

**AGENDA FOR 172<sup>nd</sup> MEETING OF THE TOWN & COUNTRY PLANNING BOARD SCHEDULED TO BE HELD ON 20/11/2020 AT 3.30 P.M. IN CONFERENCE HALL, MINISTER'S BLOCK, SECRETARIAT, PORVORIM - GOA.**

**Item No. 1: Confirmation of the minutes of the 171<sup>st</sup> (Adj.) meeting of Town & Country Planning Board held on 16/10/2020.**

The minutes of 171<sup>st</sup> (Adj.) meeting of TCP Board held on 16/10/2020 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: Appeal under section 52(2)(B) of the TCP Act, 1974 filed by Shri Lyndon D'Silva and Maria Colaco D'Silva against South Goa Planning & Development Authority (File No. TP/B/APL/187/19).**

The matter is against final notice dated 06/12/2019 bearing No. SGPDA/P/Illegal/1289/19-20 vide which the Respondent PDA has directed the appellant to demolish toilet on open terrace and covering of the roof by zinc sheets consuming additional FAR.

The Appellant Smt. Maria Colaco D'Silva owns a duplex flat on 4<sup>th</sup> floor of building bearing H.No. FF9 which was purchased by her about 5 years back. Appellant states that a need to make the entire flat in a livable condition as it was closed for 20 years. The Appellant therefore sought permission from Respondent and Margao Municipal Council. It is the say of the Appellant that her duplex flat had a covered terrace which had broken finolex sheets and hence it was replaced by new sheets and the RCC stair case which saved as on access to upper floor was replaced by fabricated stair case. Upon complaint dated 09/03/2019, the Margao Municipal Council issued stop work order on 02/04/2019 for the work undertaken which was however revoked on 06/05/2019 and so also as per the directives of Margao Municipal Council, the exposed roof that was removed earlier was put again and other minor works were carried out by the Appellant.

It was the direction of the Margao Municipal Council to take permission from Respondent PDA. On 01/08/2019 the Respondent issued show cause notice as no permission was obtained by the Appellant for the work undertaken, which was replied by the Appellant on 12/11/2019. A second show cause notice was again issued by Respondent, which again on 22/11/2019, was replied on 02/12/2019 by the Appellant, which not having been found satisfactory, the respondent has now issued final demolition order.

The matter was placed before the 168<sup>th</sup> meeting of the TCP Board held on 27/01/2020.

During the hearing, respondent PDA informed that they have not received any copy of appeal memo and hence were not aware as to what were the grounds for appeal. The appellant then served a copy of appeal memo to the respondent PDA, who sought the time to study the same and then to reply. The request was considered by the Board and accordingly the matter was deferred.

Matter was again taken up in earlier Board meetings which however was not attended by Appellant on health grounds.

Notices are accordingly issued now to both the parties to remain present for the meeting.

The Board may deliberate.

**Item No. 3: Appeal under Section 45 of the TCP Act, 1974 filed by Sant Nirankal Mandal against North Goa Planning and Development Authority.**

The matter is regarding appeal under section 45 of the Town & Country Planning Act, 1974 in respect of letter bearing No. NGPDA/M/1806/1554/2020 dated 27/07/2020 communicating preliminary observations as raised by North Goa PDA and regarding erroneous change of zoning of the property bearing Chalta No. 1/13 of P.T. Sheet No. 127 at village Mapusa, Taluka Bardez.

The Appellant states that they are a charitable society and had purchased the property in 2006 under Chalta No. 1/13 P.T. Sheet 127 of Mapusa admeasuring 1981 sq.mts. which was then zoned as “Settlement/Residential”

under ODP for Mapusa in operation in the year 2016 for the purpose of setting up of its Sant Sang Bhavan. The Appellant further states that the Conversion Sanad was granted for residential use with 100 FAR, bearing No. RB/CONV/BAR/COLL/43/2014/ 647 dated 01/12/2016 which was much prior to the notification of the Final ODP (Mapusa) dated 27/12/2016 which was published in the Official Gazette Series III No. 38 dated 28/12/2016. However they could not commence the construction of Sat Sang Bhavan as they did not have required funds for the same. The Appellant on 18/3/2020 applied for Technical Clearance to the North Goa PDA, however vide letter bearing No. NGPDA/M/1806/1554/2020 dated 27/07/2020, the same was not considered by the North Goa PDA citing three observations, one amongst which was that the property is now earmarked as Recreational zone in the Mapusa Outline Development Plan 2021 and hence the coverage permissible is 5% and FAR permissible is 5.00 and height permissible is 5.00 mts. The proposal was therefore not considered by North Goa PDA for approval as FAR coverage and height of the building exceeded the permissible limit.

