ABSTRACT

Urban Development - Tamil Nadu Town and Country Planning (Removal of Unauthorised Development) Rules, 2022 to streamline the enforcement action on Unauthorized Development under section 56, 57 and 80(A) of Tamil Nadu Town and Country Planning Act, 1971 – Formulation of guidelines –Issued.

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Housing and Urban Development [UD4(1)] Department

G.O.(Ms).No.07 **Dated : 10.01.2023**
சுபகிருது, மார்கழி 26
திருவள்ளுவர் ஆண்டு 2053

Read

G.O.(Ms.)No.195, Housing and Urban Development (UD4(1)) Department, dated 05.11.2022.

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ORDER:

In the Government Order read above, the Government have framed the Tamil Nadu Town and Country Planning (Removal of Unauthorised Development) Rules, 2022 to streamline the enforcement action on unauthorized development under section 56, 57 and 80(A) of Tamil Nadu Town and Country Planning Act, 1971.

2. The Government issue the following guidelines to the Tamil Nadu Town and Country Planning (Removal of Unauthorised Development) Rules, 2022 to streamline the enforcement action on unauthorized developments under section 56 and 57 of Tamil Nadu Town and Country Planning Act, 1971:-

Procedures/ Guidelines to be followed:

1. Is there a need to call for records from the individual?

(i) Hon'ble High Court of Madras in its order dated 02.11.2022 in W.P.No.28929 of 2022 and W.M.P.No.28223 of 2022 filed by Thiru.A.P.Ravi has observed as below:-

"in several cases notices are being issued requiring the alleged violators to produce the sanctioned plan. It is quite surprising that the Enforcement Authority, which is the plan sanctioning Authority also, seeks copy of the sanctioned plan from the violator concerned. We do not find any legal provision under the Town and Country Planning Act supporting such a notice. It is also found that time is granted for production of sanctioned plan and thereafter a notice is

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issued requiring the violator to bring the development in conformity with the sanctioned plan and on failure to bring it into conformity, lock and seal notice is issued. This procedure is not contemplated under the Town and Country Planning Act."

(ii) Since the issue of notice calling approved plan is not contemplated under the Tamil Nadu Town and Country Planning Act, 1971 as observed by the Hon'ble High Court, the authority concerned should confirm from its database on whether any approval has been issued for building in the site. If the same is confirmed then the enforcing authority shall retrieve the copy of approved plan from its records and the authorised official shall carry the same for site inspection.

(iii) In cases where the database does not indicate any approval granted or copy of approved plan is not available with the enforcing authority, the principles of natural justice require an opportunity to be given to the building owner to produce the records including approved plan, if any available with them. In such cases, the notice in Form-I shall be issued by giving atleast 3 days time to produce the documents.

After issuance of notice in Form I calling for records from the individuals and on receipt of records/ non receipt of the records within stipulated time, inspection should be made by the authorized officer for which notice of inspection in Form II should be issued.

2. <u>Who can call for records to inspect the buildings?</u>

The authorized officer for issuing notices for production of documents in Form-I and for carrying out inspection in Form II under Rule-3 should not be lower than Planning Assistant / Supervisor / Architectural Assistant in case of Chennai Metropolitan Development Authority, Urban Development Authority and Directorate of Town and Country Planning or Junior Engineer in case of Corporation/ Municipalities/ Town Panchayats and Panchayat Union.

3. <u>Inspection of the building and notices to be served for further enforcement proceedings</u>

The inspection officer shall give a not less than 7 days time in the notice in Form II and inspect the building in the presence of the owner of the building within 15 days. Inspecting officer should prepare a inspection report as contemplated in Rule 4(3) of Tamil Nadu Town and Country Planning (Removal of Unauthorised Development) Rules, 2022 and come to a conclusion on the appropriate sections of the Tamil Nadu Town and Country Planning Act, 1971 to be invoked, notices to be issued and time to given in each notice:

(i) If the building / development has already been carried out or completed without obtaining planning permission or after the planning permission has been revoked, Section 56 of the Act will apply and notice to restore the land to its condition before the said development (i.e) notice in Form

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III has to be issued giving a minimum of 30 days time. It is pertinent to mention that concerned officer should apply his mind and to put up a report to his next higher authority to issue notice in Form III. This notice to be issued to the owner / occupier.

