



Business Reform Action Plan 2016 Response by Government of Maharashtra

Area 4a: Construction Permit Enablers

75: Establish a dedicated conflict resolution mechanism for land and construction permits

Response: **Yes**

Remarks:

As per the Maharashtra Regional and Town Planning Act 1966, Section 47, there is a provision for an applicant to appeal against conflicts related to land and construction permit where he can appeal within 45 days of the date of communication of the order.

The appeal lies with:

1. The Director Town Planning in case of B, C Class councils and Nagar panchayats,
2. State Government in case of A and all other municipal councils and Municipal corporations
3. In case of Regional Plan areas it lies with board of appeal comprising of Divisional Joint town planner and District Additional Town Planner / Town Planner

The Maharashtra Regional and Town Planning Act 1966 could be viewed at:

<http://www.sra.gov.in/data/250209mrtpact.pdf>

Supporting Document:



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Section 47: MRTP Act

3. Sub-section (2) added by Mah. 22 of 2005, dated 19th May 2005, s. 4 (w.e.f. 20-06-2005).

45. Grant or refusal of permission:- (1) On receipt of an application under section 44 the Planning Authority may, subject to the provisions of this Act, by order in writing-

(i) grant the permission, unconditionally;

(ii) grant the permission, subject to such general or special conditions as it may impose with the previous approval of the State Government; or

(iii) refuse the permission.

(2) Any permission granted under sub-section (1) with or without conditions shall be contained in a commencement certificate in the prescribed form.

(3) Every order granting permission subject to conditions, or refusing permission shall state the grounds for imposing such conditions or for such refusal.

(4) Every order under sub-section (1) shall be communicated to the applicant in the manner prescribed by regulations.

(5) If the Planning Authority does not communicate its decision whether to grant or refuse permission to the applicant within sixty days from the receipt of his application, or within sixty days from the date of receipt of reply from the applicant in respect of any requisition made by the Planning Authority, whichever is later, such permission shall be deemed to have been granted to the application on the date immediately following the date of expiry of sixty days.

¹[Provided that, the development proposals, for which the permission was applied for, is strictly in conformity with the requirements of all the relevant Development Control Regulations framed under this Act or bye-laws or regulations framed in this behalf under any law for the time being in force and the same in no way violates either the provisions of any draft or final plan or proposals published by means of notice, submitted for sanction under this Act:

Provided further that, any development carried out in pursuance of such deemed permission which is in contravention of the provisions of the first proviso, shall be deemed to be an unauthorized development for the purposes of sections 52 to 57.]

²[(6) The Planning Authority shall, within one month from the date of issue of commencement certificate, forward duly authenticated copies of such certificate and the sanctioned building or development plans to the Collector concerned.]

Footnote:

1. These provisos were added, by Man. 10 of 1994, s. 6(a).

2. Sub-section (6) was added, by Man. 10 of 1994, s. 6(b).

46. Provisions of Development plan to be considered before granting permission:- The Planning Authority in considering application for permission shall have due regard to the provisions of any draft or final plan ¹[or proposals,] ²[published by means of notice] ³[submitted] or sanctioned under this Act.

47. Appeal:- (1) Any applicant aggrieved by an order granting permission on conditions or refusing permission under section 45 may, within forty days of the date of communication of the



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order to him, prefer an appeal to the State Government or to an officer appointed by the State Government in this behalf, being an officer not below the rank of a Deputy Secretary to Government; and such appeal shall be made in such manner and accompanied by such fees (if any) as may be prescribed.

(2) The State Government or the officer so appointed may, after giving a reasonable opportunity to the appellant and the Planning Authority to be heard, by order dismiss the appeal, or allow the appeal by granting permission unconditionally or subject to the conditions as modified.

48. Lapse of permission:- Every permission for development granted or deemed to be granted under section 45 or granted under section 47 shall remain in force for a period of one year ⁴[from the date of receipt of such grant], and thereafter it shall lapse:

Provided that, the Planning Authority, may on application made to it extend such period from year to year; but such extended period shall in no case exceed three years:

Provided further that, if the development is not completed upto plinth level or where there is no plinth, upto upper level of basement or stilt, as the case may be, within the period of one year or extended period, under the first proviso, it shall be necessary for the applicant to make application for fresh permission.