The Appellant therefore states that they are rudely shocked to learn from the Respondent that their property has been wrongly, erroneously and ex-post facto after grant of Sanad to the Applicant has been zoned as “Recreational zone” in the Final Mapusa ODP 2021.

The Appellant has therefore prayed for following:

- a. Appeal be allowed;*
- b. The letter dated 27/07/2020 bearing ref. No. NGPDA/M/1806/1551/2020 issued by the Member Secretary, NGPDA be quashed and set aside.*
- c. The application bearing inward No. 2153 dated 18/03/2020 and be allowed.*
- d. Technical sanction be awarded to the Applicant in respect of the proposed construction in the property surveyed under Chalta No. 1/13 P.T. Sheet No. 127, Mapusa Taluka, Bardez Goa.*
- e. Any other order or relief as deemed fit by the Authority.*

The matter was earlier taken up for hearing by the Board for which Advocate of the Appellant Shri Raunaq Rao was present but the matter was not

taken up for discussion as Shri R. K. Pandita, Member Secretary of North Goa PDA had telephonically requested for adjournment citing the reason that they shall not be able to attend to the hearing in view of situation arisen in their Authority out of Covid-19 pandemic. The request was considered by the Board and accordingly it was decided to take up the matter in next meeting of the Board.

Notices are accordingly issued to both the parties to remain present for meeting.

The Board may deliberate.

**Item No. 4: Appeal under Section 45 of the TCP Act, 1974 filed by Mrs. Rukmini Kharde against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/193/2020)**

The matter is regarding appeal under section 45 of the Town & Country Planning Act, 1974 in respect of order dated 17/03/2020 for the development carried out in the property bearing Chalta No. 1 of P.T. Sheet No. 126 situated at Bhatlem, Panaji filed by Mrs. Rukmini K. Kharde.

The Appellant is aggrieved by the order dated 17/03/2020, by which approval has been granted to Mrs. Sarita Kharde in the property under reference. The plot under reference is an unpartitioned holding. The Appellants state that initially, there was one original house totally admeasuring about 308 sq. mts. It is stated that the family of the Appellants are occupying the house at Bhatlem, Panaji-Goa for the last more than 75 years and specifically from the year 1932.

The proposal was submitted to Member Secretary, GPPDA vide inward No. 1017 dated 09/11/2018 by Smt. Sarita S. Kharde & others represented by (POA holder for Mr. Anil S. Kharde) requesting for issue of Development Permission for Single Family Dwelling in property bearing Chalta No. 1 (part A) of P.T. Sheet No. 126 of Panaji city.

Earlier, NGPDA had issued Development Permission vide Ref. No. NGPDA/1485/2939/12 dated 02/02/2012 for proposed construction of Single Family Dwelling and then after renewal of Development Permission was

issued vide ref. No. NGPDA/1485/2370/15 dated 10/03/2015 in the above referred property in favour of Smt. Sarita Kharde.

The said Development Permission was issued by NGPDA based on the following documents submitted by the applicant:

Certified copy of suit, written statement order and decree dated 26/03/1987, issued on 08/05/2015, by Hon'ble Court of Civil Judge Junior Division at Panaji under Civil suit No. 4/85/B, by virtue of said document applicant was declared as owner of the property bearing Chalta No. 1 (Part A) of P.T. Sheet No. 126 of Panaji city, admeasuring 153.00 m<sup>2</sup> in which the said proposal was approved.

Smt. Sarita Kharde submitted the fresh proposal for Single Family Dwelling to the Authority after expiry of Development Permission granted by NGPDA dated 02/02/2012 and renewal of Development Permission was issued dated 10/03/2015, the fresh proposal submitted was without any change in the earlier approved plan therefore the Authority approved the said proposal vide ref. No. GPPDA/180/PAN/936/2018 dated 28/11/2018 in the property allotted to Smt. Sarita Kharde in accordance to the Civil Suit No. 4/85/B being the applicant is declared the absolute owner of plot admeasuring 153.00 m<sup>2</sup>.

It is stated that, the Authority further received revised plan of Single Family Residential House, for grant of Development Permission for alteration and addition carried out in the earlier approved plan and being found in conformity with regulations in force, the Authority issued Development Permission vide Ref. No. GPPDA/18/PNJ/1033/2020 dated 17/03/2020 in favor of Smt. Sarita Kharde.