(ii) If the construction of the building has already been carried out or completed in contravention to the approved plan, section 56 of the Act will apply and notice for compliance with planning permission in respect of unauthorised development carried out in contravention of planning permission (i.e) notice in Form IV has to be issued to restore the building as per approved plan giving a minimum of 30 days time. It is pertinent to mention that concerned officer should apply his mind and to put up a report to his next higher authority to issue notice in Form IV. This notice is to be issued to the owner / occupier.

(iii) If the building is ongoing and being carried out without obtaining approved plan or in contravention to the approved plan, section 57 of the Act will apply and notice to discontinue ongoing unauthorised / deviated development (i.e) notice in Form V has to be issued. This notice in Form V is to be issued to both owner and developer. It is also called Stop Work Notice.

(iv) If the building is continued even after the receipt of notice in Form V then notice to remove that part of the building constructed subsequent to the receiving of notice in Form V. (i.e) notice in Form VI giving a minimum of 7 days time has to be issued.

4. Who can make inspection and issue lock and seal order

a) The notices in Form-III or IV, Form-V and Form-VI shall be issued by an officer of higher level to those indicated in para 2 above. The lock and seal order in Form-VII should be issued by the Head or Chief Executive Officer of the Authority / Local body.

b) In G.O.(Ms).No.289, Housing and Urban Development (UD4-1)Department, dated 16.12.2010, the Director of Town and Country Planning was directed to ensure the issuance of an order by the respective planning authorities themselves under section 91-A of the said Act, for delegation of powers of enforcement actions for curtailing unauthorized construction specified in section 56 & 57 of Tamil Nadu Town and Country Planning (Amendment) Act, 2008 to the Commissioners of Corporations / Municipalities and Executive Officers of Town Panchayats in addition to Member-Secretary of Composite Local Planning Authorities, New Town Development Authorities and Regional Deputy

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Directors of Town and Country Planning Department in their respective jurisdictions as may be necessary.

The Municipal Commissioner/ CEO / Member-Secretary of Urban Development Authority should issue a proper general proceeding for delegation of powers as to who are the officers who are competent to issue notice:-

(i) Calling for records.
(ii) to make inspection.
(iii) issue notice under Form III & IV.
(iv) issue notice under Form V & VI.

c) In the Form-IV and Form-V for the buildings constructed in deviation to the approved plan, the deviations shall be indicated in the notices in a tabulated statement as given below. Additional floors if any constructed shall also be indicated.

S.No.	Planning Parameters	As per approved plan	Available as on site	Deviations with respect to approved plan	As per TNCDBR, 2019	Deviations with respect to TNCDBR, 2019
(1)	(2)	(3)	(4)	(5)	(6)	(7)

5. To whom should the notices be served

a) The notices in Form III and IV are to be issued to the owner of the building for rectification and to the all the occupiers of deviated / unauthorised building for discontinuance of use.

The notice in Form V to discontinue the development should be issued to both the owner and developer of the project. Similarly, the notice in Form VI to remove the portion of work carried out after serving of notice in Form V should be given to both the owner as well as the developer of the project.

b) Mode of Service of Notice

Any notice issued to any person under these Rules shall be served on him,-

(a) by giving or tendering such notice in person or to some adult member of his family; or

(b) if such person is not found, by forwarding such notice to him by registered post to the address of his last known residence, or office or any other address where he is known to be available, or

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(c) if he cannot be reached by the above means, by causing a copy of such notice to be affixed on some conspicuous part of the building or land, to which the notice relates.

