

MUMBAI PORT TRUST

PROPOSAL FOR APPROVAL OF SCHEDULE OF RATES (SOR) IN RESPECT OF MUMBAI PORT TRUST LAND (EXCLUDING PORT TRUST STRUCTURES) FALLING UNDER VARIOUS READY RECKONER ZONES (19 ZONES) APPLICABLE TO ALL THE EXPIRED LEASES/FIFTEEN MONTHLY LEASES/ MONTHLY TENANCIES OF THE PLOTS FOR NON HOME OCCUPATIONS FOR THE PERIOD FROM 01.10.2017 TO 30.09.2022

1. BACKGROUND:

Mumbai Port Trust owns about 944 Ha of land in Mumbai City. The land in the Mumbai city limits falls under the jurisdiction of A, B, C, M, G-North, E, F-North and F-South Wards. The said land stretches from Colaba to Wadala, Mahim, Worli, Govandi, Pir Pau, Mahul, Titwala etc. and is divided into 15 administrative units for management of these estates. The landed estates are divided into 2 main categories, viz. (i) lettable land and (ii) non-lettable land. Non-lettable land includes areas occupied by offices of sister department, administrative offices of Mumbai Port Trust, Port Trust quarters, Port Trust hospital, etc. The lettable category includes areas let out on long term leases, 15 monthly leases, monthly tenancies and licenses. There are also a few plots which are vacant and can be let out. The present proposal is for approval of Schedule of Rates (SOR) for the period 01.10.2017-30.09.2022.

The Board vide various TRs of 2021 accorded approval to Schedule of Rates (SoR) for the period from 01.10.2017 to 30.09.2022 in respect of Mumbai Port Trust letout land falling under various Ready Reckoner Zones (19 zones) applicable to all the Expired leases/Fifteen Monthly leases/Monthly Tenancies/Licenses of the plots Non Home occupations.

2. POLICY GUIDELINES:

The Land Management Policy Guidelines for Major Ports, 2010 issued by the Ministry was adopted by the Board vide TR No.21 of 2011 read with Supreme Court Judgement. The Ministry subsequently, with the approval of the cabinet, issued Land Policy guidelines for Land Management by Major Ports 2014 (PGLM), which was applicable for all Ports except for the land relating to the township areas of Kandla, Mumbai and Kolkata Port, for which it was stated that separate policy will be formulated. The amended policy guidelines were issued in 2015.

The Ministry vide clarification Circular (Land Management) No.1 of 2018 dated 14.05.2018, Clarification No.2 of 09.03.2019 and Clarification No.1 of 2019-20 dated 29.04.2019 issued clarification circular on various issues of PGLM 2014/15 extending the applicability of the PGLM 2015 to the non-home occupation/ commercial areas of the township areas of Mumbai, Kolkata and Kandla Port upto 31.03.2020 with a sunset clause. The PGLM 2015 has thus become applicable to the township areas of Mumbai Port Trust. The Ministry vide further letter dated 27.01.2021 has clarified that "*since PGLM 2014 has been approved by the cabinet, it is valid until it is revised by the cabinet. Hence, compiled PGLM, 2015 issued on 29.04.2019 will be applicable for both the land of major port*

trust and the township area subject to the condition mentioned in the letter dated 29.04.2019.”

b) As per the PGLM-2015, the Land Allotment Committee is required to consider the following factors for determining the market value of the Port land:

- I) “a) State Government's Ready Reckoner of land values in the area, if available for similar classification/ activities.
b) Highest rate of actual relevant transactions registered in the last 3 years in the ports vicinity (the vicinity of the Port is to be decided by the respective Port Trust Boards) with an appropriate annual escalation rate to be approved by the Port Trust Board.
c) Highest accepted tender-cum-auction rate of Port land for similar transaction updated on the basis of the annual escalation rate approved by the Port Trust Board.
d) Rate arrived at by an approved valuer appointed for the purpose by the Port.
e) Other relevant factor as may be identified by the Port.

II) The Land Allotment Committee shall, while recommending the latest market value for any land would normally take into account the highest of the factors mentioned in Para 13(a) above. Reserve price in terms of the annual lease rent would be latest SoR determined in accordance with Para 13 (a) and 13 (c) and would in no case be less than 6% of the latest value recommended by the Port trust.

III) The Port trust would make a proposal as outlined in Para 13 (a) to TAMP for fixing the latest SoR of the land. The TAMP would notify the latest SoR of the land after following due process of consultation with stake holders within 45 days of the receipt of the proposal. The Port trust board will fix a rate of annual escalation which would not be less than 2 %. SoR would be refixed once in every 5 years by TAMP

3. LEGAL ISSUES:

TAMP had vide notification No. TAMP/10/98-Misc of 28.03.2000 issued orders dated 15.03.2000 on its jurisdiction for framing scale of rates and statement of condition on the issue of applicability of SOR to all lands of all Major Ports. The said notification was challenged by the Mumbai Port by Writ Petition 1153 of 2000. In the writ petition, by interim order dated 02.05.2000, the Bombay High Court had stayed the applicability of TAMP's order to areas not falling within Port limit and Port approaches. The issue of withdrawal of Writ Petition and necessary advice for the same was been taken up with the Ministry in the light of PGLM 2015. The Ministry of Shipping, Govt. of India vide letter no.Secy(S)/Visit-Mumbai/land management/2018(333951) dated 15.05.2019 issued direction to the TAMP that consequent to the Policy Guidelines for Land Management, 2015 (PGLM 2015) read with clarification on PGLM dated 14.05.2018, the SoR with effect from 01.10.2012 onwards be fixed by TAMP for all areas of Mumbai Port including Township Areas. The SoR shall be declared only after the Writ Petition is withdrawn by Mumbai Port Trust. TAMP has since by letter dated 15th July 2019 intimated that TAMP is required to fix the SOR for all areas of Mumbai Port including Township areas with

effect from 01.10.2012 onwards in terms of advisory from the Ministry of Shipping and therefore notification dated 28th March 2000 may be seen to have become infructuous.

