ABSTRACT

Rules – Tamil Nadu Transfer of Development Rights Rules, 2019 under section 35-A of the Tamil Nadu Town and Country Planning Act, 1971 – Notification – Issued.

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HOUSING AND URBAN DEVELOPMENT [UD4(3)] DEPARTMENT

G.O.(Ms).No.198

Dated: 24.12.2019
விகாரி, மார்கழி 8,
திருவள்ளுவர் ஆண்டு 2050

ORDER:

The appended Notification shall be published in the Tamil Nadu Government Gazette Extraordinary dated the 24th December, 2019.

(BY ORDER OF THE GOVERNOR)

RAJESH LAKHONI,
PRINCIPAL SECRETARY TO GOVERNMENT.

To
The Works Manager,
Government Central Press, Chennai-600 079.
The Secretary to Governor, Raj Bhavan,
Chennai – 600 032.
All District Collectors.
The Chief Secretary to Government, Chennai-600 009.
The Additional Chief Secretary to Government,
Finance Department, Chennai- 600 009.
The Secretary to Government,
Law Department, Chennai – 600 009.
The Commissioner of Town and Country Planning, Chennai-600 002.
The Member Secretary,
Chennai Metropolitan Development Authority,
Chennai – 600 008.

Copy to:

Deputy Secretary to Deputy Chief Minister,

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Chennai-600 009.
The Chief Minister's Office, Chennai- 600 009.
The Secretary to Chief Minister, Chennai – 600 009.
The Personal Assistant to Principal Secretary to Government,
Housing and Urban Development Department, Chennai – 600 009.
The Public (SC) Department, Chennai-600 009.
SC1, SC2 Sections in Housing and Urban Development Department,
Chennai – 600 009.
SF/SC.

//FORWARDED BY ORDER//

SECTION OFFICER.

24/12/19

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APPENDIX

NOTIFICATION

In exercise of the powers conferred by clause (bb) of sub-section (2) of Section 122 read with clause (45-A) of section 2 and section 35-A of the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972), the Governor of Tamil Nadu hereby makes the following Rules, namely :-

RULES

1. **Short title.-** These rules may be called the Tamil Nadu Transfer of Development Rights Rules, 2019.

2. **Definitions.-** In these rules, unless the context otherwise requires,-

   (a) "Act" means the Tamil Nadu Town and Country Planning Act, 1971 (Tamil Nadu Act 35 of 1972);

   (b) "affordable housing" means a housing which is deemed affordable to those with a median household income as rated by the Government and reckoned in terms of the plinth area of the house, as may be determined by the Government, from time to time;

   (c) "Development Right Certificate" means the certificate issued under the signature of the Member-Secretary of the Planning Authorities including digital signature, indicating the floor space index credit in square metres of the built-up area to which the owner or lessee is entitled, the place from where it is generated and the rate of that plot as prescribed in the guideline value issued by the Registration Department for the relevant year;

   (d) "dwelling unit" means an independent housing unit with separate facilities for living, cooking and sanitary requirements, and may be a part of a building;

   (e) "economically weaker section housing" means the dwelling unit with plinth area up to 32 sq.m. in plotted development and in case of flatted development, carpet area of dwelling of unit not exceeding 40 sq.m. or such maximum area as the Government may specify from time to time;

   (f) "low income group housing" means the dwelling unit with plinth area above 40 sq.m. and not more than 60 sq.m. in plotted development and in case of flatted development carpet area of dwelling unit not exceeding 60 sq.m., or such maximum area as the Government may specify from time to time;

   (g) "guideline value" means the market value of the property, as per the market value guidelines of properties prepared by the valuation committee, constituted under section 47-AA of the Indian Stamp Act, 1899 (Central Act II of 1899);

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(h) "plinth area" means the built-up covered area measured at the level of the basement or of any storey;

(i) The words and expressions used in these rules and not defined, but defined in the Act shall have the same meaning, respectively, assigned to them in the Act.

