

The Regularisation of Unauthorized Developments in the City of Ulhasnagar Act, 2006

MAHARASHTRA

India

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Act 9 of 2006

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The Regularisation of Unauthorized Developments in the City of Ulhasnagar Act, 2006 Maharashtra Act No. 9 of 2006 (First published, after having received the assent of the Governor, in the "Maharashtra Government Gazette" dated the 21st April, 2006) An Act to regularise unauthorized developments in the City of Ulhasnagar and for matters connected therewith or incidental thereto Whereas there has been unauthorized developments in the City of Ulhasnagar on the large scale; And Whereas such unauthorized developments were liable to be removed and pulled down; And Whereas by removal and pulling down of such unauthorized developments hardship to a large number of people was likely to be caused; And Whereas it was expedient to have a law to provide for regularisation of certain unauthorized developments in the City of Ulhasnagar and for matters connected therewith or incidental thereto; And Whereas both Houses of the State Legislature were not in session; And Whereas the Governor of Maharashtra was satisfied that circumstances existed which rendered it necessary for him to take immediate action to make a law, for the purposes hereinafter appearing; and, therefore, promulgated the Regularisation of Unauthorized Developments in the City of Ulhasnagar Ordinance, 2006, on the 14th January 2006; And Whereas it is expedient to replace the said Ordinance by an Act of the State Legislature; it is hereby enacted in the Fifty-seventh Year of the Republic of India as follows:-

1. Short title and commencement.

(1) This Act may be called the Regularisation of Unauthorized Developments in the City of Ulhasnagar Act, 2006. (2) It shall be deemed to have come into force on the 14th January, 2006.

2. Definitions.

(1) In this Act, unless the context requires otherwise—(a) "Commissioner" shall have the meaning assigned to it in clause (9) of section 2 of the Bombay Provincial Municipal Corporations Act, 1949; (b) "Designated Authority" means the Designated Authority appointed under sub-section (5) of section 3; (c) "prescribed" means prescribed by rules made under this Act; (d) "unauthorized development" means the development carried out, without obtaining the permission of the authority competent to give such permission or in contravention of the permission. (2) Words and expressions used but not defined herein shall have the respective meanings assigned to them in the Maharashtra Regional and Town Planning Act, 1966, or the Bombay Provincial Municipal Corporation Act, 1949.

3. Regularisation of unauthorized developments.

(1) Notwithstanding anything contained in the Maharashtra Regional and Town Planning Act, 1966 or the Bombay Provincial Municipal Corporations Act, 1949 or any rules, regulations or bye-laws made thereunder (hereinafter referred to as "the relevant law"), unauthorized developments carried out in the City of Ulhasnagar before the 1st January 2005, shall be regularised in accordance with the provisions of this Act. (2) (a) A notice issued to a person under the relevant law at any time before the 1st January 2005, requiring such person to remove, pull down or alter unauthorized development carried out, owned or occupied by him, or (b) any order issued or decision taken under the relevant law at any time before the date of commencement of this Act, directing removal, pulling down or alteration of unauthorized development carried out or discontinuance of any use of land or building owned or occupied by a person, shall, unless and until such notice, order or decision stands revived under sub-section (7), be deemed to have stood suspended on the date of commencement of this Act. (3) (a) Notwithstanding anything contained in the relevant law or in the order issued or the discussion taken under such law, directing removal, pulling down or alteration of unauthorized development, or discontinuance of any use of land or building, the Designated Authority, either on basis of information available with it or on an application made to it, is of the opinion that, unauthorized development carried out in the City of Ulhasnagar before the 1st January 2005 may, having regard to the provisions of section 4, be regularised, it may, within such period and in such manner as may be prescribed, serve on such person a notice requiring him within such period not being less than a month as may be specified therein to comply with requisitions made under section 4 and to deposit the compounding fees determined in accordance with the Table below and the development charges leviable under section 124B of the Maharashtra Regional and Town Planning Act, 1966. Table of Fees

Category of unauthorized development	Compounding fees per square meter
(1)	(2)
A. For uses other than Commercial	
(1) Margins and set-backs	10% of the market value of land as per Ready Reckoner.
(2) Floor Space Index	20% of the market value of land as per Ready Reckoner.

