

MUNICIPAL CORPORATION OF GREATER MUMBAI

Sub: Guidelines for declaring private and Municipal buildings as C-1 category (Dangerous, Unsafe)

Ref: 1) W.P.No.1135 of 2014
2) High court WP OOCJ 1080 of 2015
3) No.MGC/F/1042 Dt.22-8-2016 (C-8)

PREAMBLE:

i) Section 353(B) of M.M.C. Act deals with structural audit of buildings. It is duty of owner/occupier of bldg. to carry out structural audit & submit report of structural audit to MCGM.

ii) Section 354 of M.M.C. Act deals with the removal of dangerous / dilapidated structures, repairs to dilapidated structures and pulling down of dangerous structures, etc.

Section 354AB Deals with the responsibility of Owner/ Occupier to keep and maintain (exterior of the) building in good condition.

iii) Guidelines are issued u/ No. MGC/A/6006 dated 7.11.2013/ 23.11.2013 regarding implementation of provisions of Section 353(B) of M.M.C. Act, appointment of structural auditors, repairs to the Municipal bldgs., repairs to the Private Bldgs., service of the Notice under Sector 354 of M.M.C. Act and prosecution action thereof.

- Guidelines are issued under No. MGC/A/8698 dated 03.05.2014 regarding line of action to be taken for dangerous / dilapidated buildings.
- Hon'ble High Court vide order dated 23rd June 2014 in W.P. (L) No. 1135 of 2014 had issued guidelines regarding classification of C-1 category buildings and procedure for evacuation / demolition of such dangerous private and municipal buildings.
- UDD of GOM has issued the guidelines u/no.vsa-2015/ Case no.349/ud-20 date.5.11.2015 about procedure to be followed for dangerous buildings.

- This policy/ guidelines will be applicable only for private buildings and buildings belonging to MCGM, excluding MHADA/MBR&RB & cess properties, central Government, state Government, Govt. undertakings and special planning authorities formed u/s 40 of MR&TP Act, 1966, properties belongs to statutory bodies such as BPT, Defence properties etc. they shall devise their own policy to deal with dangerous and dilapidated buildings of their own or under their jurisdiction.

In view of above, following general S.O.P on the lines of guidelines issued by Hon'ble High Court in W.P. (L) No. 1135 OF 2014 and guidelines circulated by UDD of GOM on 5.11.2015 are prepared for deciding Municipal and Private buildings as dangerous / dilapidated, i.e. C-1 category.

Category	Description
C-1	Unsafe/ Dangerous/ inhabitable structures need to be vacated and demolished.
C-2A	Partially Unsafe/ Dangerous/ structures requiring Major structural repairs by partially vacating the dangerous part of structure
C-2B	Structures requiring Major structural repairs without vacating the structure
C-3	Minor repairs

IV) Structural audit report mentioned in the policy shall be carried by Structural Engineer registered with M.C.G.M. which should be checked by concerned user department.

(1) Private Buildings:

1.01) a) All the buildings having more than 30 years of age or the cases where the A.E.(B&F) & Ward Executive Engineer have received specific complaints about dilapidated condition of the building (though less than 30 year old then notice u/s 488 of MMC Act 1888 as amended up to date shall be served upon the building) and if AE/ EE comes to the conclusion that the building is dilapidated, based on the visual inspection of a particular building, by recording the same as per **Proforma-A (Annexure-1)**, A.E.(B&F) shall issue Notice under Section 353 (B) of the M.M.C. Act to the owner / occupiers/ tenants of the building to carry out structural Audit from the Structural Engineer registered with M.C.G.M.

b) For arriving the age of the building, the first date of assessment or issue of Building completion certificate by corporation or issue of permission to occupy a

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building under section 353A or Date of physical occupation of at least 50 percent of its built up area or date of water connection whichever is earlier shall be treated as authentic.

