

AGENDA FOR 174th (Adj.) MEETING OF THE TOWN & COUNTRY PLANNING BOARD SCHEDULED TO BE HELD ON 28/04/2021 AT 3.30 P.M. IN CONFERENCE HALL, MINISTER'S BLOCK, SECRETARIAT, PORVORIM - GOA.

Item No. 1: Confirmation of the minutes of the 174th meeting of Town & Country Planning Board held on 23/03/2021.

The minutes of 174th meeting of TCP Board held on 23/03/2021 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: Decision on proposal considered in 32nd meeting of the 16-A Committee, constituted under sub rule 4 of Rule 3 of the Goa Town & Country Planning (Public Projects/Schemes/Development work by the Government) Rules - 2008 held on 02/03/2021.

The proposals as given in Table placed at Annexure 'C' have been considered by the Committee constituted under sub rule 4 of Rule 3 of the Goa Town & Country Planning (Public Projects/Schemes/ Development work by the Government) Rules - 2008 in its 30th meeting held on 07/07/2020 and 32nd meeting held on 02/03/2021.

The same proposals are placed before the Town & Country Planning Board for consideration as per Annexure 'A'.

Item No. 3:- 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 scrutinized in terms of site conditions and potentialities of the area under Section 10 of TCP Act and are placed before the Board for consideration as required under the provisions of Section 12 of the TCP Act. Refer Annexure 'B'.

Item No. 4: 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 'C'.

ADDITIONAL AGENDA

Item No. 1: 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 pertaining to 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 Appellants Shri Lyndon D'Silva and Maria Colaco D'Silva owns a duplex flat on 4th floor of building bearing H.No. FF9 which was purchased by them about 5 years back. Appellant states that there was 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 for the said work. It is the say of the Appellant that their 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 served as an access to upper floor was replaced by fabricated stair case. Upon complaint dated 09/03/2019, the Margao Municipal Council issued a Stop Work Order on 02/04/2019 for the work undertaken which was however withdrawn on 06/05/2019 and so also, as per the directives of Margao Municipal Council, exposed roof that was removed earlier was put again and other minor works were carried out by the Appellant.

During earlier hearing, Respondent PDA had informed that they had not received any copy of appeal memo and hence were not aware as to what were the grounds for appeal and therefore the Appellant had issued a copy of appeal memo to the Respondent PDA.

It was further informed that the matter was again taken up in earlier Board meetings which however was not attended by Appellant on health grounds.

The matter was earlier placed before the 168th meeting of the TCP Board held on 27/01/2020. During the hearing, Member Secretary informed that an application dtd. 17/3/2020 was received from Sarika E. D'Souza, Margao Goa for intervention in the matter stating that she apprehends that the Respondent No. 1 &

2 representing the State will not put up an effective case on merits and further will not raise vital points of defence or will under perform in order to give the Appellant an upper hand to succeed in getting reliefs in the appeal. It was therefore decided to call the intervener for the next hearing.

In the earlier meeting Adv. Menino Pereira represented South Goa PDA and Adv. Laxmi Sawant represented Intervenor. The Appellant informed the Board that upon directions of Margao Municipal Council, they made an application to the Respondent PDA to obtain the permission for the development referred. He further stated that on 01/08/2019, the Respondent issued Show Cause Notice to them for not having obtained permission for the work undertaken, which he replied on 12/11/2019.

Appellant further stated that a second Show Cause Notice was therefore again issued to them by the Respondent on 22/11/2019, which again was replied by them on 02/12/2019. The Appellant however stated that the reply given was not found satisfactory by the Respondent and therefore a final notice was issued.

