

Town and Country Planning Department(Planning Permission)

SouthByPass Road , Xaviercolony,Tirunelveli-627005

ROC No. RWHFB49T

/ 2022 / TCP

Date : 23/05/2023

From:

Joint Director / Deputy Director / Assistant Director
SouthByPass Road , Xaviercolony,Tirunelveli-627005

To :

M/s.ARTHY ASSOCIATES,G1, RODAS APARTMENTS,MUTHAMMAL AVENUE,VADAVALLI, COIMBATORE - 641 041

Sir/ Madam,

Sub : Residential Layout – Local Planning Authority, Tirunelveli / District Town and Country Planning Office, Tirunelveli - Comprised in S.No.1008/2 - Chatram puthukulam Village - T.S.No . 1/2 - Block No. 6 - Ward No. A of Tirunelveli Corporation - Thachanallur Ward - Tirunelveli Taluk - Tirunelveli District - 19530 sqm of Extent (4.825 acres)– Planning Permission issued - Forwarded for further action - Reg .

Ref : 1. Applicant M/s.ARTHY ASSOCIATES rep by its Proprietor Thiru.S.Muruganantham , Online Application RWHFB49T dated 05.9.2022, 31.10.2022, 01.11.2022 & 18.01.2023 .
2. District Town and country planning Office,Tirunelveli District Letter ROC No. RWHFB49T / 2022 / TCP dated .18.01.2023 (Road pattern issued)
3. Circular from the Director of Town and Country Planning, Roc.No 19799 / 2020, Dated: 24.12.2020
4. Applicant M/s.ARTHY ASSOCIATES rep by its Proprietor Thiru.S.Muruganantham gift deed No . 312/2023 dated 22.02.2023 & the rectification deed received for the same vide No.565/2023 dated 23.03.2023.
5.G.O.138, Housing and Urban Development Department, Dated: 04.06.2004
6.G.O.79, Housing and Urban Development Department, Dated: 04.05.2017.
7.G.O.18, Department of Municipal Administration and WaterSupply,Dated:04.02.2019 and G.O.16 Department of Municipal Administration and Water Supply, dated: 31.01.2020.
8.G.O.141, Housing and Urban Development Department, Dated: 23.09.2020
9.G.O.181, Housing and Urban Development Department, Dated: 09.12.2020
10.Government Letter No.19113 / Nov 4 (3) / 2017-1, Housing and Urban Development Department, Dated: 30.08.2017.
11. Circular from the Commissioner of Town and Country Planning, letter no.13686/2017/LA1, dated: 08.09.2017.
12. Circular from the Director of Town and Country Planning, Roc No.320/ 2022/TCP3, Dated: 07.01.2022
13. Circular from the Director of Town and Country Planning, Roc No. 4367/2019/TCP2, Dated: 14.10.2019
14. Objection petition given by M.Baiakrishnan, to the Joint Director, office of the Town and Country Planning, Tirunelveli Dated 23.02.2023, 01.03.2023 & 20.03.2023
15. Objection petition given by M.Balakrishnan to the Director, Office of the Town and Country Planning, Chennai dated 14.03.2023
16. This Office letter Na. Ka.No. 514/2023/Thi.Li.Ma.3 dated 28.02.2023 (Sent to the Government Pleader, Tirunelveli Requesting to issue Legal Opinion on the Objection Petition)
17. Thiru . R.Shankar , Government Pleader , Standing Counsel for Tirunelveli Corporation , Tirunelveli ,Legal Opinion issued dated 25.03.2023.
18. This office letter Na. Ka.No. 514/2023/Thi.Li.Ma.3 dated 17.04.2023 sent to Director of Town and Country Planning Chennai (Requesting Concurrence to give approval based on the legal Opinion)
19. Letter bearing No.Na.Ka.No.6535/2023/TCP-6 sent by the Office of the Director, Town and Country Planning, Chennai to the Joint Director, Town and Country Planning, Tirunelveli

dated 20.03.2023

20. Letter sent to M/s.Arthy Associates by this Office dated 06.04.2023(requesting to submit explanation to the Objection Petition)

21. Reply to the Objection submitted by M/s.Arthy Associates, through its Proprietor Thiru. S.Muruganantham, Coimbatore dated 12.04.2023

22. This Office Letter No.Na.Ka. No.514/2023/Thi.Li.Ma3 dated 06.05.2023 (Sent to the Government Pleader, Tirunelveli Requesting to issue Comprehensive Legal Opinion on the Objection Petition)

23. Thiru . R.Shankar , Government Pleader , Standing Counsel for Tirunelveli Corporation , Tirunelveli ,Comprehensive Legal Opinion issued dated 08.05.2023.