3. <u>Cases permissible for transfer of development rights.-</u> Transfer of development rights under section 35-A of the Act is permissible, when the land is surrendered for the following purposes, namely:-

(a) for forming new road and widening of the existing road as proposed in the Development Plans approved under the Act;

(b) for forming new road and widening of the existing road notified by a Government department, Local authority or by a Government agency;

(c) for any traffic and transport infrastructure development such as bus stop or bus stand or bus terminus, metro rail, mass rapid transit system, bus rapid transit system, intermodal transfer infrastructure, public parking, etc., notified by a Government department or Local authority or Government agency;

(d) for any urban infrastructure development such as water supply, sewerage, drainage, electricity, education, health, notified by a Government Department or Local authority or Government Agency;

(e) for conservation as heritage sites, heritage buildings, heritage precincts or as natural feature areas; or

(f) for any other purpose as may be notified by the Government, from time to time.

4. <u>Cases not permissible for transfer of development rights.-</u> Transfer of development rights is not permissible for the following cases, namely:-

(a) in the case of any compulsory reservation of space for public purpose or recreational uses or economically weaker section or social housing and in the case of subdivisions, layouts, group developments, high rise buildings or non-high rise buildings or such other developments prescribed in the Tamil Nadu Combined Development and Building Rules, 2019;

(b) in case the possession of the land is taken pursuant to an award under any Act; or

(c) in any other case, where possession of the land is taken by the Government or other authority based on mutual agreement or contract.

5. <u>Generation of transfer of development rights.-</u> The owner of the land shall be entitled for transfer of development rights, irrespective of the floor space index permissible or development potential

of the land surrendered, in terms of the value of the land surrendered on the basis of the guideline value for the site or if the guideline value of the site for the land surrendered is not available, on the basis of the value / extent of the land surrounding such land, at the rate as given below:-

	Area	**Entitlement**
	(1)	(2)
(i)	Area surrendered for road formation, widening or for implementing any public infrastructure project.	2.25 times the guideline value of the surrendered land
(ii)	Each slum household identified and rehabilitated by the Tamil Nadu Slum Clearance Board.	30 sq.meter of the floor space index of the house hold.
(iii)	For conservation as heritage site / building	Guide line value of equivalent land portion of restricted development

6. Application for Development Right Certificate.-(1) An application for issue of Development Right Certificate shall be made to the planning authority in FORM I along with the relevant documents specified therein.

(2) The specimen signature or thumb impression of the applicant in the application for grant of Development Right Certificate shall have to be attested or duly authenticated by a notary.

7. Issue of Development Right Certificate.-(1) The planning authority shall verify and satisfy itself as to the ownership and title of the land proposed to be surrendered and direct the applicant to surrender the land by a registered deed. The planning authority shall thereafter also direct the applicant to transfer the patta of the said land in the name of the planning authority.

(2) The Development Right Certificate shall be issued in FORM II in a Rs.100/- non-judicial stamp paper under the seal and signature of the planning authority. The Development Right Certificate shall contain the details of the land surrendered, its guideline value at the time of surrender, its location, and restrictions / conditions, if any:

Provided that if the floor space index eligible for the land surrendered is availed or received fully in the remaining part of the available site itself, then the Development Right Certificate shall not be issued or if floor space index is availed partly in that site, the Development Right Certificate shall be issued for the balance portion.

(3) The planning authority shall make an entry in a ledger and assign account number and shall maintain the details in FORM III.

8. **Duplicate Development Right Certificate.-** (1) If the Development Right Certificate is defaced, lost or destroyed, the owner of the land shall file a police compliant and shall give advertisement in two leading news papers. Thereafter, the owner of the land shall make an application for issue of Development Right Certificate enclosing a copy of First Information Report along with an indemnity bond and a fee of Rs..... in the form of Demand Draft payable to the planning authority.

(2) The planning authority on scrutiny and verification of application shall issue a duplicate Development Right Certificate.

