

Separate Non-agricultural permission no longer required

Background

Under Section 42 of the Maharashtra Land Revenue Code, 1966, prior permission from a Collector is required to use any agricultural land for non-agricultural purposes or from one non-agricultural purpose to another non-agricultural purpose. Further landowners/plot owners/developers are also required to apply to the Assistant Director, Urban Planning and take permission.

An online system called as the “Building Plan Management System” (“**BPMS**”) is currently in place to issue all construction/ development permissions including non-agricultural permissions/certificate of non-agricultural use (sanad), construction/development permits collectively.

Government Decision

The Department of Revenue and Forest of the Government of Maharashtra has issued a G.R. bearing number NAP-2022/Case No. 103/J- 1 A dated May 23, 2023 stating that under the provisions of the Maharashtra Regional and Town Planning Act, 1966, the competent authority while granting building permission should ensure that the proposed non-agricultural use of such land is permissible. Thus, no separate permission from the Collector would be required under the provisions of the Maharashtra Land Revenue Code, 1966.

The other salient features of the G.R. are as under:

1. If the land occupier is a Class – I Occupant, conversion tax will be collected as required in the BPMS and Non-Agricultural Use Certificate will be issued along with the development permission.
2. If the land occupier is a Class – II Occupant, dues of Nazrana or premium and other government sums etc. will be collected and then Non- Agricultural Use Certificate will be issued along with the development permission.
3. Upon payment of the amount calculated, it will be mandatory to grant development permission through the BPMS system along with issuance of a non-agricultural use certificate.
4. Any further demand of non-agricultural fee will be binding on the person seeking permission.

Real Estate Practice

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Our clients comprise a broad cross-section of Indian and International, Institutional & private entities, including Developers, Real Estate advisers, Banks, Real Estate Funds, high net worth Investors, Governments, Major Retailers, Hotel owners & operators and others.

We are primarily involved in legal and regulatory issues for various types of Real Estate projects, including in relation to construction and development of hotels, malls, residential & commercial complexes, warehouses, IT & Industrial Parks and Special Economic Zones.

We have been involved in conducting legal due diligence in relation to such projects and have drafted/ reviewed various types of documents including transaction documents such as (a) Shareholders/ Subscription/ Share Purchase Agreements; (b) Development Agreements; (c) Joint Venture Agreements and other related documents/ agreements.

During the course of our practice, we have also been involved in the drafting/ reviewing of (a) Agreements for Sale; (b) Conveyance Deeds; and (c) Lease Deeds.

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