24. Director of Town and Country Planning, Chennai letter Na.ka.6535/2023TCP6 dated 05.05.2023.

25. Local Planning Authority, Tirunelveli meeting held on 15.05.2023 @ Tirunelveli Collectorate , Meeting Subject No. 07 ; Resolution No 16 dated . 15.05.2023.

26. Demand payment online Request Letter, Dated: 17.05.2023 (requiring payment of Centage Fee, Development Charges and Armed Force Flag Day Fund).

27. Applicants Mr.ARTHY ASSOCIATES rep. by its Proprietor Thiru.S.Muruganantham Online payment receipt vide Receipt Number

202305174105 for Rs. 70,560/-dated 17.05.2023

28. Payment of Armed Forces Flag Day Fund Rs. 6300/-received in the form of Demand Draft No 609591, letter dated: 19.05.2023.

With reference to the 1st Cited letter, the applicant has requested for the approval of Residential layout situated in S.No.1008/2, Chatram puthukulam Village, T.S.No . 1/2 - Block No. 6 - Ward No. A of Tirunelveli Corporation, Thachanallur Ward, Tirunelveli Taluk of Tirunelveli District having an extent of 19530 sqm (4.825 acres) .

In continuation, with reference to the 2nd cited letter, the road pattern for residential layout has been issued by this office on 18.01.2023. Further the applicant Mr.ARTHY ASSOCIATES rep. by its Proprietor Thiru.S.Muruganantham has gifted the roads, road
splays and Open Space Reservation areas to the local body, Tirunelveli Corporation on 23.03.2023 vide in the 4th reference cited.

In this juncture, Thiru .N. Balakrishnan has filed an objection petition regarding the ownership of land to this office vide 14th reference cited, consequently he sent an objection petition to the Director of Town and Country Planning , Chennai vide in the 15th reference cited. In the 16th reference cited letter, a legal opinion has been requested from the Government Pleader, Tirunelveli with regard to preceed approval in contratry to the objection petition received from Thiru. N.Balakrishnan. Subsequently The government Pleader, Tirunelveli issued legal opinion on the subject matter/ objection petition on 25.03.2023 and the same was forwarded to the Office of Director of Town and Country Planning, Chennai on 17.04.2023 for getting prior concurrence from the Director of Town and Country Planning, Chennai to proceed for approval.

The necessary explanation has been called for from Mr.ARTHY ASSOCIATES rep. by its Proprietor Thiru.S.Muruganantham vide in

the 20th reference cited letter based on the instructions obtained from DTCP , Chennai in the 19th ref cited letter and the applicant Mr.ARTHY ASSOCIATES replied and furnished their explanation to this office vide 21nd ref cited letter.

In the 24th ref letter of Director of Town and Country Planning Chennai , it has been instructed to take necessary action based on the legal opinion issued by the Government Pleader , Tirunelveli , hence a comprehensive legal opinion which covering all relevant documents & subsequent proceedings , has been obtained from the Govt pleader Thiru . R.Shankar , Standing Consel for

Tirunelveli Corporation ,Tirunelveli vide in the 23th reference cited . The details furnished in the Legal Opinion are as follows;

Schedule Property

Tirunelveli Registration District, Tirunelveli Joint-I Sub-registration District, Tirunelveli Taluk Chatram Puthukulam Village, S.No.1008/2, an extent of 4 Acres 82 Cents. The above property is situated in T.S.ward No.A, Block-6, T.S.No.1/2 of Thatchanallur Zone, Tirunelveli Municipal Corporation.