Footnote:

1. These words were inserted by Mah. 30 of 1972, s. 7.
2. Substituted for the words "published" by Mah. 6 of 1976, s. 18.
3. This word was inserted by Mah. 30 of 1972, s. 7.
4. Substituted by Mah.6 of 1976, s. 19.

49. Obligation to acquire land on refusal of permission or on grant of permission in certain cases:- Where-

(a) any land is designated by a plan as subject to compulsory acquisition,
or

(b) any land is allotted by a plan for the purpose of any functions of a Government or local authority or statutory body, or is land designated in such plan as a site proposed to be developed for the purposes of any functions of any such Government, authority or body, or

(c) any land is indicated in any plan as land on which a highway is proposed to be constructed or included, or

¹[(d) any land for the development of which permission is refused or is granted subject to conditions, and any owner of land referred to in clauses (a), (b) (c) or (d) claims-

(i) that the land has become incapable of reasonably beneficial use in its existing state, or

(ii) (where planning permission is given subject to conditions) that the land cannot be rendered capable of reasonably beneficial use by the carrying out of the permitted development in accordance with the conditions; or]

(e) the owner of the land because of its designation or allocation in any plan claims that he is unable to sell it except at a lower price than that at which he might reasonably have been expected to sell if it were not so designated or allocated,



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Development Control and Promotion Regulations for Regional Plan area:

DCPR FOR REGIONAL PLAN AREA

PART XII SUPPLEAENTARY AND MISCELLANEOUS PROVISIONS

44.0. Clarification.

If any question or dispute arises with regard to interpretation of any of these Regulations the matter shall be referred to the Director of Town Planning, Maharashtra State who after considering the matter and after giving hearing to the parties, if necessary, shall give a decision on the interpretation of the provisions of these Regulations. The decision of the Director of Town Planning, Maharashtra State on the interpretation of these Regulations shall be final and binding on the concerned party or parties.

45.0. Power to delegate.

The Director of Town Planning, Maharashtra State may, by an order, delegate any of the powers under these Regulations, exercisable by him, subject to such conditions, as he may consider appropriate, to any officer of the Directorate of Town Planning, not below the rank of Deputy Director of Town Planning

46.0 Board of Appeals

Any person aggrieved by an order / communication made by an authority/Collector under these Regulations may prefer an appeal before the Board of Appeals. The board shall be constituted at division level consisting of the Divisional Head of Town Planning Department of the concerned division as President and concerned ADTP/TP of the district as a member.



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Notification dated 12th February 1997 from Urban Development Department

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महाराष्ट्र प्रादेशिक व नगर रचना अधिनियम, १९६६

NOTIFICATION

Urban Development Department,
Mantralaya, Mumbai 400 032.
No. TPS-1295/505/CR-95/95/UD-12.
Dated : 12th February 1997

In exercise of the powers conferred by subsection 1 of section 151 of the Maharashtra Regional and Town planning Act, 1966 (Mah. xxxvii of 1966) (hereinafter referred to as "the said Act") and in supersession of the earlier orders for the purpose of section 47 of the said Act, Government of Maharashtra is hereby pleased to issue following orders :

1. The Minister of State to the Government of Maharashtra in Urban Development Department, mantralaya shall hear and decide all the appeals under section 47 of the "said Act" (within the jurisdiction of all the Municipal corporations, the Special Planning Authorities and "A" class Municipal councils of the state.
2. The Director of Town planning, Maharashtra state, pune shall continue to hear and decide appeals under section 47 of the said Act, from the jurisdiction of all the Municipal Councils of the "B" & "C" class in the Maharashtra state.
3. These orders shall be deemed to have been brought into force from 1st July 1995.

By order and in the name of the Governor of Maharashtra.

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(V. W. Deshpande)
Deputy secretary to Government.

TOWN PLANNING AND VALUATION DEPARTMENT CENTENARY YEAR 2013-2014