4. LAC REPORT:

In terms of Para 13 of PGLM 2015, Valuers were appointed for carrying out valuation of various plots including vacant plots falling in the Ready Reckoner 19 Zones/Divisions. A statement showing the Ready Reckoner 19 zones indicating SoR value for base unit FSI 1 is enclosed for the SOR for the period from 01.10.2017 to 30.09.2022. Based on the valuation carried out by Valuers, the Land Allotment Committee after deliberations prepared its report recommending the new SOR with effect from 01.10.2017 to 30.09.2022 which has been approved by the Board through various Resolutions i.e. TR 141 dated 24.08.2021, TR 128 dated 24.08.2021, TR 131 dated 24.08.2021, TR 128 dated 24.08.2021, TR 129 dated 24.08.2021, TR 130 dated 24.08.2021, TR 140 dated 24.08.2021, TR 127 dated 24.08.2021, TR 132 dated 24.08.2021, TR 133 dated 24.08.2021, TR 134 dated 24.08.2021, TR 152 dated 24.08.2021, TR 150 dated 24.08.2021, TR 154 dated 24.08.2021, TR 135 dated 24.08.2021, TR 138 dated 24.08.2021, TR 148 dated 24.08.2021 and TR 146 dated 24.08.2021. The zone-wise details of the land values with the rate of return (SOR) in terms of PGLM as recommended by the LAC and approved by the Board are shown in the statement Annexed (Annexure A).

In each of these cases, the Land Allotment Committee has taken into account the Fair Market Value (FMV) of land based on highest of the 5 factors as per PGLM for base rate for FSI 1.00 for the period from 01.10.2017 and the rate of return adopted for arriving at the SOR is 6% per annum which rate will increase by 4% annually every October over the rate for the previous year. In case the FSI utilization is above 1.00, the said rate will increase proportionately. The SOR as recommended will be applicable to all the expired leases, Fifteen Monthly leases, Monthly tenancies and Licenses along with vacant plots (for calculation of upfront premium for allotment) falling under the respective Ready Reckoner 19 Zones.

Application of FSI factor in calculation of actual quantum of compensation.

(A) The computation of rentals/ compensation based on FSI consumed and areas will be likely to be contentious issue even after base SoR rates for one sq. mtr. of land are approved by TAMP. Linking of SoR rates of land to FSI consumed of the buildings / structures have several repercussions and complexities such as how to compute FSI, exemption of fungible FSI as per DC rules and permissible FSI, etc. To study these aspects in detail, vide TR 122 of 2021 the Board has accorded approval for formation of a committee of experts consisting of a retired Chief Engineer / Director of Planning of MCGM, Retired High Court Judge and a group of MbPT officials comprising Advisor (Planning), Chief Engineer, CLO, FA&CAO, Secretary and Estate Manager (I/C) alongwith Govt. registered Valuers on MbPT panel. Committee will give its recommendations on above issues and the matter will be brought before the LAC and Board for computation of actual rents/compensation on factors recommended by the Committee.

(B) Port Trust is billing the monthly tenants with MCGM Property Cesses (WBT, SBT, EGC & ED) @ 55.5% of Annual Rent as per SC Judgement and recovery of the same was MbPT's responsibility.

LAC vide report dated 23.08.2021 recommended that same practice is to be followed in future, however, the MCGM cesses will be reworked out in accordance with the proposed SOR 2017-2022 as may be approved by the TAMP, in respect of all the monthly tenancies and licenses upto 11 months of all the Ready Reckoner zones of Mumbai Port Trust land. The same is approved by the Board vide TR 155 of 2021.

(C) All the demand notices of differential arrears as per the revised SoR for 2017-2022 will be issued to all monthly tenancies, fifteen monthly leases, expired leases and licenses as a compensation for wrongful use of the premises without interest and giving time limit of 3 months from the date of receipt of demand notices and interest at the applicable rates will be charged for delayed payments subject to TAMP's approval.

5. PROPOSAL:

TAMP's approval is requested to the SOR approved by the Board vide various resolutions for the period from 01.10.2017 to 30.09.2022 as brought in Annexure A. Copies of the relevant TRs along with LAC report are enclosed herewith. These rates will be applicable to all the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses along with vacant plots (for calculation of upfront premium for allotment) falling under the respective ready reckoner zones.

6. JUSTIFICATION:

The proposal is formulated in terms of the Land Policy Guidelines for Land Management 2015 and clarification no.2 of 2019 and extended the same by Ministry of Shipping, Govt. of India vide letter no. PD/13007/2/2014-PD-IV (PD-III) dated 27.01.2021

Under section 49 of MPT Act, 1963 and para 13 (c) of PGLM-2015 TAMP's approval to the SOR for the period from 01.10.2017 to 30.09.2022 applicable to all the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses alongwith vacant plots (for calculation of upfront premium for allotment) falling under the respective Ready Reckoner zones.

7. CONTACT DETAILS:

Contact details of the registered tenants/lessees as available in the MbPT record are furnished in the enclosed statement.