"The aforesaid M/s.Arthy Associates has applied for the layout approval pertaining to the schedule mentioned property and regarding the same a road pattern bearing Roc No.RWHFB49T/2022/TCP dated 18.01.2023 has been issued by your office and final approval is pending. While thing being so, one N.Balakrishnan, son of Narayanan has sent an objection petition dated 23.02.2023 to your office stating that his brother N.V.Subramanian had entered into an sale agreement on 30.01.2011 with the above named Mahalingam Sankar and Vidya Venkatraman in respect of the schedule mentioned property and some other properties and a sum of Rs.60,00,000/- was paid by him and N.V.Subramanian died on 01.09.2017 and the aforesaid M/s.Arthy Associates, through its Proprietor Muruganantham had purchased the schedule property from above named Mahalingam Sankar and the title of the aforesaid S.Muruganantham pertaining to the schedule mentioned property is defective and not to grant any plan approval to M/s.Arthy Associates. The said N.Balakrishnan has also sent an another objection petition dated 01.03.2023 to your office stating that M/s.Arthy Associates has to establish their right if any to the schedule mentioned property in a Civil Court before getting the layout approval and he has also sent an another objection petition dated 20.03.2023 to your office stating that to conduct a detailed enquiry regarding the layout approval pertaining to the schedule mentioned property. The above named N.Balakrishnan has also sent an objection petition dated 14.03.2023 to the Director, Office of the Town and Country Planning, Chennai by reiterating the aforesaid allegations regarding the layout approval. Thereafter, a letter bearing No.6535/2023/TCP-6 dated 20.03.2023 has been issued by the Office of the Director, Town & Country Planning, Chennai to your office. On the basis of the aforesaid Objection, your office has sent a letter dated 06.04.2023 to M/s.Arthy Associates, through its Proprietor S.Muruganantham to call for his explanation. So, the Applicant M/s.Arthy Associates, through its Proprietor has submitted reply to the aforesaid objections on 12.04.2023 stating that M/s.Arthy Associates has purchased the property through its Proprietor for real value from the rightful owner and all the original documents pertaining to the schedule mentioned property are available with him and the aforesaid N.Balakrishnan has no way related with the schedule mentioned property and so, the layout may be approved (Document Nos.12 to 20).

As per law, the sale agreement holder has got every right to file a suit for specific performance of contract before the court of law and to get a sale deed through Court regarding the property as per the terms of the sale agreement within the reasonable time. The Section 54 of Transfer of Property Act 1882 deals with the agreement for sale. As per the aforesaid Section 54, "the sale agreement does not create any interest over the property described in the sale agreement to the agreement holder".

The Hon'ble Supreme Court has held in its judgment reported in 2021 (1) Madras Weekly Notes (Civil) Page 316 (Venigalla

Koteeswaramma Vs.Malampati Suriyamba) “the agreement of sale itself does not create any interest or charge in property except for a right of obtaining a sale deed”.

The Hon'ble Madras High Court reported in 2001 Madras Law Journal (supplementary) page 489 that a mere sale agreement does not create any right, interest or title over the property.

Hence, it is settled proposition of law that the sale agreement does not create any right, interest or title over the property. If it is so, the sale agreement dated 30.01.2011 executed in favour of N.V.Subramanian does not create any title over the schedule mentioned property. During his life time, he ought to have filed a suit for specific performance of contract and get a regd. sale deed through court of law, if the sale agreement is valid in the eye of law. But, till his life time the above named N.V.Subramanian did not file any suit regarding the schedule mentioned property as per the sale agreement.

As per Article 54 of the Limitation Act, 1963, the limitation period for filing suit for specific performance of contract is three years from the date fixed for performance or if no such date is fixed, when the plaintiff has noticed that the performance is refused.

The sale agreement dated 30.01.2011 as stated by the aforesaid N.Balakrishnan and M/s.Arthy Associates has purchased the property on 27.10.2021. Hence, as per the aforesaid Article 54 of the Limitation Act, 1963, the sale agreement dated 30.01.2011 is time barred. After the expiry of 12 years, from the date of the execution of the aforesaid sale agreement dated 30.01.2011, the objection petition has been sent by the brother of the agreement holder N.V.Subramanian.

Since, the sale deed dated 21.06.2006 was executed by the aforesaid N.V.Subramanian as general power of attorney agent of K.Sasi Kumar and his wife Latika Sasi Kumar in favour of Mahalingam Sankar in respect of the schedule mentioned property and the same was purchased by M/s.Arthy Associates from the above named Mahalingam Sankar, the question of defective title does not arise as alleged in the objection petition dated 23.02.2023. The aforesaid M/s.Arthy Associates has purchased the schedule mentioned property from a rightful owner and applied for the layout approval hence, the enquiry need not be conducted by the office of the town and country planning, and Tirunelveli as alleged in the objection petition dated 01.03.2023. Since, the aforesaid M/s.Arthy Associates has got valid title over the schedule mentioned property, there is no necessity for M/s.Arthy Associates to establish their title before the Competent Civil Court for the layout approval as alleged in the objection petition dated 20.03.2023.

For the reasons stated above, the aforesaid N.Balakrishnan, who is a brother of N.V.Subramanian has no right to object the layout approval on the basis of the aforesaid mentioned sale agreement dated 30.01.2011.