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| (3) Covered projection | 10% of the market value of land as per Ready Reckoner. |
| (4) Change of use | 10% of the market value of land as per Ready Reckoner. |
| (5) Common plot and consolidated open plot | 10% of the market value of land as per Ready Reckoner. |
| (6) Height of building | Rupees two thousand per running meter over and above the permissible height of building. |
| (7) Parking deficiency | 10% of the market value of land as per Ready Reckoner. |
| (8) Other than items (1) to (7) above | As the State Government may, by general or special order, notify. |
- (i) Two times of the fees specified for use mentioned in clause A for ground floor and first floor. (ii) One and half times of the fees specified for use mentioned in clause A for floors other than those specified in item (i).
- B. For commercial use, –
- In land measuring not exceeding one hundred square meters
- Fifty per cent. of the fees specified for use mentioned in clause A, or, as the case may be, clause B.
- (b) The Designated Authority shall, as soon as may be, after service of notice to a person under clause (a), cause the substance thereof to be published for the information of the general public, in such manner as may be prescribed. (4) (a) Upon the compliance of requisitions made under section 4 and on the payment of compounding fees and development charges under sub-section (3), such development shall cease to be unauthorized and the Designated Authority shall issue a certificate to that effect. If the designated Authority decides not to regularise the unauthorized development, the decision shall be communicated to the person concerned. (b) (i) The Designated Authority shall, constitute a committee of experts consisting of three persons, who, in the opinion of the Designated Authority, have knowledge of, and experience in, structural engineering, fire fighting and town planning, respectively; (ii) the Designated Authority shall, before receiving the fees and development charges and issuing the certificate under clause (a), consult the committees constituted under sub-clause (i), on the question as to whether the person has complied with the fire safety measures and structural stability requirements, as per the National Building Code and the Indian Standard Specifications for the time being in force; and it shall be the duty of the committee to advise the Designated Authority on the question so referred. (iii) the Committee shall follow such procedure for disposal of its business as may be determined by the Designated Authority. (5) The State Government may, by notification in the Official Gazette, appoint the Commissioner or an officer not below the rank of Deputy Secretary to Government to be the Designated Authority, for the purposes of exercising the powers and discharging the duties under this Act and different Designated Authorities may be appointed for different areas of the City as may be specified in the notification. The Designated Authority shall receive such monthly salary and allowances from the Municipal Fund of the Municipal Corporation of the City of Ulhasnagar, as the State Government may, from time to time, determine. (6) Any amount deposited by a person with the Municipal Corporation of the City of Ulhasnagar against unauthorized development shall be set-off against the fees to be paid by him under sub-section (4). (7) Where no notice is served upon a person under sub-section (3) within the period prescribed under that sub-section or where a notice is served upon a person under

sub-section (3) but a certificate is not obtained by him under sub-section (4) within such period as may be prescribed, the notice order or; as the case may be, the decision referred to in sub-section (2) shall stand revived.

4. Circumstances in which unauthorized development may or may not be regularised.

(1)An unauthorized development shall not be regularised under sub-section (3) of section 3, if it is carried out on,-(i)land under alignment of existing public roads or an internal road, of approved layout;(ii)water courses and water bodies like tank beds, river beds, natural drainage and such other places; and(iii)areas earmarked for the purpose of obnoxious and hazardous industrial development.(2)Unauthorized development may not be regularized if it is inconsistent with,-(a)fire safety measures under the relevant law; and(b)structural stability requirements as per the National Building Code and the Indian Standard Specifications (prescribed by the Bureau of Indian Standards) for the time being in force:Provided that, if the applicant furnishes to the Designated Authority, a certificate from the Chief Fire Officer of the Municipal Corporation of the City of Ulhasnagar or the structural engineer authorised by it certifying compliance of provisions of clause (a) or (b), as the case may be, unauthorized development may be regularized.(3)(a)The Designated Authority may regularize any authorized development in respect of the following matters, namely:- (i)Margins and setbacks;(ii)Floor Space Index (F.S.I.)(iii)Covered projection;(iv)Change of use;(v)A common plot and a consolidated open plot;(vi)Height of a building;(vii)Parking deficiency:Provided that, the Designated Authority shall not regularize unauthorized developments having Floor Space Index (F.S.I.) more than 4.00 and projections beyond plot boundary and the change of use which in the opinion of the Designated Authority may cause danger to health or lead to hazard.(b)The Designated Authority may regularize any unauthorized Development, in so far as sanitary facilities are concerned, on providing necessary sanitary facilities by the applicant, as may be directed by the Designated Authority.(4)Notwithstanding anything contained in clause (b) of sub-section (2), the Designated Authority may, for the purpose of regularization, direct making of provisions in the unauthorized development as follows, namely:- (a)in the case of building with 100 per cent built-up area with no space for water storage tank and installation of fire pumps and no provision of alternate means of escape or no provision for fixed fire fighting installations, the Designated Authority may, in consultation with the Chief Fire Officer of the Municipal Corporation or the City of Ulhasnagar, direct the person to provide such fire safety measures as may be specified in the direction within a period of three months from the date of such direction;(b)in the case of building where no space is available within the complex in which they are situated for the construction of underground water storage tank and installation of fire pumps but adequate means of escapes are available, the Designated Authority may direct the person to provide common water storage tank and fire pumps in such complex at suitable location within a period of three months from the date of direction;(c)in the case of high rise building having height of fifteen meters or exceeding fifteen meters, the Designated Authority may permit a person to install diesel generating set instead of electric supply to the main fire pump within a period of three months.

