

Date: 9th October, 1987.

The minutes of the HUNDRED & TWELFTH Meeting of the Executive Committee of the Bombay Metropolitan Region Development Authority, held on the 24th September, 1987 are enclosed.

S. V. Asgaonkar
(S. V. ASGAONKAR) 9/10/87
SECRETARY,
EXECUTIVE COMMITTEE.

To:

- The Chief Secretary to the Government of Maharashtra, General Administration Department, Mantralaya. - Chairman
- The Metropolitan Commissioner, B.M.R.D.A. - Member
- The Secretary to the Government of Maharashtra, Urban Development Department, Mantralaya. - Member
- The Secretary to the Government of Maharashtra, Housing and Special Assistance Department, Mantralaya. - Member
- The Municipal Commissioner, Bombay Municipal Corporation. - Member
- The Managing Director, City & Industrial Development Corporation of Maharashtra. - Member
- Shri Charles M. Correa, Correa Consultants Pvt. Ltd., 9, Mathew Road, Bombay 400 004. - Member
- Shri Shirish B. Patel, SPA Consultants Pvt. Ltd., 41, Nagindas Master Road, Bombay 400 023. - Member
- Dr. P. G. Patankar, Director, Central Institute of Road Transport (Training and Research), Poona Nasik Road, Pune 411 026. - Member

INVITEE :

The Financial Adviser, B.M.R.D.A.

Copy to:

The Officers of the B.M.R.D.A.

The Legal Adviser, B.M.R.D.A.

+-----+

108

112TH MEETING OF THE EXECUTIVE COMMITTEE

B.M.R.D.A.

DATE : 24th September, 1987 (Thursday)
TIME : 10.30 a.m.
PLACE : Chief Secretary's Committee Room,
5th Floor, Mantralaya.

MEMBERS PRESENT :

Shri K. G. Paranjpe, - Chairman
Chief Secretary to the
Government of Maharashtra.

Shri S. R. Kakodkar, - Member
Metropolitan Commissioner.

Shri D. K. Jain, - Member
Secretary to the Government
of Maharashtra,
Urban Development Department.

Shri D. K. Afzulpurkar, - Member
Secretary to the Government
of Maharashtra,
Housing & Special Assistance
Department.

Shri S. S. Tinaikar, - Member
Municipal Commissioner,
Bombay Municipal Corporation.

Shri K. Nalinakshan, - Member
Managing Director,
C.I.D.C.O., Bombay.

Shri Shirish B. Patel. - Member

Dr. P. G. Patankar. - Member

INVITEE :

The Financial Adviser, B.M.R.D.A.

Shri S. V. Asgaonkar, Secretary, Executive Committee, B.M.R.D.A.

Item No.1(a) : Confirmation of the minutes of
the last (111th) Meeting of
the Committee.

The minutes were confirmed.

Item No.1(b) : Action taken on the minutes of
the last (111th) Meeting of
the Committee.

During the course of discussion on this
item, the following points were made out, after
which the action taken report was noted by

.....2/-

the Committee :

- (1) The Committee reviewed its earlier proposal in respect of grant of Additional Floor Space Index (F.S.I.) in the Island City to four-Star or Five Star hotels. As per policy decision contained in Government letter in Urban Development Department, No.FSI-1184/4229-UD-5, dated the 21st November,1984, such hotels located in the 'G-South', 'G-North', 'F-South' and 'F-North' Municipal Wards are to be granted additional F.S.I. to the extent upto 50% over and above the permissible F.S.I. as per Development Control Rules. In view of the growing congestion in the Island City, the Committee felt that it would not be desirable to allow extra F.S.I. to such hotels. The Committee decided that the State Government be urged not to allow any extra F.S.I. for Luxury Hotels in any part of the Island City of Bombay.

The Committee was informed that as per its own earlier decision, the Authority was approached in its last meeting held on 4th September,1987 with a proposal to exempt from the purview of Section 13 Notification cases involving grant of extra F.S.I. to the four-Star and five-Star hotels in the above mentioned 4 Wards of the Island City. The Committee suggested that in view of change of thinking in the Executive Committee, the Authority should now be approached with a proposal that the above mentioned development should not be exempted from Section 13 Notification.

.....3/-

(2) There was a general discussion on the growing congestion in the Island City despite amendments made to relevant Development Control Rules for Greater Bombay which prohibit establishment of new offices and warehouses in Commercial Zone in the Island City of Bombay and despite the restrictions imposed by the Notification under Section 13 of the BMRDA Act which restricts F.S.I. to 1.33 in the Island City and prohibits creation of additional office space or warehouses without the prior permission of the BMRDA. The Committee desired that a detailed paper containing policy and other measures needed for preventing further congestion in Bombay should be prepared and placed before the Executive Committee.