9. Terms and Conditions for Utilization of Transfer of Development Rights.- (1) The Development Rights may be used in one or more sites, consistent with the development Regulations applicable to a particular site. The Development Rights generated from anywhere could be utilised on any plot subject to development regulations.

(2) The holder of the Development Right Certificate shall submit the utilisation application in FORM-IV:

Provided that no such application shall be submitted, if application for transfer of Development Right Certificate is pending.

(3) Application for utilisation of transfer of development rights shall be submitted along with the following documents, namely:-

(a) Development Right Certificate,

(b).....

(c).....

(4) On receipt of the application under sub-rule (2), the planning authority shall verify and satisfy itself as to the correctness of the documents submitted, permit the applicant to utilize the required development rights.

(5) The equivalent quantum of transfer of development rights to be permitted on the receiving plot shall be governed by the formula given below:-

(a) Transfer of development rights in terms of land value in the generating site = extent of the site surrendered x 2.25 times guideline value generating site at the time of utilisation of transfer of development rights.

(b) Transfer of development rights in terms of floor space credit = extent of the site surrendered x 2.25 times guideline value generating site at the time of utilisation of Transfer of development rights x floor space index at the generating site.

(c) Transfer of development rights value in the receiving site = transfer of development rights value in the generating site.

(6) For arriving at the development right value credit, guideline value of the land surrendered and the guide line value of the land at the utilising site shall be with reference to the calendar year of utilisation.

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(7) The guideline value at the time of issue of Development Right Certificate or the actual guideline value, whichever is higher, shall be considered for utilization of transfer of development rights for 5 years from the date of issue of Development Right Certificate.

(8) The transfer of development rights value may be adjusted towards regularization charges and premium floor space index charges.

(9) The transfer of development rights may also be utilised in lieu of payment of floor space index charges.

(10) The floor space index at the utilising site shall not exceed normally permissible floor space index as per the development regulations and as per the directions issued by the Government, from time to time.

(11) The floor space index credit shall be issued in FORM V.

(12) The utilization of development rights shall be in multiples of 10 sq.mts., only except the last remainder. Any request of the transferor or of transferee for utilization of transfer of development rights other than in multiples of 10 sq.mts. shall not be considered.

(13) In case the applicant is a holder of power of attorney or limited company or corporate body or registered societies or trust, the applicant shall apply for utilization of development right for transfer, by enclosing the registered power of attorney or relevant resolution regarding authority to file application or request for transfer, together with certified copy of the Memorandum of Association and Article of Association and / or Bye-laws. Any development right may be utilized on one or more plots or lands whether vacant, or already developed fully or partly by erection of additional storeys, or in any other manner consistent with the prevailing development regulations.

(14) In case there are two planning authorities in any urban area, before permitting utilization of transfer of development rights, no objection certificate has to be obtained from the planning authority in whose jurisdiction it is proposed to be used.

(15) The transfer of development rights in favour of a Non Resident Indian or a foreign national shall be subject to rules and regulations of the Reserve Bank of India or Government of India.

(16) In case of utilization of development right jointly held, then all the joint holders of Development Right Certificate shall have to sign the application form for utilization.

(17) The planning authority may reject the application for utilization of transfer of development rights or cancel the grant of development rights in the following circumstances, namely:-

(a) If any dues are payable by the owner of the property to the State Government or Local Body prior to the date of handing over physical possession of the properties to the planning authority, the said authority on request from the State Government or Local Body may withhold utilization of the

transfer of development rights till the dues are paid by the owner of the property.

(b) If the planning authority has reason to believe that the Development Right Certificate has been obtained by producing fraudulent documents or obtained by illegal title of land surrendered, shall cancel the Development Right Certificate, after giving due opportunity to the applicant.

(c) The Planning Authority may suspend the Development Right Certificate, if there is dispute on the title of the land and the transfer of development rights shall be effected only after the dispute is settled.

