

AGENDA FOR 172nd (Adj.) MEETING OF THE TOWN & COUNTRY PLANNING BOARD SCHEDULED TO BE HELD ON 23/12/2020 AT 11.30 A.M. IN CONFERENCE HALL, MINISTER'S BLOCK, SECRETARIAT, PORVORIM - GOA.

Item No. 1: Confirmation of the minutes of the 172nd meeting of Town & Country Planning Board held on 20/11/2020.

The minutes of 172nd meeting of TCP Board held on 20/11/2020 are circulated to all the members. No comments have been received for the same from members.

The Board may like to confirm the minutes.

Item No. 2:- Proposals received under Section 16B of the TCP Act for consideration under Section 12 of TCP Act.

The proposals as received under Section 16B as mentioned in Annexure – A were placed before the Board in its 172nd meeting of the TCP Board held on 20/11/2020 for consideration as required under the provisions of Section 12 of the TCP Act.

Due to paucity of time, the decisions only on cases reflected from Sr.No. 1 to 41 were taken and the rest of the cases from Sr.No. 42 to 46 (now mentioned as Sr.No. 1 to 5) were adjourned and are now placed before the Board for decision as per the Annexure – A.

Item No. 3: Proposals received under Section 16B of the TCP Act for consideration under Section 13(2) of TCP Act.

With notification of Section 16B of TCP Act, the Town & Country Planning Dept., has started receiving applications u/s 16B. The Board had earlier considered applications under the provision of Section 12 of the TCP Act. The proposals are now placed before the Board for consideration under the provisions of Section 13(2) of the TCP Act. Refer Annexure 'B'.

ADDITIONAL AGENDA

Item No. 1: Appeal under Section 52(2)(B) of the TCP Act, 1974 filed by Mrs. Filomena D'Cruz against Mormugao Planning & Development Authority (File No. TP/B/APL/196/19).

The Appellant had earlier filed an appeal u/s 52(2) (b) against Notice dtd. 18/12/2018 of MPDA for carrying out illegal development in the property bearing Chalta No. 174(P), P.T. Shet No. 35 of Vasco city and the same was heard in 166th meeting of the Board held on 10/7/2019 under item No. 5. After considering the arguments placed before it by both the parties, the Board had decided that the Appellant shall apply to MPDA for regularization of development undertaken and thereafter MPDA was to decide on the same on the technical parameters as prescribed under the Goa Land Development & Building Construction Regulations, 2010.

The decision of the Board was accordingly communicated to the parties by the Chief Town Planning vide Order dtd. 27/04/2020. On the basis of the said Order passed by the Board, the MPDA vide its letter dtd. 22/5/2020 further requested the Appellant to submit her application for regularization of development undertaken within 10 days of receipt of their letter. In compliance of the said directions of MPDA, the Appellant vide her letter dtd. 2/6/2020 applied to the MPDA for regularization of the structure.

Whereas the Member Secretary vide his letter dtd. 17/6/2020 communicated observations to the Appellant, also mentioning therein that the application submitted for regularization of unauthorized development was not as per GLDBCR-2010 and further gave one weeks time to the Appellant to comply with the requirement. The Appellant then vide her letter dtd. 23/6/2020 further requested MPDA to extend the time till end of July 2020 or keep in abeyance the decision till health issues arising out of COVID – 19 comes under control.

Whereas the MPDA has now issued fresh Notice dtd. 19/10/2020 u/s 52 of the TCP Act directing the Appellant to demolish/remove the illegal development. In the said Notice, it is clearly mentioned by the MPDA that it had considered the request of the Appellant as made for extension of time and had accordingly granted

a grace period of 15 days for the compliance however the Appellant did not submit any plan within the extended time and as such the Authority in its meeting held on 16/9/2020 decided to serve the Notice u/s 52 of the TCP Act.

Aggrieved by the said Notice dtd. 19/10/2020, the Appellant has filed the present appeal.

Board may deliberate.

Item No. 2: Appeal under Section 45 of the TCP Act, 1974 filed by Shri Pramod Shirodkar against South Goa Planning & Development Authority (File No. TP/B/APL/186/19).