The structural auditor shall carry out specific tests like ultrasonic pulse velocity test, rebound hammer test, half-cell potential test, carbonation depth test, and core test, chemical analysis, cement aggregate ratio as may be considered by MCGM and shall submit structural audit report in Proforma B(Attached) as prescribed by MCGM.

- 1.02)** If the owner/ occupier/Tenants fails to submit the structural audit report as per the notice u/s 353B in the prescribed **Proforma-B (Annexure-2)** within 30 days from the date of service of notice, the prosecution u/s 471 / 472 (as applicable) under MMC Act 1888 as amended up to date shall be launched against the offenders.
- 1.03)** On receipt of Structural audit report, the findings (Category) of the same shall be communicated to tenants/ occupants by displaying it on the premises visible to all stating that tenants/occupants shall take care to safeguard the property by propping the building wherever necessary as suggested by Registered Structural Engineer.
- 1.04)** If the tenants/ Occupants object to the findings of the Structural audit report they shall be asked to appoint their own, registered structural engineer & submit the structural audit report in **Proforma-B** within 15 days. Otherwise process will be same as per 1.07.
- 1.05)** If the owners and / or the tenants/occupants submit conflicting structural audit report on the status of the building, the matter shall be referred to the concerned Technical Advisory Committee (T.A.C.) (**Annexure-3**) & the decision of T.A.C. will be final and binding on all the parties concerned. The Technical Advisory Committee shall give hearing to concerned structural consultants during the meeting. As far as possible, meetings of Technical Advisory Committee (T.A.C.) shall not be adjourned. For genuine reasons the meeting may be adjourned but in no case more than two adjournments shall be granted.
- 1.06)** In case of any mishap/untoward incidence happens and building/major part of building collapses within validity period of Audit report, structural engineer who has given contradictory report suggesting building to be repairable and habitable

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shall be deregistered by MCGM. Where professional negligence is proved, suitable legal action against the structural consultant may also be initiated.

1.07) The Ward Executive Engineer shall submit the detailed report with his concluding remarks along with the structural Audit report, inventory, photographs, video shooting of building etc. to Dy. ChE(BP) through Asstt. Comm. for obtaining the sanction to declare the building as C-1 category.

1.08) On receipt of approval for declaring the building as C-1 category as per 1.03 /1.05 and/ or 1.07 above the A.E.(B&F) will issue notice u/section 354 of the M.M.C. Act to pull down the building / structure with the time period of 7 days from date of issuance of notice by following due process. The copy of same shall be given to tenants / occupants. The copy of the notice will also be submitted by A.E. (B&F) to Senior Inspector of concerned police station for evicting the owner / occupiers / tenants after expiry of the notice period.

1.09) A. E. (B&F), before issuing notice u/s 354 to pull down dilapidated structure, shall call upon the owner to submit a statement in writing signed by owner within 7 days stating therein the names of the occupiers of the building from his record, the area in occupation and location of premises in occupation, possession of each of the respective occupiers or tenants, as the case may be along with supporting documents. The list of statement submitted by owner shall be certified by Asst. Commissioner. Copies of which shall be given to tenants / occupiers/ owner.

If he/she fails to furnish the statement as above within the stipulated period, A.E. (B&F) and E.E. of the Ward shall make a list of the names of the tenants and / or occupiers in the said building and the carpet area of the premises in their respective occupation and possession including the floor at which the same has been occupied and copy shall be given to the tenants/ occupiers/owner. The inspection report along with inventory report, photographs, video shooting shall be kept on record.

The action taken by the MCGM engineers shall not affect the inter-se rights of the owner or tenants or occupiers, including right of reoccupation in any manner.

1.10) Immediately, after completing notice period of 7 days as per 1.08 above, action of disconnection of water supply, electricity, gas supply etc. of such building

shall be initiated, simultaneously property shall be safeguarded and evacuation of building shall be initiated.