Encumbrance Certificate: - The online encumbrance certificate dated 25.11.2022 for the period from 01.01.1975 to 24.11.2022 for 48 years; online encumbrance certificate dated 25.03.2023 for the period from 01.01.2023 to 24.03.2023 for one year; online encumbrance certificate dated 08.05.2023 for the period from 01.01.2021 to 07.05.2023 for two years do not disclose any subsisting encumbrance over the schedule mentioned property (Document Nos.21 to 23).

Opinion: - Hence, after perusing the said available documents, I am opinion that the aforesaid M/s.Arthy Associates, Coimbatore – 641 041, rep. by its proprietor S.Muruganantham, is having valid, lawful and marketable title over the schedule mentioned

property.

The sale agreement dated 30.01.2011 is not an impediment to the approval proceedings of the schedule mentioned property for the reasons stated above" -

Consequently the above subject was taken as one of the Subjects,(Subject No .07) in the Local Planning Authority Meeting held at Tirunelveli District Collector's Office on 15.05.2023, in which the following resolution were made and it's English version is as follows :

Resolution No 16 : It is resolved to issue Planning Permission to the above Proposal based on the Legal Opinion issued by the Government Pleader , Tirunelveli.

Based on the above Resolution , a demand has been raised requiring the payment of Centage charges of Rs. 31,500/- and Development Charges of Rs.39,060/- Totally Rs. 70,560/- in the 22rd reference cited and the same has been paid by the applicant through online mode vide Receipt Number 202305174105 dated 17.05.2023 .The Armed Force Flag day Fund of Rs.6300/- also paid vide Demand Draft No. 609591 dated 19.05.2023, received on 19.05.2023.

Hence, this residential layout has been approved with below conditions.

1. As per the condition, the layout has been approved and approved number issued as L.P/TVL.DTCP.No.SWP/15/2023 ;Planning Permission No.PP/LP/TLPA.No.SWP/23/2023 and enclosed with 2 set of original maps and gift deeded documents has been forwarded with it for further action
2. Further, when the final approval is given by the local body, it is requested to send a copy of the conditions to this office immediately.
3. After the approval of the local body. It is requested to send the approved residential layout map to the concerned registration department office and land survey department for information and appropriate action
4. It is requested to send acknowledgment of receipt of receiving Maps and Proceeding orders.
5. As per circular cited in 12th, it is requested to send the proceeding orders and maps to the concerned Thasildhar to update in Tamilnilam website Special Conditions

Special Conditions;

a) With reference to the 8th cited and 10th cited letter,if the located site lies in the Municipal/ Corporation areas: Collecting the necessary fees including the charges for providing amenities like roads,storm water drains and street lights from the applicants. After collecting the necessary fees the final layout sketch, permit of planning authority along with approval of Local Body shall be issued to the applicant(s) directly.

b) Other than Municipal/ Corporation areas: Shall collect the necessary fees and issue the final layout sketch, permit of planning authority along with the permit of local body to the applicant (s) directly, only after ensuring that the applicant lays tar roads, provide other amenities like storm water drains, water supply facilities by constructing required OHT, provide necessary street lights etc., as per the standards specified by the local body

2.With reference to the 11th cited and 12th cited letter, the concern local body must issue the final approval After transfer of earmarked road, park areas S.F.No sub-division in favour concern local body.

3.The Tamil Nadu Government in G.O.Ms.No.112, Housing and Urban Development Department, dated

22.06.2017 have approved the Tamil Nadu Real Estate (Regulation & Development) Act 2016, The promoter has to advertise, Market, book sell or offer for sale or invite persons to purchase in any manner any plot, apartment or building, as the case may be, in any Real Estate Project or part of it only after registering the Real Estate Project with the Real Estate Authority. The applicant has requested to follow the protocols as per instruction given by TNRERA