The Appellant Smt. Rukmini Kharde therefore prays:

- A. The impugned Order dated 17/03/2020 passed by the Respondent No. 2, Greater Panaji Planning and Development Authority be quashed and set aside.
- B. The Respondent No. 3, the Corporation of City of Panaji be directed not to issued Occupancy Certificate the Respondent No. 1.
- C. Pending disposal of the appeal, the impugned Order dated 17/03/2020 be stayed.
- D. Ex-parte reliefs in terms of prayer clause c.

E. Such other and further reliefs as this Hon'ble court may deem fit in the circumstances of the case.

Notices are accordingly issued to both the parties to remain present for meeting.

The Board may deliberate.

**Item No. 5: Appeal under Section 52 of the TCP Act, 1974 filed by Mrs. Rosa Maria Lopes against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/194/2020)**

The matter is regarding appeal under section 52 of the Town & Country Planning Act, 1974 in respect of final notice issued by GPPDA bearing No. GPPDA/ill-constn/05/Tal/228/2020 dated 16/07/2020 regarding illegal development carried out in the property bearing Sy.No. 61/7 of Village Taleigao, Tiswadi Taluka where the property under reference is earmarked as Settlement zone (S3) in the Outline Development Plan of Taleigao.

The Appellant states that she has been residing in the house bearing No. 19/46/1, situated in survey No. 61/7 of Village Taleigao for the last several years.

It is seen that the GPPDA had received a complaint dated 02/08/2016 regarding the unauthorized development for which purpose, a site inspection was carried out by the officials of the Respondent Authority on 10/08/2016 at and it was observed that appellant has carried out an illegal development in the property bearing survey No. 61/7 of village Taleigao which is zoned as "Settlement S-3 Zone" under Outline Development Plan of Taleigao.

Thereafter a show cause notice was issued to the Appellant by the Respondent under ref. No. NGPDA/illegal/Gen/Vol-V/1336/16 dated 12/09/2016, whereby appellant was called upon as to why action under section 52 of Town and County Planning Act, 1974 should not be initiated for demolition of the illegal/un-authorized development.

Further, the Respondent also issued a notice vide its ref. No. NGPDA/illegal/Gen/Vol-V/1337/16 dated 12/09/2016 under section 53 of TCP Act, directing the Appellant to stop the work.

In response, the Appellant filed a detailed reply to the show cause notice denying about any illegal construction carried out by him and stating that he has only carried out repair work to his existing house bearing No. 19/46/1, which is claimed to be 82 years old and that too with the permission of Village Panchayat Taleigao.

Appellant has though applied on 21/08/2017 for regularization of house under section 44 of TCP Act. On perusal of the documents submitted by the Appellant and the complainant Mr. Anton Xavier Fernandes, it was not clear as to the title over the property stand in whose favour. The file was then referred to the Adv. Sahish Mahambrey of Respondent to obtain his legal opinion for verification of the ownership title/possession of land and upon receipt of legal opinion, the case was placed in the 11<sup>th</sup> Authority meeting held on 15/11/2019 for discussion and the reply being found un-satisfactory and the plan submitted for regularization for being not in conformity with relevant rules and regulations, it was decided by Respondent PDA to refuse the application dated 21/08/2017 and to issue final notice under section 52 of Town & Country Planning Act, 1974.

The Appellant has therefore prayed as under:

- A. Call for records and proceedings of the Ld. Trial Court and after examining the records and proceedings quash and set aside suit notice dated 16/07/2020.
- B. Pending hearing and final disposal of the present appeal stay the operation of the suit notice dated 16/07/2020.
- C. Any other order just and fair.

Notices are accordingly issued to both the parties to remain present for meeting.

The Board may deliberate.

**Item No. 6: Appeal under Section 45 (1) (b) of the TCP Act, 1974 filed by Mr. Rahul Kamat Damodar Shankhwalkar against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/195/2020)**

The matter is regarding appeal under section 45 (1) (b) of the Town & Country Planning Act, 1974 in respect of construction of residential house comprising of an upper floor bearing Municipal house No. E-139(OLD)/5/10(NEW) surveyed under Chalta number 131A of P.T. Sheet No. 74 admeasuring 95.00 sq. mts. situated at Fontainhas Panaji.

The Appellant states that he has applied for Development Permission under section 44 of the Goa Town and Country Planning Act, 1974 vide application dated 16/09/2019, inwarded on 19/09/2019 with the Member Secretary, North Goa Planning and Development Authority, Panaji-Goa.

The Appellant further states that the application was accompanied with the requisite drawings and documents such as the questionnaire, Deed of Sale, Form D, survey plan, structural liability certificate and the Affidavit, etc.

The property is situated in conservation zone and is classified as Commercial (Conservation). As per established procedure, the NGPDA was required to forward the application to the Conservation Committee to seek its approval.

