

MINUTES OF THE SECOND MONITORING COMMITTEE
MEETING HELD ON 21.12.2006 AT 11.00 A.M. IN THE
CONFERENCE HALL OF CMDA.

Members Present:

1. Thiru R. Santhanam, I.A.S.,
V.C., CMDA.
2. Thiru Hansraj Varma, I.A.S., (Leave of absence)
Chairman,
TNEB
3. Thiru Rajesh Lakhani, I.A.S.,
Commissioner,
Chennai Corporation.
4. Thiru Asish Chatterjee, I.A.S.
Managing Director, I/C.
CMWSSB.
5. Tmt. R. Jaya, I.A.S.,
District Collector,
Chennai.
6. Thiru Bholanath, I.P.S.,
Director of Fire and Rescue Services.
7. Thiru Louis Menezes, I.A.S. (Retd.) (Leave of absence)
(Former Commissioner,
Corporation of Chennai)
8. Thiru M.G. Devasahayam, I.A.S. (Retd.)
(Former Secretary,
H&UD Department)
9. Thiru P.T. Krishnan (Architect) (Leave of absence)
10. Prof. Suresh Kuppaswamy,
School of Architecture and Planning
Anna University.

11. Thiru Durganand Balsaver,
Architect and Urban Planner.

12. Dr. A. Srivatsan,
Architect and Urban Planner.

Vice-Chairman, CMDA, welcomed the Members of the Monitoring Committee and commenced the proceedings of the meeting.

Agenda Item No.1

The Minutes of the first Monitoring Committee Meeting held on 6.12.6006 were confirmed.

Agenda Item No.2.

Action taken on the minute's dt.6.12.06 was recorded with the following changes.

With ref. to report stated to be due from Director of Fire Services in item 7 of the Action Taken Report, Director informed that while the Directorate has some information, CMDA may furnish the list of multi-storeyed buildings to enable DFS to give detailed information. It was agreed that CMDA will send the list of multi-storeyed buildings to DFS in a week's time.

With regard to item-12 of the Minutes, it was decided that Vice-Chairman, CMDA, who is the coordinator of Monitoring Committee, would brief the media as and when necessary.

With ref. to item 13 of the Minutes, the MC discussed in detail about public participation and sensitisation as part of the monitoring process. It was resolved to evolve a system in order to facilitate public consultation in the functioning of the Monitoring Committee.

Agenda Item 3:

Thiru M.G. Devasahayam briefed about the background of the public interest litigation. The caution notice published for 27 cases was discussed in detail. It was noted that the issuance of caution notice is a routine procedure being followed by CMDA. A counter has already been filed by CMDA in the case. A status report will be filed by VC, CMDA before the Hon'ble High Court of Madras before the next hearing on 29.1.2006.

Agenda Item No.4

The Monitoring Committee discussed about taking further action on Multi-storeyed buildings coming under different categories such as commercial, institutional and residential. The Committee suggested that database may be given for the year 1999 to begin with in the next meeting in order to process and give appropriate recommendations.

Agenda Item No.5:

For identifying the professional builders of illegal Multi-Storeyed and special buildings for imposition of heavy penalties, the Committee was briefed about the limited information available in the files submitted for planning permit. It was noted that in many cases the information on builders is not available. Hence the Committee suggested to fix responsibility on the owner/applicant wherever information on builders is not available and levy penalty.

Agenda Item No.6:

As per the High Court's order the MC shall be consulted for applications claiming under sec.113-A of the Act as well as appeal under

sec.113-A (6). After detailed discussion on the role of the Monitoring Committee with regard to regularisation applications/appeals received under different Schemes, the Monitoring Committee resolved as follows:

Sl. No.	Categorisation	Action by CMDA	Role of Monitoring Committee
1.	Application for Regularisation under first Regularisation Scheme (113-A) - 99 and filed in the first instance.	All applications still pending have to be disposed of by Chief Planner. Regularisation orders may be passed provided building was constructed before 28.2.99.	Norms of Regularisation as prevailing under 1999 scheme will be reiterated by Monitoring Committee and CP will be authorised to dispose of the application. For any deviation, CUP should seek the approval of Monitoring Committee
2.	Applications filed up to 30.06.2002 provided the building was constructed on or before 28.2.1999	CP can dispose of the applications as long as they are regularisable as per 1999 rules after taking Monitoring Committee into confidence.	Monitoring Committee has a role regarding the determination of cut off date and the merits on which the application is considered for regularisation or rejection (disposal) - Scope for rectification can also be considered on case-to-case basis.

3.	Applications filed upto 30.6.2002 but buildings constructed after 28.2.1999.	CMDA to proceed with the demolition on priority, on the basis of direction of the Court's judgement dated 23.8.2006.	Monitoring Committee has a role with regard to prioritisation.
4.	Violation committed after 28.2.1999 and buildings constructed without any applications for regularisation.	CMDA empowered to initiate action as per the laid out procedures.	Periodical Report to be filed to the Monitoring Committee for review.