During earlier hearing, the Appellant had informed that the issue is only regarding renovation done of a small toilet on their private covered terrace, which already existed during the time of their purchase of flat. As regards to covering of terrace, he stated that the roofing only of the covered terrace was changed as the earlier frame with finolex sheets was totally rusted and the same he said was very clear from the letter of municipality dtd. 6/5/2020 by which they were instructed to once again cover the expose roof. He further stated that letters from the neighbours and also jointly signed letters by other residents is issued to him stating that they have only renovated the place and the roof which is replaced only to prevent leakage and is beneficial to others. He also cited that there are two more sheds which have been put on the terrace of the same building which did not exist earlier. It was further stated by him that the intervener and other members of the neighbouring society have made similar sheds and that he has made complaints regarding the same before the Respondent authority, which however has not been acted upon and hence requested for setting aside notice of SGPDA dtd. 6/12/2019.

Adv. Menino while arguing on behalf of Respondent PDA stated that during the site inspection carried out by the Authority it was found that the Appellant had constructed an additional toilet on the open toilet and that the open terrace was

covered with zinc sheets and that these both illegalities consumed additional FAR. Shri Menino further argued that there is an admission by the Appellant of guilt by virtue of the fact that plans for regularization was submitted by the Appellant to the authority. He also stated that the Respondent has failed to give any proof that the toilet and the zinc sheets pre-existed. It was also brought to the notice of the Board that the additional FAR, even if available, cannot be exclusively used by the Appellants since such FAR belongs to all the occupants of the building.

Petitioner while arguing brought to the notice of the Board that the erection of shed and the toilet have been unauthorisedly undertaken by the Appellants and there is no consent for the same from most of the flat owners, even otherwise the intervener insisted that the appeal ought to be dismissed by the Board as it is clearly brought out by the Respondent PDA that the development referred has consumed the additional FAR, and the same is not considered by the Respondent PDA for regularization.

The Appellant however stated that he would like to further argue on his case only after going through the contents of the written arguments placed before the Board by the Respondent, which he said he received only after the last hearing on 5/2/2021 and expressed his desire to file the rejoinder accordingly to the appeal.

Considering all the arguments placed before it and the request made by the Appellant, the Board had decided that the matter shall be finally heard during the next meeting and decided accordingly.

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

The Board may deliberate.

Item No. 2: 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 filed 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 is earmarked as Settlement zone (S3) in the Outline Development Plan of Taleigao. As per the appeal memo, the Appellant resides 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 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.

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. 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 her and stating that she has carried out only the repair work to her existing house bearing No. 19/46/1, which she claimed to be 82 years old and that too with the permission of Village Panchayat Taleigao.

On receipt of application for regularization of house under Section 44 of TCP Act, the Respondent obtained legal opinion pertaining to ownership title/possession of land by the Appellant and subsequently the application was rejected by the Authority after placing the same in 11th meeting of the Authority, for having found the reply unsatisfactory and for the plans for not being in conformity with the relevant rules and regulations and accordingly the Respondent issued final notice u/s 52 of the TCP Act.

During earlier hearing, the Appellant had remained absent although the notices were issued to remain present for the meeting. Whereas Adv. Shri Saish Mhambre had represented the authority. During the hearing Adv. P. Shetye filed

an application to allow him to be the intervening party, for he being the complainant in the matter. The same was agreed upon by the Board. The intervening party Shri Anton Xavier Fernandes stated that he would like to make his written submission during the next hearing of the appeal and the same was also agreed upon. The matter was thereafter adjourned for further hearing in the next meeting.

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

The Board may deliberate.

Item No. 3: Appeal under Section 37(b)(5) of the Goa Industrial Development Corporation Act, 1965 and Section 45 of TCP Act, 1974 filed by Mahalsa Foods through its Proprietor Shri Pradeep Shet against Goa Industrial Development Corporation (GIDC).

The matter is regarding issue of NOC for proposed revision in extension on lower ground floor to the existing building for Mahalsa Foods in Plot No. 1 of survey No. 157/1 (Part) at Verna Industrial Estate for Mahalsa Foods.