It is the say of Appellant that it has been 11 months since the application was inwarded with the NGPDA but the Authority has failed to act on it or to respond to the said application.

Being aggrieved by the failure of the Respondent to decide the application for Development Permission, the Appellant has filed the present appeal stating that the Respondent has failed to even forward the application filed by him to the Conservation Committee and has thus exhibited complete failure in performing its statutory obligations.

The Appellant therefore prays that;

- a. The building permission as sought for by the Appellant in applications dated 16/09/2019 inwarded on 19/09/2019 be allowed.



Notices are accordingly issued to both the parties to remain present for meeting.

The Board may deliberate.

**Item No. 7:- Proposal for draft Outline Development Plan – 2030 (revised) plan for Vasco-da-Gama planning area for Government approval under section 34 of Town & Country Planning Act, 1974.**

The Member Secretary, Mormugao Planning and Development Authority has submitted Draft ODP-2030 plan of Vasco-da-Gama Planning Area under Section 34 of Town & Country Planning Act, 1974 vide letter bearing No. MPDA/ODP-2030/2020-21/655 dated 30/10/2020 for approval of Government.

The Government under Section 39 of Town & Country Planning Act, 1974, had issued directions to MPDA to take up the process to prepare a fresh ODP for Vasco da Gama Planning Area by following the procedure under Sec. 29, 30, 34 to 37 of Town & Country Planning Act, 1974. The said directions were communicated by Chief Town Planner (Planning) vide ref. No. 36/1/TCP/324/2018/2629 dated 28/12/2018.

MPDA was also directed to take up the preparation of Land Use Map and Land Use Register indicating present use of the land under Vasco da Gama Planning Area under Sec.26 & 27 of Town & Country Planning Act. The said Land Use Register and Map was approved by the Authority in its 2<sup>nd</sup> meeting held on 18/11/2019 and it was decided to adopt the same.

The Authority in its 5th meeting held on 20/5/2020 then resolved to revise the Outline Development Plan for Vasco da Gama Planning Area – 2030 in consultation with the Local Authorities within the jurisdiction of the Planning Area after conducting fresh survey of the Planning Area, as per the provision of Sec.39 of Town & Country Planning Act, 1974.

The Authority also requested the Local Authorities within the jurisdiction of the Planning Area to participate in the preparation of the Outline Development Plan for Vasco da Gama Planning Area – 2030, however, due to

the ongoing COVID Pandemic, no Local Authorities except Village Panchayat of Chicolna-Bogmalo, participated in the preparation of the said ODP – 2030.

Thereafter, the Draft ODP – 2030 for Vasco da Gama Planning Area is prepared by MPDA after carrying out fresh surveys, wherein, the corrections of missing open spaces, Water Bodies, corrections of ODP road as per site conditions were shown. Also change of zones as per the Gazette Notification which were not reflected in the ODP – 2026 are shown and also incorporated the changes as suggested by the Village Panchayat of Chicolna-Bogmalo.

The Draft ODP - 2030 for Vasco da Gama Planning Area was placed in the 6<sup>th</sup> meeting of the Authority held on 16/9/2020 and salient features of the ODP – 2030 were explained to members. It was also explained that the property bearing Sy.No.19 of Chicolna Village was changed from existing Settlement to A-1 (Agriculture) as per the request from the V.P. Chicolna-Bogmalo after site verification.

Following corrections/changes are incorporated in the Draft ODP for Vasco da Gama Planning Area – 2030:

- 1) The zone was converted from Agricultural(A-2) to Settlement (S-1) zone in Sy.No.6 Sub-div.No.4 & 6(part) of Chicalim Village as per Gazette Notification;
- 2) Change of zone C-2 to C-1 in Sy.No.8/1-B of Dabolim Village as per the Notification;
- 3) Settlement zone which was inadvertently shown as open space in ODP-2026 was corrected as per sub-division approval corrected to S-1 zone in Plot No.8 of Sy.No.39 & 40 of Dabolim Village;
- 4) The open spaces and roads in Sy.No.181 & 182 of Sancoale Village were corrected as per the final sub-division approval;
- 5) Property bearing Sy.No.19 of Chicolna Village was changed from existing Settlement to A-1 (Agriculture) as requested by the Village Panchayat of Chicolna-Bogmalo;
- 6) Water Bodies (four Nos.) adjacent to property bearing Sy.No.19 of Chicolna Village was corrected as per the request of Village Panchayat of Chicolna-Bogmalo;

- 7) The existing Crematorium was shown in Sy.No.4 of Chicolna Village;
- 8) Open spaces were corrected in Sy.No.197 of Sancoale Village as per the approved final sub-division plan;
- 9) The road alignment has been changed in Sy.No.22 & 23 of Chicolna Village as per the site condition.