The matter is regarding refusal by the Respondent South Goa Planning & Development Authority to grant NOC for amalgamation of Flat No. G-2 and G-3 in building “Shanterivan”, vide reference No. SGPDA/P/1672/08/19-20 dated 10/04/2019, on the ground that requisite NOC from Society is not obtained.

The matter was earlier taken up for hearing by the Board in its 169th (Adj.) meeting held on 29/07/2020 and the same was deferred as no one had appeared on behalf of Appellant.

In the last hearing held on 28/8/2020, it was informed by the Appellant that he is owner of the premises bearing flat No. 1(G-2 and G-3), admeasuring an area of 75.00 sq. mts. located at “Shanterivan Co-operative Housing Society Ltd.”, Varkhande, Ponda and the same was purchased by him and his daughter Dr. Leena Shirodkar from the vendors M/s Mangalkruti Realtors by an agreement dated 12/06/1998.

It was further informed by the Appellant that the Occupancy Certificate for flats was granted on 11/11/1999 by Ponda Municipal Council for two different flats G-2 and G-3. It was then informed that the “Shanterivan Co-operative Housing Society Ltd.” was registered on 06/09/2001 which however shows said two flats as one single flat and accordingly he was allotted 1 share certificate, corresponding to said single flat. Subsequently, registration of a conveyance deed dated 05/10/2007 was executed which again shows the flats under reference as one single flat.

The Appellant had then informed the Board that in the year 2015, Society's Chairman informed him regarding issues of non payment of dues and illegal transfer of flat to daughter etc. and the issues were being complied by him, for which purpose on 09/07/2018, he made an application to the Respondent, which however was rejected on the ground that NOC from the Society is required.

It was the argument of the Appellant that he is ever willing to produce such an NOC from the Society, however for the reasons of some personal issues with Chairman of the Society, he is not in a position to get the same as the Chairman is unwilling to issue the same for having some personal grudge against him. It is for this reason, the Appellant said that he is neither in a position to get the NOC from the Society nor the PDA is giving him the permission for want of the same and therefore he has requested the Board to intervene and direct the respondent to consider his application as he is in peaceful possession of the said flat for about last 20 years. Also the Appellant informed that he has not undertaken any physical changes in the flat and they are in the same state as was issued occupancy for.

While arguing on behalf of the respondent, Adv. Menino Pereira had impressed upon the Board that by all means, approved plans shows two different flats G-2 & G-3 and the occupancy certificate too stands issued for two different flats and as such while undertaking any revision/amalgamation of the same, the permission from the Authority is required, for which purpose the application to the Authority is required to be made by the owner of the flat and that the Society is the owner in the present case by virtue of sale deed executed with the Appellant. Alternatively, he said an appropriate NOC for undertaking the revision in approved plan, need to be issued by the Society, which too has not happened in the present case. The respondent had also brought to the notice of the Board that although the agreement for purchase of the flat has been signed by the Appellant, final sale deed has actually been executed by the Chairman of the Society, which makes his NOC mandatory for any subsequent revision in the plans.

Board had heard both the parties and had deferred the matter for orders.

The respondent has now made further submission in writing before the Board on 18/12/2020, stating as under:

1. Ownership of the building is vested in the Housing Co-operative Society. Therefore, according to Regulation 3.2D(a)(b) r/w 3.5A(a) of the Goa Land Development and Building Construction Regulations, 2010 an application must be made by the owner. Therefore, either NOC should have been obtained from the Society or the application itself for amalgamation ought to have been filed by the Housing Society. If permissions are allowed then it will set a bad precedent.
2. The competent Government Authority itself ruled against the appellant vide the letter of the Registrar of Co-operative Societies dtd. 14/3/2018 stating that the contribution to the co-operative society must be paid for both the units separately as the appellant has not obtained NOC from the Municipality (it ought to have been from the SGPDA) for conversion of two flats into a single unit. It was further observed that if there was any other amalgamation (by any other mode) it would be illegal in the eyes of law. Thus if it is sought to be explained or submitted by the appellant that both flats have to be treated as one flat as per documents produced by him, will be null and void since the Asstt. Registrar is the competent authority to decide such matters. The appellant should have filed an appeal against the order before the Administrative Tribunal or better still before the High Court.
3. Even otherwise none of the documents produced by the appellant point out that the two flats were always considered to be one unit. The two house tax bills are for two separate units. Neither the occupancy certificate nor the agreements shows two separate units. Even the share certificate does not show this fact. And even if it did then still either the society has to make the application in compliance with Regulation 3.2D(a)(b) r/w 3.5A(a) of the Goa Land Development and Building Construction Regulations, 2010. That or NOC should be obtained from the Society.