The Appellant states that the appellant runs a business of Restaurant and such other commercial activities in the property bearing Survey No. 157/1, Cortalim Village, Mormugao Taluka, Verna Industrial Estate, Verna-Goa.

The Appellant states that, pursuant to allotment of plot to him, there was partial modification in the Allotment Order dated 5/12/2001 and the Order bearing No. IDC/ED/VECP/S-157/1-Part/286 dated 14/10/2005, came to be allotted admeasuring an area of 2605 square meters in Survey No. 157/1 (Part) in Village Cortalim, Mormugao Taluka, Verna-Goa.

The Appellant states that, pursuant to the aforesaid two Allotment Orders, it was clearly mentioned that this plot of land was allotted to him for setting up of Utility Services like Canteen, Communication etc.

The Appellant states that, although, initially the allotment of the present Plot was issued to the Appellant for the purpose of Utility Services and Canteen, subsequently, the Town and Country Planning Department was pleased to give

permission for changes of zone to Commercial/Industrial vide No. DH/1977/TCP/3385 dated 03/10/2001.

The Appellant states that, based on the oral instructions by the Officer of the Goa IDC, the Appellant applied for revision of the approved plan, as there were minor internal changes in the form of entry and exit and further partition which was carried out in the shed which forms part of interior works. The Appellant states that said minor interior changes do not affect the FAR in any way, not it exceeded the plinth area which was approved in terms of Permission dated 03/09/2018.

The Appellant states that the Respondent has rejected the revision as sought by him vide impugned Order dated 14/05/2020 stating that, “the Goa IDC has allotted to set up Utility Services like Canteen, communication, etc. and submitted proposal consist of Kitchen, Store etc.

The Appellant submits that the Impugned Order dated 14/05/2020 and 09/03/2021 are mutually inconsistent and has requested for quashing of orders dated 14/05/2020 and 09/03/2021.

The appellant therefore has prayed for following.

- a) To quash and set aside the Impugned Order dated 14/05/2020 and 09/03/2021, as the same issued by violating the provisions of the Goa Town and Country Planning Act, 1974;
- b) To direct the Respondent to issued NOC for the revised Plan;
- c) To condone the delay in filling the present Appeal in view of the facts and circumstances stated herein above;

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

The Board may deliberate.

Item No. 4: Appeal under Section 52 (2) (b) of the TCP Act, 1974 filed by Santosh V. Khorjuekar and others against Mormugao Planning and Development Authority. (File No. TP/B/APL/199/2021)

The matter is regarding appeal under section 52 (2) (b) of the Town & Country Planning Act, 1974 in respect of final notice issued by Mormugao Planning and Development Authority bearing No. MPDA/Illegal/205/2020-21/988 dated 02/02/2020 regarding carrying out illegal development in property bearing Ch. No. 236 of P.T. Sheet No. 171 of Baina, Vasco City.

The Appellant states that the respondent has issued the notice/order directing him to demolish/remove the structure belonging to him claiming that the said structure existing in Chalta No. 236 of P.T. Sheet No. 171 at Baina Vasco da Gama Goa is illegal and that he is not satisfied with the reply to the show cause notice.

Being aggrieved by the said notice/order, the Appellant has preferred the appeal stating that the impugned order is passed without application of mind, and extending the authority of the respondent.

The Appellant also states that the respondent authority erred in holding that the mundkarial house is illegal although the same was repaired based on the deeming provision of the MMC and when the same was repaired one portion of the same collapsed and had to be constructed, however the same was reconstructed within the plinth area.

The appellant further states that he has not carried out any illegal construction or extension, as alleged and therefore impugned notice is not tenable.