1.11) a) In the event, a person occupying the building refuses to vacate the said premises, the A.E.(B & F) will intimate in writing to the Senior PI of the concerned police station and then the police shall remove such person/s from the said premises by using such force as required for the same. The MCGM staff under A.E. (B&F) will provide logistic support for removing the belongings of the owner / occupier / tenants after they are removed by the police.

b) The police may use such force as is reasonably necessary to remove such person/s and /or occupiers and/or tenants along with their belongings from the said premises, without causing damage to their movables.

1.12) If the owner/occupier/tenants fail to comply the notice requisition u/s 354, then the further course of action including prosecution under relevant section of MMC Act shall be initiated by the A.E.(B&F). Further steps to demolish the notice structure shall be initiated at the risk and cost of owner/ occupants/tenants and providing transit / alternate accommodation shall not be responsibility of MCGM.

1.13) If there are any pending suits/proceedings and there are any restraining order passed, the corporation shall take necessary steps for vacating and/ or modifying such orders.

1.14) If during the period from action as per 1.02 to 1.13, any mishap takes place then the owner/ occupants/tenants shall be entirely responsible for it and have to face the legal consequence arising out of such mishap and MCGM or any of its officers will not be held responsible.

1.15) The corporation shall, while granting the sanction for redevelopment, the zonal building proposal department shall include a condition in Intimation Of Disapproval (IOD) that “unless and until an agreement either providing a permanent alternate accommodation in newly constructed building or a settlement is arrived at by and between the tenants and/or occupier and the landlord no Commencement Certificate (C.C.) will be issued u/s 45 of MR&TP act 1966”.

(2) MCGM Buildings:

In this regards following general Standard Operating Procedure (S.O.P) as per **Annexure-4** shall be followed for line of action to be taken by concerned department for deciding Municipal buildings as dangerous / dilapidated, i.e. C-1 category.

- 2.01) All the buildings of more than 30 years age and/or if concerned department (as per **Annexure-4**) comes to the conclusion that the building is dilapidated, the concerned staff as per Annexure-4 will inspect the building & record the findings in **Proforma-A (Annexure-1)** along with photographs, video shooting of building and get the Building audited from the MCGM empanelled Structural Engineer.
- 2.02) The Structural Engineer will carry out the structural audit as specified in the **Proforma-B (Annexure-2)** and will submit his/her detailed report as per the format and categories of the building depending upon the results of the tests carried out.
- 2.03) If the Structural Engineer categorizes the building under reference as C-1, then the concerned Engineer as per **Annexure-4** will verify on site and submit the opinion of the consultant along with his/her findings to concerned Dy.Ch.Engineer/ HOD/A.C. (as per **Annexure-4**).
- 2.04) On receipt of Structural audit report, the findings (Category) of the same shall be communicated to tenants/ occupants by displaying it on the premises visible to all, and simultaneously to take action to safeguard the property by propping the building wherever necessary as suggested by Registered Structural Engineer.
- 2.05) If the tenant/ occupants object to the findings of the audit report they shall be asked to appoint their own, registered structural engineer & submit the structural audit report as per the guidelines of TAC in **Proforma-B** within 15 days. Otherwise process of eviction will be initiated as per the earlier report.
- 2.06) If the occupants/tenants submit conflicting reports on the status of the building, the matter shall be referred to one of the concerned Technical Advisory Committee (T.A.C.) (**Annexure-3**) & decision of TAC will be final & binding on all the parties concerned.
- 2.07) The Technical Advisory Committee shall give hearing to concerned structural engineer during the meeting. As far as possible meetings of Technical Advisory

Committee (T.A.C.) shall not be adjourned. For genuine reasons the meeting may be adjourned but in no case more than two adjournments shall be granted.

