:

- a) In case of buildings that had an approved plan, to issue notice to all the applicants, if they have not produced any evidence for completion of building before 28.2.1999, to restore the building to its original approved plan within 45 days.
- b) Where no records of building approval have been furnished, to issue notice for demolition.