The appellant states that they are declared as mundkars and had purchased the same and the mundkarial house was 104 square meters in plinth even before the same was repaired. The father of the appellant no. 1 and husband of appellant No. 2 Late Vasudev V. Khorjuekar was mundkar of the property bearing Chalta No. 236, PTS. No. 171 situated at Baina Vasco da Gama Goa wherein the mundkarial house bearing house No. 57 was constructed much before the Goa Liberation and after the death of Late Vasudev Khorjuekar the appellants being legal heirs filed appropriate application under the Mundkar Law before the Mamlatdar of Mormugao for declaration and registration u/s 8A and 29(4) of the Goa Mundkar Act and once the competent authority declared them as mundkars

and the same was purchased by them vide order u/s 16 of the Mundkar Act vide order dated 19/11/2019 in case no Jt./MUND/PUCH/05/2019.

The appellant states that the his house was in a very bad shape and the said house was repaired by obtaining loan and necessary permission for repairs were obtained from the MMC vide application for repairs dated 25/003/2019, however the same collapsed partly on one side and hence there was no option but to reconstruct the same as the monsoon was fast approaching and hence the same was reconstructed within the plinth area as the area allotted was 184 square meters though the appellants were entitled for 200 square meters and they has opted for the same in their application and when in fact the property was 2749 square meters. The complainant is the bhatkar of the appellants which has filed the complaint with ulterior motive to harass the appellant who filed the complaint belatedly after the construction came up the plinth area which shows the malafide intensions of the bhatkar.

The appellants state that impugned order/notice was served on him on 04th February 2021 and 31 days' time was given to demolish/remove the structure/construction and therefore the present appeal is filed within the limitation and ad interim relief be granted to him.

The Appellant has prayed for the following;

- a) Quash and set aside the Notice/Order dated 2nd February 2020 Ref. No. MPDA/Illegal/205/2020-21/988 by the Respondent.
- b) That pending the hearing and final disposal of the present appeal the impugned Notice/Order 2nd February 2020 Ref. No. MPDA/Illegal/205/2020-21/988 be stayed.
- c) Ex-parte as-interim reliefs in terms of the prayer clause (b) above

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

The Board may deliberate.

Item No. 5: Appeal under Section 45 of the TCP Act, 1974 filed by Mrs. Simi Anand Ghogale and others against Greater Panaji Planning and Development Authority. (File No. TP/B/APL/198/2021)

The matter is regarding appeal under section 45 of the Town & Country Planning Act, 1974 in respect of final notice issued by Greater Panaji Planning and Development Authority bearing No. GPPDA/339/PNJ/851/2020 dated 28/12/2020 regarding regularization of existing house (G+1) in the property bearing Chalta No. 200 & 201 of P.T. Sheet No. 69 at Fountainhas, Panaji-Goa.

The Appellants presents the appeal impugning the letter No. GPPDA/339/PNJ/851/2020 dated 28/12/2020 sent by the Greater Panaji Planning and Development Authority, Panaji, Goa by which the proposal of the Appellants/applicants for the regularization of the repairs and renovation of the existing house (G+1) in the property bearing Chalta No. 200, 201 of P.T. Sheet No. 69 at Fountainhas, Panaji-Goa.

Aggrieved by the communication dated 28/12/2020, the appellants has filed the present appeal stating that the communication dated 07/12/2018 rejecting his proposal are on flimsy grounds and without application of mind and the same is against the facts of the case.

The Appellant further states that the renovation of repairs of his house has not crossed the road boundary and is in line with the other ancestral houses and that the suit house is also an ancestral house.

The Appellant also states that the Greater Panaji Planning and Development Authority failed to refer his proposal to the Conservation Committee as prescribed under the law as the suit houses area situated within the Conservation Cone declared as such and on this ground alone the impugned communication dated 28/12/2020 needs to be quashed and set aside.

The Appellants therefore prays as under:

- a) To call the records of the proceedings from the Greater Panaji, Planning Development Authority and upon perusing the same quash and set aside the communication dated 28/12/2020.
- b) To stay the implementation of the communication dated 28/12/2020.

Item No. 6: Proposal of Greater Panaji Planning and Development Authority regarding submission of ODP-2030 of Bambolim Planning Area for Government approval under section 35 (6) of Town & Country Planning Act, 1974.