The Authority has also agreed to take up a few changes of land use and alterations/corrections of the ODP roads on suo-moto basis, which are listed as below:

- a) The property owned by Mormugao PDA at Dabolim bearing Sy.No.14/1(part) admeasuring an area of 26,670.00 sq.mts. recommended to change from existing part C-1/S-1 zone (Settlement) to C-1 Zone (Commercial);
- b) The 15.00 mts. wide road is recommended to reduce to 10.00 mts. in width in Sy.No.64, 14, 15 and 16 of Chicolna Village and alignment of road;
- c) Zone was recommended to change from S-4 to I(Institutional) zone having an area of 10,000.00 sq.mts. in Sy.No.4 of Chicolna Village;
- d) Zone was recommended to change from S-1 to C-1 in Ch.No.51-A of P.T.Sh.No.116 of Vasco City at Baina, admeasuring an area of 975.00 sq.mts.;
- e) Zone was recommended to change from C-1 to S-1 in Ch. No.22 & 26-A of P.T.Sh.No.69 of Vasco City having an area of 316.00 sq.mts. at Vaddem, Vasco da Gama as per the request of Owner of the plot;
- f) Zone was recommended to change from A-1 to S-1 zone admeasuring 4,270.00 sq.mts.in Sy.No.17/1 of Dabolim Village;
- g) Zone was recommended to change from S-1 to C-1 admeasuring an area of 5,800.00 sq.mts. and A-2 to S-1 admeasuring an area of 5,500.00 sq.mts. in Sy.No 21/1(part) of Dabolim Village;
- h) Zone was recommended to change from S-2 to S-1 in Plot No.B-3 and B-4 of Sy.No.24/12 of Dabolim Village admeasuring an area of 595.00 sq.mts.;

- i) Zone was recommended to change from Industrial zone to Settlement (S-1) zone in Sy.No.188 of Sancoale Village admeasuring an area of 5,262.00 sq.mts.;
- j) Zone was recommended to change from S-1 to C-1 admeasuring an area of 500.00 sq.mts. in Ch.No.147, 148 & 149 of P.T.Sh.No.156 of Vasco City;
- k) Zone was recommended to change from C-2 to C-1 admeasuring an area of 2,143.00 sq.mts. at Mangor in Ch.No.27, 81, 82 & 83 of P.T.Sh.No.139 of Vasco City.

Further, it was resolved by the Authority to approve the Draft ODP - 2030 for Vasco da Gama Planning Area with the changes/corrections as suggested and to submit the same to the Chief Town Planner (Planning) to place it before the Town & Country Planning Board for according Government approval under Section 34 as per the provisions of Town & Country Planning Act, 1974.

The matter is accordingly placed before the Board for decision.

**Item No. 8:- 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 has revised Kadamba Planning Area to the extent of 150.00 mts. on either side of right of way of National Highway No. 4-A. The marking of said planning boundary from either side of highway was done primary to define the area after the large area of the earlier notified Planning Area is withdrawn.

The proposal of Se-Old Goa Village Panchayat vide resolution bearing No. VP/SOG/TIS/2020-2021/451 dated 27/08/2020 for inclusion of additional area in Greater Panaji Planning and Development Authority is now received from the office of Dy. Chief Minister/Minister for TCP, Secretariat, Porvorim-Goa.

The resolution No. 3(39) dated 12/06/2020 & 4 (2) dated 10/07/2020 adopted by Village Panchayat Se Old-Goa, along with applications received from locals regarding inclusion of their properties in Greater Panaji Planning and Development Authority, Panaji-Goa was placed before the Town & Country Planning Board for decision in 170<sup>th</sup> meeting of the Board and the Board deliberated on the resolution passed and observed that for the purpose of consideration of the request, the area referred shall first have to be declared as planning area such that the same can subsequently be brought under the jurisdiction of Planning & Development Authorities. It was therefore felt appropriate by the Board that the proposal need to be studied further and discussed at length in next meeting of the Board.

The request as made by Village Panchayat Se Old – Goa was therefore considered “in- principle” and was accordingly decided that the matter shall be deliberated in detail in the next meeting of the Board.

The matter is now again placed before the Board for further deliberations.

**Item No. 9:- 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 placed before the Board for consideration as required under the provisions of Section 12 of the TCP Act. Refer Annexure ‘A’.

**Item No. 10: 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’.

**Item No. 11: Any other item with permission of the Chair.**