Item No.2 : Applications for permission under Section 13 of the BMRDA Act, 1974.

The applications bearing the following registration numbers were placed on the Table :

- (1) 509/29/7/87
- (2) 510/29/7/87
- (3) 511/31/7/87
- (4) 512/07/9/87

- (1) Application No.509/29/7/87 (The Bank of India) &
- (2) Application No.510/29/7/87 (The Central Bank of India):

The Committee considered the above mentioned two applications together and noted that the proposals were for erection of one building for each applicant with F.S.I. 3.5 on Plots Nos. 218-219, and 216-217, respectively, in Backbay Reclamation Scheme-III, in 'A' Municipal Ward to be used as head offices of the respective Banks. In this connection the Committee noted the following :

- (1)(a) Judgement delivered in Appeal by the Division

Bench of the Bombay High Court on 14th February, 1986; and (b) the Judgement of the Single Judge of the Bombay High Court delivered on 12/15th June, 1987, both declaring that the respective Banks are entitled for the lease of plots under reference from Government as per terms and conditions already agreed upon, as per Judgement of the Single Bench of the Bombay High Court delivered on 26/28th November, 1975;

- (2) the opinion, dated 10th May, 1987, of Shri K. Parasaran, Attorney General of India in which it was stated that in spite of the amendment of Rule 13(b) of the Development Control Rules for Greater Bombay, which prohibits offices in the Island City limits of Bombay, there is no legal impediment to the BMRDA to sanction erection of the intended building with FSI 3.5 for being used as head offices of the respective Banks; and
- (3) the opinion, dated 3.9.1987 of Shri A.S. Bobde, Advocate General, Maharashtra State that in view of the amended provisions of Rule 13(b) of the Development Control Rules gazetted on 5.4.1979, which clearly prohibits erection of building in the area in question; right to erect a building is governed by a statutory regulation and plea of estoppel cannot be raised against the prohibition contained in a statute intended to subserve the public purpose.

The Committee agreed with the BMRDA's Legal Adviser that the High Court Judgements referred to above deal with the question regarding entitlement of the respective Banks to the lease of lands under reference and that the question

of erection of buildings with F.S.I. 3.5 and that too for business offices was not directly, on issue.

After discussion, the Committee rejected both the applications on the following grounds:

- (1) Applications contained proposals to erect buildings having business offices which were in conflict with sub-clause (ii) of clause (b) of Rule 13 of the Development Control Rules for Greater Bombay which prohibits the erection of building or business offices in the Island City of Bombay comprising of 'A to F/North' and 'G/North' Wards. The Committee found that both applications were not maintainable or grantable on the said ground;
- (2) If the desired permissions viz. the establishment of business offices to the intended extent were granted, the same are likely to adversely affect the overall development of the Bombay Metropolitan Region; and
- (3) The lands on which the respective Banks intended to erect buildings are designated in 'No Development Zone' under the Draft Revised Development Plan for Greater Bombay submitted by the Municipal Corporation of Greater Bombay to the State Government under Section 38 read with Section 30 of the Maharashtra Regional & Town Planning Act, 1966.

Having regard to the above, the Committee did not feel it possible to permit the intended buildings.

- (3) Application No.511/31/7/87 (The Hotel Corporation of India Ltd.).

The Committee considered the application and noted that the applicant had requested ex-post facto permission to commence and complete the development of land viz.,

....6/-

use of additional F.S.I. for the area equivalent to 605.5 square metres (built-up area) permitted by the State Government under its letter, in Urban Development Department, No.FSI-1186/3867/UD-5, dated 17.10.1986, for its hotel building on CTS No.859 and 1216 of Juhu Tara Road, in 'K-West' Municipal Ward. The Committee was also apprised of the contents of Government letter, in Revenue & Forests Department, No.CTS-685/8238/4688/LI, dated 15th May, 1987, in which it was stated that while considering the request of Hotel Centaur in this respect, the Cabinet has decided to request Hotel Centaur, Juhu to keep 10 rooms reserved for guests of Maharashtra State free of rent as and when required by the State Government, out of 15 excess rooms constructed as a result of extra F.S.I. granted (by Govt. letter of 17th October, 1986). The Committee was of the view that Government's request to prescribe this stipulation while granting permission under Section 13 was not possible and as such Govt. had to take steps in that respect. The Committee felt that convincing explanation as to how the plot area of the land under reference came to be reduced from 25110 square metres to 24706.30 square metres was not forthcoming. However, this deficiency in area had resulted in the Centaur Hotel at Juhu getting additional built-up area of 605.5 square metres over and above the area which it was entitled to on account of Additional F.S.I. of 0.5 already granted by the State Government in Urban Development & Public Health Department, by letter No. BMRDA.3580/CR.196-UD-4, dated 6th May, 1982. The Committee was of the view that while there is no objection to accord ex-post facto sanction for use of this additional built-up area, the applicant Corporation should be charged a premium at the rate of Rs.10,000/- per square metre of additional built-up area of 605.5 square metres. The Committee also decided that as per the general provision in BMRDA Land Disposal Regulations, the applicant Corporation