5. Consequences of regularization.

(1) Notwithstanding anything contained in any other law for the time being in force, the unauthorized development on being regularized, shall be deemed to have been exempted under section 20 of the Urban Land (Ceiling and Regulation) Act, 1976 from the provisions of Chapter III of the said Act, the Government land under encroachment shall be deemed to have been transferred in favour of encroachers, subject to the payment of price of land, as may be determined by the Collector of District of Thane, and stand converted to non-agricultural use for all purposes of the Maharashtra Land Revenue Code, 1966, subject to the payment of non-agricultural assessment and the other statutory terms and conditions, if any, of such conversion and the provisions of the Development Plan or the Regional Plan, as the case may be, shall so far such development is concerned, stand modified or relaxed to the extent of regularization. (2) On such regularization of unauthorized development under section 3, all court cases or other proceedings, filed by the Municipal Corporation of the City of Ulhasnagar and pending in any court in so far as they relate to such unauthorized development, shall abate.

6. Appeals.

(1) Any person aggrieved by the order or decision of the Designated Authority under clause of sub-section (4) of section 3 may, within thirty days from the date of the receipt of the order, prefer an appeal to an Appellate Officer, who shall be a person who has held the office of District Judge or Secretary to the Government of Maharashtra, for a period not less than one year and appointed in this behalf by the State Government: Provided that, the Appellate Officer may entertain the appeal after the expiry of the said period of thirty days if he is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time. (2) On receipt of an appeal under sub-section (1), the Appellate Officer may, after giving the appellant an opportunity of being heard, pass an order confirming, modifying or cancelling the order appealed against. (3) The decision of the Appellate Officer shall be final and shall not be questioned in any court of law. (4) No appeal under this section shall be entertained by the Appellate Officer unless it is accompanied by a Court fee stamp of one hundred rupees. (5) The Appellate Officer shall receive from the the Municipal Fund of the Municipal Corporation of the City of Ulhasnagar, such monthly salary and allowances as the State Government may determine, from time to time.

7. Constitution of Infrastructure Development Fund.

- Subject to the rule made under this Act, all fees received under this Act shall be credited to a fund which shall be called the Infrastructure Development Fund and which shall be held by the Designated Authority in trust for the purpose of augmentation, improvement or creation of an infrastructure facility.

8. Protection of action taken in good faith.

(1) No suit, prosecution or other legal proceedings shall lie against any officer or authority for

anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.(2)No suit or other legal proceedings shall lie against the State Government or any officer or authority for any damage caused or likely to be caused by anything which is in good faith done or intended to be done in pursuance of this Act or any rules made thereunder.

9. Removal of doubt.

- For the removal of doubt, it is hereby declared that regularization of unauthorized development under this Act shall be without prejudice to any civil or the criminal liability to which a person may be subject to under any other law for the time being in force.

10. Power of the State Government to give directions.

(1)The State Government may issue, from time to time, directions to the Municipal Corporation of the City of Ulhasnagar, as it may deem fit for giving effect to the provisions of this Act and it shall be the duty of the Corporation to comply with such directions.(2)If in, or in connection with, the exercise of its powers and discharge of its functions by the Designated Authority under this Act dispute arises between the Designated Authority and the Municipal Corporation of the City of Ulhasnagar, the dispute shall be referred to the State Government and the decision of the State Government thereon shall be final.

11. Power to make rules.

(1)The State Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.(2)Except when the rules are made for the first time, all rules made under this Act shall be subject to the condition of previous publication.(3)In particular and without prejudice to the generality of the foregoing provisions, such rules may provide for all or any of the following matters, namely :-(i)the period within which and the manner in which a notice shall be served under sub-section (3) of section 3 and the manner of publication of substance of notice under clause (b) of that sub-section;(ii)any other matter; which is to be or more be prescribed.(4)Every rule made under this Act shall be laid, as soon as may be, after it is made, before each House of the State Legislature while it is in session for a total period of thirty days which may be comprised in one session or in two more successive sessions, and if, before the expiry of the session in which it is so laid or the session or sessions immediately following, both Houses agree in making any modification or both Houses agree that the rule should not be made and notify such decision in the Official Gazette, the rule shall, from the date of publication of such notification, have effect only in such modified form or be of no effect, as the case may be; so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule.

12. Repeal of Maharashtra Ordinance I of 2006 and saving.

(1)The Regularisation of Unauthorized Developments in the City of Ulhasnagar Ordinance, 2006, is

hereby repealed.(2)Notwithstanding such repeal, anything done or any action taken (including any notification issued) under the said Ordinance shall be deemed to have been done, taken or issued, as the case may be, under the corresponding provisions of this Act.