10.<u>Terms and Conditions for transfer of Development Right Certificate</u>.- (1) The planning authority shall allow transfer of Development Right Certificate as follows:-

(a) In case of death of holder of the Development Rights Certificate, development rights shall be transferred only on production of the documents, as may be specified by it from time to time, after due verification and satisfaction regarding title and legal successor.

(b) If a holder of Development Right Certificate intends to transfer it to any other person, he shall submit the original Development Right Certificate to the planning authority with an application along with following documents, namely:-

(i) registered agreement, duly signed by the transferor and the transferee.

(ii) .....

(iii).....

(c) A new Development Right Certificate will be issued with details of transfer, inreplacement of the original Development Right Certificate.

(2) (a) The specimen signature and thumb impression in the application form for transfer shall be attested by a Notary Public under his Official seal.

(b) The transfer application form shall be signed by all the joint holders of the Development Right Certificate.

(c) Agreement for transfer of Development Right Certificate shall have to be executed by both the transferor and transferee as conveyance deed and stamp duty as applicable shall be paid on each transfer under the provisions of the Indian Stamp Act, 1899 (Central Act II of 1899).

(d) Any transfer of Development Right Certificate shall be charged at the rate of Rs.10/- per sq.mtr. subject to minimum of Rs.1,000/-.

(e) Transfer of Development Right Certificate shall be approved by the planning authority.

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(f) The transferor shall not be treated as registered holder of development rights unless a new Development Right Certificate is issued to him by the planning authority.

(g) In case of the death of the holder of Development Right Certificate, the Development Right Certificate shall be transferred only on production of succession certificate or letter of administration or probate in case of a will, as the case may be. On production of the aforesaid documents, names of the legal heirs shall be included in the Development Right Certificate.

RAJESH LAKHONI,
PRINCIPAL SECRETARY TO GOVERNMENT.

//True Copy//

SECTION OFFICER.

24/12/19

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APPENDIX

FORM-I

Application for Development Right Certificate
[see rule 6(1)]

From
Name of the owner& his address
.....
.....
.....

To
The Member Secretary,
Chennai Metropolitan Development Authority,
Thalamuthu-Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

Sir,

I / We intend to surrender the part / whole of the land of extent about ..... sq.m in T.S.No....., Block No....., S.No ..... of ..... Village in ..... Taluk of ..... District which is reserved as....., a public purpose as per the Second Master Plan for CMA / ..... DDP / as notified by the ..... Government Department or agency or ..... Local Body for the grant of DRC in lieu of monitory compensation.

I / We enclose herewith the following:

(i) Site plan showing the extent of the site owned by the applicant along with the details of the existing structures

(ii) FMB sketch / PLR extract for the site under reference duly attested by a revenue official not below the rank of Deputy Tahsildar

(iii) Title deed to prove that the applicant has absolute right over the land for which DRC is applied for

(iv) Area statement of the land for which DRC applied for, duly certified by an Architect or an Engineer who shall also be a class-I Licensed Surveyor

(v) Encumbrance certificate for *20 years*

I / We hereby state that no monetary compensation or DRC has been obtained earlier for the part of the land applied for the DRC now.

I agree for all the regulations and conditions stated in the Annexure XXI of the DR for CMA and the Guidelines notified there under including the conditions that the DRC issued can be cancelled if it has been obtained by any fraudulent manner and if it has come to the notice of the CMDA later that the site under reference is encumbered or the title is under litigation.

Signature of the owner of the land

Encl.:

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FORM-II

Development Rights Certificate

[see rule 7(2)]

Office of the Member Secretary,
Chennai Metropolitan Development Authority,
Egmore, Chennai-600 008.