The Greater Panaji Planning and Development Authority has submitted ODP-2030 of Bambolim Planning Area for Government approval under section 35 (6) of Town & Country Planning Act, 1974. The same is prepared based on the Government approval u/s 34 of TCP Act, 1947 vide ref. No. 40/22/ODP-BAMB/TCP/2020/1649 dated 04/09/2020 to carry out the procedure u/s 35 of Town & Country Planning Act, 1974.

Greater Panaji Planning and Development Authority had issued a Public Notice in the local news dailies i.e. Herald (English) and Tarun Bharat (Marathi) on 11/09/2020 regarding preparation of Draft ODP-2030 of Bambolim Planning Area and the same was displayed in the office of Village Panchayat of St. Cruz and Curca-Bambolim-Talaulim and in the office of the Greater Panaji Planning and Development Authority for inspection and inviting objections from Public for a period of two months.

The stakeholders/General public after inspection filed their objections to the said Draft ODP-2030 of Bambolim Planning Area. Altogether 6 nos. of objections/suggestions were received by this Authority. The Committee was appointed u/s 35 (3) to consider the objections filed. The Committee heard all the persons/stakeholders u/s 35 (5) who have filed their objections to the Draft ODP-2030 and prepared the report as per section 35 (5) of Town & Country Planning Act, 1974.

The report of the Committee was placed before the 15th Authority meeting held on 24/03/2020 u/s 35 (6) of Town & Country Planning Act, 1974. The Authority considered the report prepared by the Committee and made the modification/alteration in the ODP-2030 and thereafter finalized the report and ODP-2030 with unanimous decision and directed the Member Secretary to forward the said report and ODP-2030 of Bambolim Planning Area to be placed before Town & Country Planning Board and the Government to approve the same.

The Board may deliberate.

Item No. 7: Proposal of North Goa Planning and Development Authority regarding submission of ODP of Arpora-Parra-Nagoa 2030 for the Government Approval under Section 36 of Town and Country Planning Act, 1974.

The North Goa Planning and Development Authority has submitted ODP of Arpora-Parra-Nagoa 2030 for the Government Approval under Section 36 of Town and Country Planning Act, 1974.

Vide Order dated 04/09/2020 bearing No. 40/23/PAR-ARP/NGA/TCP/2020/1648, the decision was conveyed by the Office of the Chief Town Planner (Planning) that the Government has accorded approval under Section 34 (2) of Town and Country Planning Act, 1974 to the ODP of Arpora-Nagoa-Parra 2030, and accordingly NGPSA was directed to take further necessary action as per the Town and Country Planning Act, 1974.

Having regards to the directions conveyed by the Chief Town Planner (Planning & Ex-officio Joint Secretary to the Government of Goa, the Authority notified the ODP in Official Gazette Notification vide Series III No. 24 dated 10/09/2020 wherein the public was invited to submit objections on the Draft Outline Development Plan of Arpora-Nagoa-Parra 2030. As per the Section 35 (#) the Authority appointed the Sub-Committee in its 78th meeting held on 11/11/2020 of following members of the Authority.

The Sub-Committee heard the public under Section 35 (3) of Town and Country Planning Act, 1974. The Sub-Committee report was submitted to the Authority under Section 35 (6) in its 79th (Adjourned) meeting held on 26/03/2021. The Authority Members after going through the objections discussed the matter at length and unanimously took the report and decided to carry out the Notification/Correction to the Draft ODP. Accordingly as per decision of the Authority the modification/corrections are carried out to the Draft ODP of ARP-NAG-PAR-2030.

The proposal of North Goa Planning and Development Authority regarding submission of ODP of Arpora-Parra-Nagoa 2030 for the Government Approval under Section 36 of Town and Country Planning Act, 1974 is placed before the TCP Board for its approval.

The Board may decide.

Item No. 8:- Any other item with the permission of chair.