

# MUMBAI PORT TRUST

**PROPOSAL FOR APPROVAL OF SCHEDULE OF RATES (SOR) FOR THE PERIOD FROM 01.10.2012 TO 30.09.2017 & FROM 01.10.2017 TO 30.09.2022 IN RESPECT OF MUMBAI PORT TRUST LETOUT PT STRUCTURES FALLING UNDER VARIOUS READY RECKONER ZONES APPLICABLE TO ALL THE EXPIRED LEASES/FIFTEEN MONTHLY LEASES/ MONTHLY TENANCIES/ LICENSES.**

## **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 and letout lands in outside island city of Mumbai. 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 Board vide TR 153 of 2021 accorded approval to Schedule of Rates (SoR) for the period from 01.10.2012 to 30.09.2017 and from 01.10.2017 to 30.09.2022 in respect of Mumbai Port Trust letout PT Structures falling under various Ready Reckoner Zones applicable to all the Expired leases / Fifteen Monthly leases / Monthly Tenancies / Licenses.

## **2. POLICY GUIDELINES:**

a) 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:

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- 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. TAMP has since by letter dated 15<sup>th</sup> 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 28<sup>th</sup> March 2000 may be seen to have become infructuous. Therefore, the Writ Petition was also withdrawn by High Court order dated 08.08.2019.

### **4. LAC RECOMMENDATIONS:**

#### **(A) Fixation of SoR for PT Structures for the period 2012-17 and 2017-22**

In some of the PT structures in Township areas, were letout on Monthly Tenancy, Fifteen Monthly Lease and some cases the leases have been expired. As per the practice approved by the Board vide TR No.253 of 1991 and TR No.539 of 1994 for computation of rent/compensation of PT structures is fixed at 2.5 times of the applicable letting rates but since the maintenance of the structure is with lessee/tenants, it was allowed to retain 0.5 times of the rate towards repairs and maintenance of the structures. Vide TR 127 of 2006, it was decided to fix rent rates at 6% per annum on tenement value. The lessees/tenants shall retain 20% of the rent for repairs and maintenance of structure to be done by lessee/ tenant and pay a net rent at 4.8% per annum return on tenement values.

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Keeping the same analogy, it is proposed to fix the SoR for base rate for one Sq.M for FSI 1.00/ BUA of PT Structures on the basis of following formula

$$6\% \times [(FMV \text{ of land for } 1 \text{ SqM of BUA}) + (80\% \text{ of Depreciated cost of PT structure based on age of the Building and type of building})]$$

Note:

- i. Cost of the PT Structure for the period 01.10.2012 to 30.09.2017 has been provided in the RR Booklet 2012 annexed as **Annexure I** and percentage of depreciation shown in table No. B of the same booklet.
- ii. Cost of the PT Structure for the period 01.10.2017 to 30.09.2022 has been provided in the RR Booklet 2017-18 annexed as **Annexure II** and percentage of depreciation shown in table No. B of the same booklet.
- iii. The above SoR rates will have annual escalation of 4% in every October and with revision of SoR every 5 years.

SoR 2012-17 table for letout PT structures for different zones is enclosed as **Annexure III** based on Ready Reckoner rates 2012 and SoR 2017-22 table for letout PT structures for different zones is enclosed as **Annexure IV** based on Valuation Reports.

**(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 2012-2017 and 2017-2022 as may be approved by the TAMP, in respect of all the monthly tenancies and licenses upto 11 months(home and hon-home occupations) 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 2012-2017 and SoR 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 TR 153 of 2021 for the period from 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 for occupations in letout PT Structures as brought out in Annexures III & IV. Copy of the relevant TR along with LAC report is enclosed herewith. These rates will be applicable to all the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses including vacant PT structures (for calculation of Reserve Price, Annual Rent/Upfront Premium for allotment) of the plots falling under the respective ready reckoner zones.

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## 6. JUSTIFICATION:

The proposal is formulated in terms of the Land Policy Guidelines for Land Management 2015.

Under section 49 of MPT Act, 1963 and para 13 (c) of PGLM-2015 TAMP's approval to the SOR for the period from 01.10.2012 to 30.09.2017 and 01.10.2017 to 30.09.2022 applicable to all occupations in letout PT Structures of the Expired Leases, Fifteen Monthly Leases, Monthly Tenancies and Licenses including vacant PT structures (for calculation of Reserve Price, Annual Rent/Upfront Premium for allotment) of the PT structures 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.

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(Proposal - SOR 2012-17 & 2017-22 - PT Structures.docx)