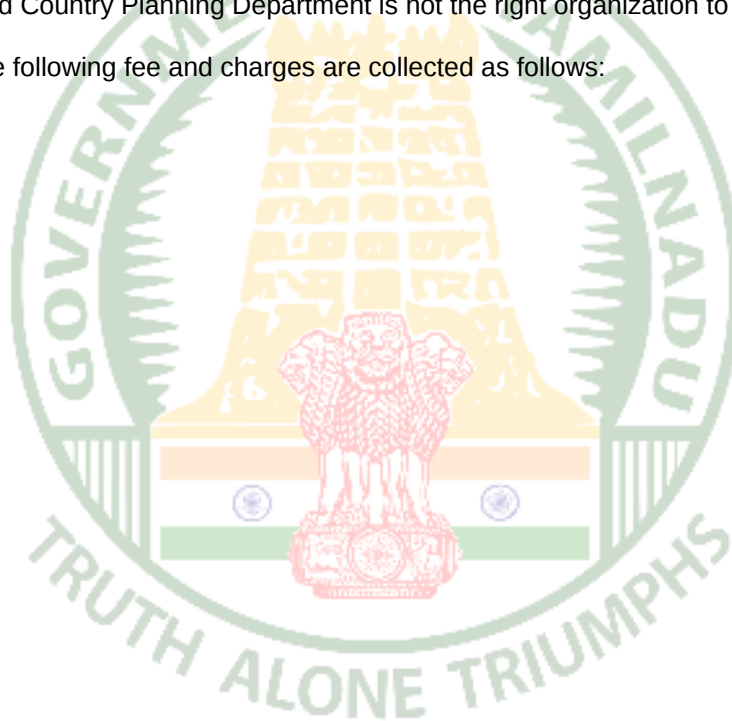
4.As per G.O.79 Housing and Urban Development Department, dated: 04.05.2017, in-case of non-planned area rule 3 it has been requested to collect Rs.1000 as scrutiny fee for each plots. And under rule 9 concerned local body should collect the 3% Market Land Value as Land conversation charges, before issuing the final approval

Head of Account:

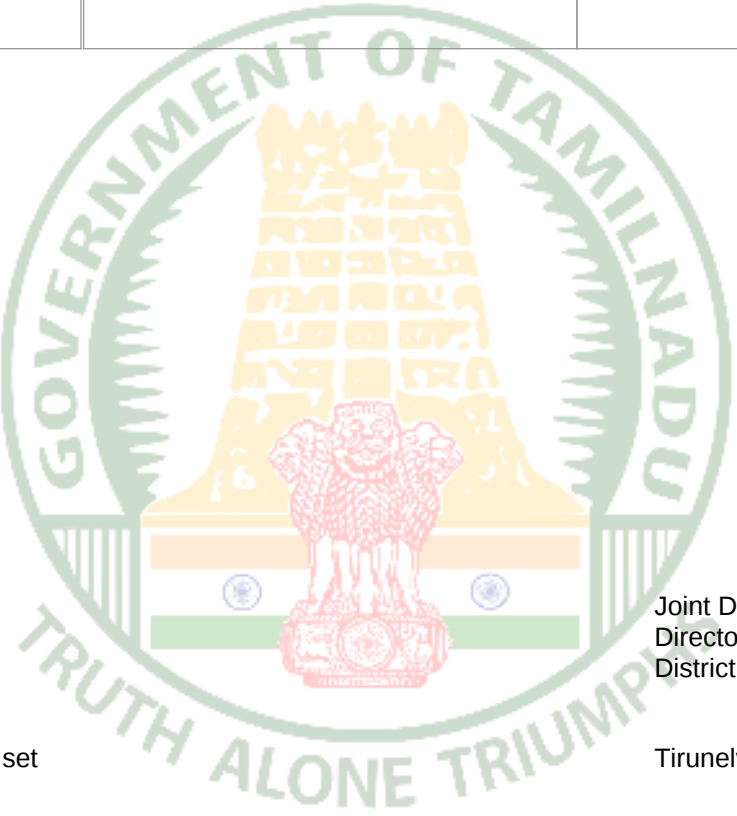
0217 Urban Development - 60 other Urban Development Schemes -800 other Receipts - AS Receipts under Land Use Conversion
Charges-27 Non Taxation fees - 09 Collections (DPC: 0217-60-800-AS 22709)

5.According to the Circular No. 12544/14 / CB dated: 04.07.2014 stating that,The Directorate of Town and Country Planning Department has not legally certified the title to the ownership by granting technical clearance and planning permission. Only the applicant's entitlement to development is verified in the documents submitted with the applicant's application (lease deed, sale deed, gift deed, etc)Any person wishing to purchase the property must individually assert ownership of the property to the applicant. Also, if anyone else dispute arises individual rights over it, they can settle it before the appropriate competent court. The Directorate of Town and Country Planning Department is not the right organization to decide this.

6.As per TNCDBR-2019 the following fee and charges are collected as follows:



S.No	Description of Charges	Amount	Receipt No and Date
1	Scrutiny fee	29295	05/09/2022
2	OSR Fee		
3	Centage Charges	31500.00	17/05/2023
4	Development Charges	39060.00	17/05/2023
5	Display Board Charges		
6	Satellite town charge		



Enclosure

1.Layout original map and Condition – 2 set

Joint Director/Deputy Director/Assistant
Director(i/c)
District Town and Country Planning,

Tirunelveli District.