.....7/-

shall be called upon to pay half of the sum within 15 days of the receipt of the letter of the BMRDA in that respect and balance within one month thereafter.

(4) Application No.512/7/9/87 (M/s. Bharat Petroleum Corporation Ltd.).

After discussion, further consideration of this application was deferred.

Accordingly, the Committee passed the following Resolution:

RESOLUTION NO.375 :

"Resolved that in exercise of the powers conferred on it by clause (iv) of the sub-section (3) of Section 7 of the Bombay Metropolitan Region Development Authority Act, 1974, read with sub-section (3) of Section 13 of the said Act and all other powers enabling it in this behalf, the Committee hereby -

(I) grants ex-post facto permission to the Hotel Corporation of India Ltd. (Application bearing Registration No.511/31/7/87) to commence and complete the development of land viz. use of additional F.S.I. for the area equivalent to 605.5 square metres (built-up area) in its Centaur Hotel on CTS No.859 and 1216 of Juhu Tara Road, in 'K-West' Municipal Ward, subject to the condition that the Hotel Corporation of India shall pay premium at the rate of Rs.10,000/- (Rupees ten thousand only) per square metre built-up area in respect of above-mentioned area of 605.5 square metres, with a facility to pay the said sum in two instalments as stated in the minuted order.

(II) refuses permission, on behalf of the Authority, under sub-section (3) of Section 13 of the said Act to -

....8/-

(1) The Bank of India (Application bearing Registration No.509/29/7/87); and

(2) The Central Bank of India (Application bearing Registration No.510/29/7/87),

for the reasons recorded in these minutes.

"Resolved further that consideration of the application from Bharat Petroleum Corporation Ltd. (bearing Registration No.512/7/9/87) be deferred."

Item No.3 : Formulation of guidelines for development of Holiday Resorts/Homes in Bombay Metropolitan Region.

Consideration of this item was deferred.

Item No.4 : Litigation in respect of disposal of plot in 'H' Block of Bandra-Kurla Complex - Appointment of Advocate.

The Committee considered the Item Note and passed the following Resolution :

RESOLUTION NO.376 :

"Resolved that in exercise of the powers conferred under clause (vi) of sub-section (3) of Section 7 of the BMRDA Act, 1974, the Executive Committee hereby accords its approval to the proposal of appointment of Advocate General of Maharashtra and 'A' Panel Advocate to fight litigation initiated by M/s. Kaveri Construction Company in respect of plot in 'H' Block of Bandra-Kurla Complex.

"The Executive Committee further accords its approval for expenditure to be incurred for payment of fees and expenses in the conduct on the litigation pertaining to the said plot.

"Resolved further that the Metropolitan Commissioner be and is hereby authorised to take further necessary action for implementation of the Resolution."

Item No.5 : Guarding of BMRDA land - Appointment of Security Guards Board in respect of Authority's lands at Oshiware and 'G' Block of Bandra-Kurla Complex.

The Committee considered the Item Note and9/-

passed the following Resolution:

RESOLUTION NO.377 :

"Resolved that in exercise of the powers conferred under clause (iii) of sub-section (3) of Section 7 of the BMRDA Act, 1974, the Executive Committee hereby accords its approval to the proposal for entrusting the guarding work of the BMRDA lands to the Maharashtra Security Guards Board, Bombay, on the terms and conditions prescribed in this behalf. The Executive Committee further accords its sanction for incurring necessary expenditure for guarding Authority's lands to the said guarding agency.

"Resolved further that the Metropolitan Commissioner be and is hereby empowered to take suitable action for implementation of this Resolution."

Item No.6 : Writ Petition No.1800 of 1987 -
Appointment of Advocates to defend
the case.