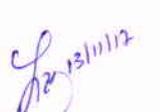
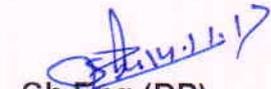
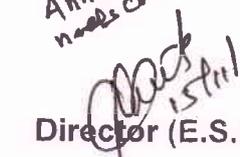
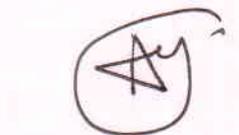
- 2.08)** Based on structural Audit report of C-1 category of the building, the concerned user Department shall make a list of the tenants and / or occupants in the said building and the area in their respective occupation and possession including the floor.
- 2.09)** Concerned user department shall also take the steps to provide the alternate accommodation to all the eligible tenants/ occupants of the building by obtaining sanction of concerned AMC & their after AC (Estate) will provide residential PAP & AC (Market) will provide non-Residential PAP. In case of staff quarters, it will be considered as alternate staff quarter & not a PAP accomadatioin.
- 2.10)** On declaration of C-1 category, the same shall be communicated to tenants/ occupants by serving a letter of evacuation to every occupant to vacate the building along with their belongings within the period of 7 days to the allocated accommodation/PAP.
- 2.11)** Immediately after 7 days time as above, if the building is declared as C-1 Category, eviction order is served, alternate accommodation is provided and occupant refuses to vacate the premises, then
- a) If the occupier is employee of MCGM, full-fledged departmental enquiry for gross negligence of legitimate orders, misconduct and or endangering life and property of self and others shall be initiated and employee shall be suspended from Municipal service pending outcome of enquiry.
 - b) If the occupier is a Municipal tenant his/her tenancy agreement / Licence with MCGM shall be terminated and he / she shall be summarily evicted.
- 2.12)** Action of disconnection of water supply, electricity, gas supply etc. of such building shall be initiated and simultaneously property shall be safeguarded by providing propping as recommended by the structural engineer.
- 2.13) a)** Also in the event, a person occupying the building refuses to vacate the said premises, the concerned staff shall intimate the Senior PI of the concerned police station, and then the police shall remove such person/s from the said premises by using such force as required for the same. The MCGM staff would provide logistic support for removing the belongings of the owner/occupier/tenants after they are removed by the police.

- b) The police may use such force as is reasonably necessary to remove such person/s and /or occupiers and/or tenants along with their belongings from the said premises, without causing damage to their movables.
- 2.14)** The concerned staff shall pursue the matter to get the building evacuated and initiate demolition action.
- 2.15)** If there are any pending suits/proceedings and there are any restraining order passed by any court, the corporation shall take necessary steps for vacating and/ or modifying such orders.
- 2.16) a)** In case any tenant / occupant raises objection to findings of structural audit report and any mishap happens between 2.05 to 2.15, then occupants/tenants shall be entirely responsible for it and have to face the departmental and/or legal consequence arising out of such mishap and MCGM or any of its officers will not be held responsible.
- b)** In case where objection is not raised by tenant / occupant but refused to vacate the premises and any mishap happens between steps 2.10 to 2.15, then occupants/tenants shall be entirely responsible for it and have to face the departmental and/or legal consequence arising out of such mishap and MCGM or any of its officers will not be held responsible.

For All Types of above Buildings (Private & MCGM Buildings)

- 3.01)** In case of exceptional cases where in building is in highly distressed state and it needs evacuation by declaring it as a C-1 category building, above process of declaration of C-1 category can be exempted / can be dispensed with but said decision must be with prior sanction from concerned DMC/ Zonal DMC and finding of department along with photographs and video shooting shall be kept on record & if required the opinion of empanelled structural engineer shall also be taken on record.
- 3.02)** The A.C.(R.E.) City shall publish and update the list of dangerous/C-1 category buildings/ structures on MCGM website quarterly.

All concerned shall take note of above policy circular and follow the same scrupulously; this circular will come in force from the date of approval of Hon.M.C. & supersede all previous circulars pertaining to the subject.

 10/11/17	 12/13/17	 15/11/17		 14/11/17
AC(RE)	AC(Estate)	Ch Eng (BM)	City Eng	Ch Eng (DP)
		<i>Amner-4 needs correction</i>		
	 15/11/17		 14/11/17	
Law Officer	Director (E.S.&P)		DMC(RE)	A.M.C.(City)

Municipal Commissioner