Agenda Item No.7:

The Monitoring Committee was informed that CMDA has already disposed of all the applications submitted under Reg. Scheme 1999. Hence the request to extend the time limit does not arise.

Agenda Item No.8:

The Monitoring Committee was informed that even before the Court order, as per the Government direction the Reg. fee collected by CMDA has been kept in PD Account of the Government. The Monitoring Committee was of the view that wherever the Reg. application was rejected as per the High Court order, the applicant has a right to claim refund of the amount paid. However in view of the court direction it was resolved to get a legal opinion to take further action on either retaining the reg. fee or refunding it. The Monitoring Committee will consider the legal opinion and take a decision on further action to be taken.

Agenda Item No.9:

Commissioner of Chennai Corporation informed that encroachments along Natesan Steet, Madley Road and Ranganathan Street have been removed. The Monitoring Committee suggested to remove similar encroachments in other major corridors in a phased manner. The Commissioner also informed Monitoring Committee that as next stage of operation, encroachment will be removed along the Poonamallee High Road.

Agenda tem No.10:

The Committee discussed in detail the question of fixing responsibility on the officers in CMDA and Corporation for their failure to enforce the planning laws. The procedures followed in CMDA in detecting the unauthorised building and serving notices under section 56 & 57 of the Town & Country Planning Act were explained to the Committee by CMDA officials. The Enforcement of the planning laws are kept in abeyance till the other avenues available in the Act are exhausted, such as submission of plan for approval under section 49 of the Town and Country Planning Act, appeal to the Government under section 79 of the T &CP Act, etc., Further it was noted that a number of applicants obtained stay from the courts against the notices served by CMDA. It was pointed out that in view of the various provisions in the Act, enforcement of the planning laws is taking much longer than expected by the common citizen. It was also explained that limited availability of staff for enforcement activities is a constraint.

The Monitoring Committee felt that when an unauthorised construction has been booked by CMDA or the Local Body and a notice issued following inspection, it is sufficient to prove that they have taken

prompt action. Any delay in view of other provisions in the Act should not implicate the concerned officers as defaulters.

The Monitoring Committee was also of the view that with just four inspecting officers CMDA cannot do justice in identifying the unauthorised construction in the entire CMA and hence suggested to strengthen Enforcement Wing with adequate number of staff for effective enforcement. It was also felt that CMDA being primarily a planning and regulatory body, it should not be burdened with enforcement activity. Ideally enforcement activity should lie with the local bodies, which are better equipped to undertake this task. The Monitoring Committee felt that the existing system has to be looked at comprehensively as also better systems that may be available in other States, before taking a view.

Agenda Item No.11:

The Monitoring Committee was informed that the Master Plan incorporating all the developments is under preparation as suggested by Government and that Monitoring Committee will be consulted at the appropriate stage. The suggestion of uploading the content of the Master Plan on the web site for the convenience of the public was accepted.

Agenda Item No.12:

The Monitoring Committee felt that CMDA should be given sufficient staff and infrastructure to identify illegal constructions, the details of which are to be placed before the Monitoring Committee. Vice-Chairman, CMDA, informed that CMDA has already written to Govt. for additional staff and Government order is awaited.

Agenda Item No.13 : (a)

It was explained to the Monitoring Committee that sometimes-small sub-divisions, are taking place as a result of family partition. In such sub-divisions, certain DCR parameters such as plot extent, set back, passage width, building line and street alignment are relaxed under Section-27 (b) of DCR by the CMDA. This was discussed in detail in the Monitoring Committee and it was resolved to continue the existing procedure so far adopted by CMDA. However, while drafting the new DCR such cases may be taken as data base to evolve a set of norms for considering the extent and nature of relaxation in such cases.

Meanwhile, Members of the Monitoring Committee would also go through the DCR and come up with suggestions, if any, in this regard in future meetings.

Agenda Item No.13: (b)

The Monitoring Committee discussed about the issuance of Completion Certificate for compliance of Planning Permission and other applicable laws. It was explained to Monitoring Committee that so far CMDA has been issuing Completion Certificate only with reference to compliance of DCR parameters such as set back, car parking and land use. If these parameters are complied with as per the approved plan, Completion Certificate is issued and the Security Deposit is refunded.

Since the court order stipulates compliance with all applicable laws, it was explained that CMDA neither has adequate manpower nor the technical know-how to ensure compliance with all the laws. After

discussions, the Monitoring Committee felt that a new system has to be evolved in which all the applicable laws as mentioned by the High Court should be enumerated and parameters to be complied with set out. Only on compliance of the same, completion certificate should be given for any building. To begin with, CMDA may convene a meeting with all concerned agencies to fix the parameters in respect of the applicable laws. The same may be brought to Monitoring Committee for a decision. Monitoring Committee would also fix the agency/agencies for issuing the Completion Certificate.