4. Therefore, by law and under Rule and Regulation, 2010 permission cannot be granted to the appellant for amalgamation. Further the order passed by the Asst. Registrar who is the Government Authority also comes in the way of issuing permission for amalgamation.
5. From the letter of the Asstt. Registrar, it appears that the appellant wants to avoid payment taxes for two flats and is insisting on paying only for one flat. But that position is also cleared in the letter of the Asstt. Registrar of Societies.

Board may deliberate.

Item No. 3:-Proposal of Se-Old Goa Village Panchayat for inclusion of additional properties in Greater Panaji Planning and Development Authority (Kadamba ODP).

The Government vide notification No. 28/10/TCP/2017-18/1824 Series I No. 23 dated 06/09/2018 had notified Kadamba Planning Area to the extent of 150.00 mts. on either side of right of way of National Highway 4A, upto the point of hotel Fern Kadamba.

Proposal of Se-Old Goa Village Panchayat as adopted vide its resolution No. VP/SOG/TIS/2020-2021/451 dated 27/08/2020 for inclusion of additional area in Greater Panaji Planning and Development Authority was earlier discussed in 170th meeting of the Board and it was felt appropriate by the Board that the proposal need to be studied in detail and requires further discussion.

The proposal was accordingly taken up for discussion viz-a-viz the plan submitted by the Village Pachayat showing the additional area to be included under the Kadamba Planning Area in earlier Board meeting held on 20/11/2020. The Board observed that as proposed by Village Panchayat, the planning area which was earlier restricted to 150 mts. on either side of the road is now extended to 200 mts. from the either side of the same road and is further extended upto the village boundary of Corlim. It was also observed that the Village Panchayat has proposed further extension of planning area beyond 200 mts. line by proposing

certain properties to be included fully under planning area. It was however observed that the concept was not uniformly adopted by the Village Panchayat.

It was therefore suggested by the Members that it would be more appropriate that in case it is required to extend further the planning area, the same shall be in line with already notified planning area, thus restricting it to a width of 150 mts. only, upto the village boundary of Corlim Village. Member Secretary was asked to prepare a plan accordingly for further consideration of the proposal.

Proposal of notifying additional planning area has however evoked sharp reaction from several quarters of society and concern has been raised by different organization/individuals regarding the adverse effect it might have on heritage character of village and threat to World Heritage site of Church and Convents at Ella village of Old Goa.

Board may deliberate further.

Item No. 4: Decision on proposal considered in 31st meeting of the 16-A Committee, constituted under sub rule 4 of Rule 3 of the Goa Town & Country Planning (Public Projects/Schemes/Development work by the Government) Rules - 2008 held on 15/12/2020.

The proposals as given in Table placed at Annexure 'C' have been considered by the Committee constituted under sub rule 4 of Rule 3 of the Goa Town & Country Planning (Public Projects/Schemes/ Development work by the Government) Rules - 2008 in its 31st meeting held on 15/12/2020.

The same proposals are placed before the Town & Country Planning Board for consideration as per Annexure 'C'.

Item No. 5:- Proposals received under Section 16B of the TCP Act for consideration under Section 12 of TCP Act.

With notification of Section 16B of TCP Act, the Town & Country Planning Dept., has started receiving applications u/s 16B. The proposals as received under Section 16B are scrutinized in terms of site conditions and potentialities of the area under Section 10 of TCP Act and are placed before the Board for consideration as required under the provisions of Section 12 of the TCP Act. Refer Annexure 'D'.

Item No. 6:- Any other item with the permission of chair.