I ..... Member Secretary, Chennai Metropolitan Development Authority having its office at Thalamuthu- Natarajan Building, No.1, Gandhi Irwin Road, Egmore, Chennai-600 008, certify that the persons named hereunder in this certificate is / are the Registered Holders of the DRC issued subject to the provisions of the Development Regulations No.9 [read with the regulations for TDR given inAnnexure - XXI and the guidelines approved by the Authority] which formed part of the Second Master Plan for Chennai Metropolitan Area approved under the provisions of the Tamil Nadu Town & Country Planning Act, 1971.

i. Location and details of the land surrendered
.....
.....

ii Reservation as per the Master Plan / DDP or
.....
.....

2. The DRC can be utilised only in the areas notified for the purpose and subject to the conditions contained in the DR.

i) Certificate No. .....

ii) Names of the DRC Holders
.....
.....
.....

iii) Extent of the land eligible for the FSI credit.....

Given under the common seal .....day of ..... Year .....

Senior Planner / Chief Planner,
Area Plans Unit,
CMDA

Member Secretary
CMDA

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FORM-III

Register of DRC Information

[see rule 7(3)]

(i) S.Nos.

(ii) Folio No.

(iii) CMDA File No.

(iv) Date of receipt of the DRC request in CMDA

(v) Date of award of the DRC & the Sanctioning Authority

(vi) DRC No.

(vii) DRC originally issued in favour of
.....
.....

(viii) Details of the land surrendered
- a) S.No.
- b) T.S.No.
- c) Block No.
- d) Village Name
- e) Block No.
- f) District
- g) Abutting street name
- h) Extent of land in each S.No.

(ix) Date of submission of utilisation requests

(x) Name of the transferor

(xi) Details of the land at which DRC utilised
- a) S.No.
- b) T.S.No.
- c) Block No.
- d) Village Name
- e) Block
- f) District
- g) Abutting street name
- h) Extent of land in each S.No.

(xii) Balance extent of DRC if any

(xiii) Date of submission of utilisation request for the balance DRC

(xiv) Balance DRC utilisation details
- a) S.No.
- b) T.S.No.
- c) Block No.
- d) Village Name
- e) Block
- f) District
- g) Abutting street name
- h) Extent of land in each S.No.

(xv) Remarks

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FORM-IV

Utilisation Application
[see rule 9(2)]

From

.....
.....
.....

To

The Member Secretary,
Chennai Metropolitan Development Authority
Thalamuthu Natarajan Building,
No.1, Gandhi Irwin Road,
Egmore, Chennai-600 008.

Sir,

I / We, the undersign, do hereby request to allow to utilise the DRC detailed below for the construction proposed to be put up at the site bearing S.No/T.S.No..... Block No.....of ..... Village..... Taluk .....District for which the Planning Permission is applied for by ..... (name) ..... (address) and is being dealt in CMDA file No.....

Particulars of DRC

DRC No. :
Issued in favour of :

Name in full	Signatures
.....	.....
.....	.....
.....	.....

I / We, the applicants of the PPA for the construction at ..... is / are willing to utilise the DRC issued in favour of the above persons, and request CMDA to permit the eligible floor area to be put up at my premises.

Name in full	Signatures
.....	.....
.....	.....
.....	.....

Attestation by Notary Public

I hereby attest the signatures of
the DRC holders and
the PPA applicants mentioned above.

Signature
Name
Address & Seal

Witnesses

1.....

2.....

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FORM – V

FSI AND LAND VALUE CREDIT FORM
[see rule 9(11)]

To

.....

.....

1. Location and details of the land surrendered :

   .....

   .....

2. Reservation as per the Master Plan / DDP :

   .....

   .....

3. The DRC can be utilized only in the areas notified for the purpose and subject to the conditions contained in the DR.

4. Details of Development Right Certificate (DRC) :

   i) Certificate No. : .....

   ii) Name of the DRC Holder : .....

   iii) Extent of the land eligible for the Floor Space Index credit : .....

   iv) Extend of land value credit : .....

   Given under the common seal ..... day of ..... year .....

Chief Planner
CMDA

Member Secretary
CMDA

RAJESH LAKHONI,
PRINCIPAL SECRETARY TO GOVERNMENT.

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