The Committee considered the Item Note and passed the following Resolution :

RESOLUTION No.378 :

"Resolved that in exercise of the powers conferred under clause (vi) of sub-section (3) of Section 7 of the BMRDA Act, 1974, the Executive Committee hereby accords its post facto approval to the appointment of Shri C.J. Sawant, Advocate to defend BMRDA in Writ Petition No.1800 of 1987 in the High Court at Bombay. Resolved further that the Metropolitan Commissioner be and is hereby authorised to incur expenditure on proceedings, legal fees and other incidentals as may be necessary."

Item No.7 : Wadala Anik Truck Terminal Project -
Execution of water supply distribution system
and trunk main for Phase-I of the Truck
Terminal Project.

The Committee considered the Item Note and

passed the following Resolution :

RESOLUTION NO.379 :

"Resolved that in exercise of the powers conferred under clause (ii) of sub-section (3) of Section 7 of the BMRDA Act, 1974 and all other powers enabling it in this behalf, the Executive Committee hereby accords its approval to the estimate amounting to Rs.69 lakhs (Rupees sixty nine lakhs only) submitted by the Municipal Corporation of Greater Bombay for providing external trunk main and internal distribution system for water supply in Phase-I of the Trunk Terminal at Wadala.

"Resolved further that in exercise of the powers conferred under clause (iii) of sub-section (3) of Section 7 of the Act and all other powers enabling it in this behalf, the Executive Committee hereby approves that the above mentioned work be entrusted to the Municipal Corporation of Greater Bombay on agency basis as detailed in the item note and the Metropolitan Commissioner be and is hereby authorised to make necessary payment to the Municipal Corporation of Greater Bombay for the above work from time to time."

Item No.8 : Framing of Rules for Departmental Examination for promotion.

The Committee considered the Item Note and passed the following Resolution :

RESOLUTION NO.380 :

"Resolved that in exercise of the powers conferred upon it by clause (i) of sub-section (3) of Section 7 of the BMRDA Act, 1974 and all other powers enabling it in this behalf, the Executive Committee hereby approves -

- (i) the proposal to increase promotional opportunity to the Peons, Watchmen and Clerks as proposed in the Item Note;

(ii) BMRDA (Promotion of Peon/Watchman to the post of Clerk-Typist) Departmental Examination Rules, 1987; and

(iii) BMRDA (Promotion of Clerk-Typist to the post of Assistant) Departmental Examination Rules, 1987.

"Resolved further that the above stated Rules be brought into force with immediate effect."

Item No.9 : Quarterly Accounts of the BMRDA for the quarter ending 30th June, 1987.

The Committee considered the quarterly accounts and approved the same.

Item No.10 : Continuance of appointment of Shri R.A. Kamat as Assistant Chief Accounts Officer in Planning Division.

The Committee considered the Item Note and passed the following Resolution :

RESOLUTION NO.381 :

"Resolved that in exercise of the powers conferred under clause (i) of sub-section (3) of Section 7 of the Bombay Metropolitan Region Development Authority Act, 1974, the Executive Committee hereby accords its sanction to the appointment of Shri R.A. Kamat as Assistant Chief Accounts Officer being continued, on contract basis, for a further period of one year, with effect from 14.11.1987, on a consolidated salary of Rs.1,500/- per month, on the terms and conditions mentioned in para.2 of the Item Note, as proposed."

Item No.11 : Re-employment of Shri R.R.Chavan, Assistant Secretary from Mantralaya, as Staff Officer in B.M.R.D.A.

The Committee considered the Item Note and passed the following Resolution :

RESOLUTION NO.382 :

"Resolved that, in exercise of the powers conferred under clause (i) of sub-section (3) of Section 7 of the BMRDA Act, 1974, the Executive Committee hereby accords its sanction to the proposal for re-employment of Shri R.R. Chavan as Staff Officer in BMRDA on pay of Rs.960/- in the grade of Rs.680-1250/- from a suitable date after he voluntarily retires from Government service, as proposed in the Item Note."

The following item was then considered as a Table Item, with the permission of the Chair:

Table Item : Short Term re-employment of Shri V.D.Kulkarni, Senior Plannar, Sub-Regional Office, Kalyan on contract basis.

The Committee considered the Item Note and passed the following Resolution:

RESOLUTION NO.383:

"Resolved that in exercise of the powers conferred under clause(i) of sub-section (3) of Section 7 of the Bombay Metropolitan Region Development Authority Act,1974, the Executive Committee hereby accords its sanction to Shri V.D.Kulkarni being re-employed on contract basis, for a period of three months, on the terms and conditions mentioned in para.2 of the Item Note, as proposed."

The meeting then terminated after a vote of thanks to the Chair.

- - - - -