6. Lock and Seal order:-

If the owner or occupier of any building, has not rectified the building as per approved plan or has not obtained the planning permission or discontinued the use of development of such land or building as required in the notices in Form III or IV or V, the appropriate planning authority shall issue an order in Form VII to Lock and Seal the premises and accordingly cause the premises Locked and Sealed until further orders. While issuing lock and seal order there should be mention of provision of revision application under section 80 (A) of the Act. The Lock and Seal order should be issued only with the approval of Municipal Commissioner/ CEO/ Member-Secretary of Urban Development Authority.

(2) After the issue of the Lock and Seal Order, immediate action shall be initiated to lock and seal the outer door or the entrance of the premises, after ensuring that the other outlets and inlets of the premises have been properly locked in such a manner that no person can enter the premises without breaking or removing the seal affixed on the lock.

(3) The premises in respect of which an order of lock and seal has been issued, shall be locked and sealed with seal of the appropriate planning authority and it shall be kept in safe custody.

(4) After causing the premises to be locked and sealed, the appropriate planning authority shall inform the same in writing to the jurisdictional police station.

(5) If it is found that the seal as affixed on the lock has been broken or tampered-with, the same shall be reported by the planning authority in writing to the police station concerned.

7. Time is the essence of enforcement action

The time given in each of the notices shall be closely monitored by the concerned officials and the next action should be initiated without any delay to reach its logical end i.e. lock and seal of the building is required or not?. While examing the revision petition, filed by the applicant if the Government observes any deviation in adhering to the stipulated time frame, then action will be recommended to be initiated against the erring officials.

8. Maintenance of Register

A lock and seal register should be maintained as given under Rule 9. The officers concerned should maintain the register to record the inspections made and the notices issued. The register shall be put up to the Head / Chief Executive Officer of the Authority / Local body once in 3 months.

9. Monitoring the Locked and Sealed buildings

The locked and sealed buildings shall be frequently checked for any unauthorized occupancy and necessary action should be taken immediately if found to be illegally occupied.

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10. Monthly Report:-

All Urban Local Bodies should send monthly report to Commissioner of Municipal Administration for action pursued under section 56 and 57. The Commissioner of Municipal Administration has to prepare a consolidated report and send it to Government in Housing and Urban Development Department. The Town Planning Department of Commissionerate of Municipal Administration has to maintain these reports. Similarly, the Greater Chennai Corporation should send the report to Chennai Metropolitan Development Authority. In case of Local Planning Authority/ Urban Development Authority the report is to be sent to Director of Town and Country Planning.

3. The above guidelines shall be implemented with immediate effect and to be followed scrupulously.

4. The Member-Secretary, Chennai Metropolitan Development Authority and the Director of Town and Country Planning are directed to take necessary action in this regard.

(BY ORDER OF THE GOVERNOR)

APOORVA
PRINCIPAL SECRETARY TO GOVERNMENT

To
The Additional Chief Secretary to Government,
Municipal Administration and Water Supply Department,
Chennai-600 009.
The Additional Chief Secretary to Government,
Revenue and Disaster Management Department,
Chennai-600 009.
The Principal Secretary to Government,
Rural Development and Panchayat Raj Department,
Chennai-600 009.
The Secretary to Government,
Commercial Tax and Registration Department,
Chennai-600 009.
The Secretary to Government,
Agriculture Department, Chennai-600 009.
The Secretary to Government, Law Department,
Chennai-600 009.
All District Collectors.
The Director of Town and Country Planning,
Chennai-600 107.
The Member-Secretary,
Chennai Metropolitan Development Authority,
Chennai-600 008.

Copy to:

The Special Personal Assistant to Hon'ble Minister for Housing and Urban Development, Chennai- 600 009.

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The Private Secretary to Principal Secretary to Government,
Housing and Urban Development Department, Chennai-600 009.
The Public (SC) Department, Chennai-600 009.
The Housing and Urban Development (OP1/Budget) Department,
Chennai-600 009.
Stock file/Spare Copy

//FORWARDED BY ORDER//

10/1/23

SECTION OFFICER.

10/1/23

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