

CIRCULAR

6th October 1998

Sub:- Procedure in respect of action to be taken under relevant provisions of the B.M.C. Act for demolition of unauthorised structures.

- Ref:-
1. Circular No.MGC/B/4030 of 6-7-83.
 2. Circular No.MGC/B/8163 of 27-12-83.
 3. Circular No.MGC/B/585 of 6-2-87.
 4. Circular No.2 of 18-3-96.
 5. Circular No.2 of 5-7-96.
 6. Circular No.AMC/ES/D/78 of 3.3.1997.
 7. Circular No.AMC/ES/D/97 of 19-4-97.
 8. Circular No.WO/RE/1707 of 9-10-97.
 9. Circular No.AMC/ES/D/211 of 4-6-98.

To have effective control on unauthorised constructions/ encroachments the above referred circulars were issued time to time. Recently the M.M.C. Act has been amended introducing a number of changes. Hence, the following instructions are issued, which should be observed scrupulously by all implementing authorities. These instructions should be read along with the above referred circulars and, in case of any variance, the instructions given in this circular shall prevail: -

1) As soon as the unauthorised construction in progress is detected, the officer detecting the unauthorised construction shall prepare a notice under section 354 A, take signature of the officer authorised to sign such notice and serve the same on the party mentioned in the notice, specifying the date and time of service of notice. Simultaneously, a letter should be sent to the local police station asking the police to take action against the person carrying out the unauthorised work.

2) The Officer concerned shall also take photographs of the structure under construction to build up proof of the type and quantum of construction and location of the work. Camera having

the facility of date and time shall be used for this purpose.

3) If the unauthorised construction is not stopped or the permission of the competent authority in favour of erection of such construction is not produced within 24 hours from the service of notice under section 354 A, such construction shall be removed immediately after the expiry of 24 hours. The materials, machinery, equipment / devices or articles used in the process of erection of the unauthorised construction shall be removed and inventory of the same shall be carried out.

4) If on service of notice under section 354 A, the party submits any document before expiry of 24 hours from the service of notice, such documents shall be examined. If the documents submitted do not contain any approval of the competent authority for erection of the building or execution of the work, a reasoned order shall be passed giving 24 hours to the party to remove/demolish the unauthorised construction. On failure by the party to remove/demolish the structure / work within 24 hours of service of the above order, it shall be removed/demolished immediately after 24 hours of service of the order.

5) It is essential to recover the cost incurred in detection, serving of notice, demolition, transporting materials, demurrage etc. by the corporation from the party. The notice of demand shall be issued immediately within 7 days of demolition to the party.

6) If the demand is not complied within one month from the date of demand such sum shall be treated as an arrears of property tax and such notice of demand shall be forwarded to A.A. & C. of the concerned ward for recovery as per the procedure under the M.M.C. Act for recovery of arrears of property tax.

After receiving the notice of demand, A. A. & C. shall immediately initiate the process for recovery of the demand as an

years of property tax.

7) Due to amendment of section 342 of the M.M.C. Act, no permission is required for tenantable repairs in the following cases.

- (i) providing gunting to the structural members or walls ;
- (ii) plastering, painting, pointing ;
- (iii) changing floor tiles ;
- (iv) repairing W.C., bath or washing places ;
- (v) repairing or replacing drainage pipes, taps, manholes and other fittings ;
- (vi) repairing or replacing sanitary, water plumbing, or electrical fittings ; and
- (vii) replacement of roof with the same material,

but shall not include: -

- (a) change in horizontal and vertical existing dimensions of the structure ;
- (b) replacement or removal of any structural members of load bearing walls ;
- (c) lowering of plinth, foundations or floors ;
- (d) addition or extension of mezzanine floor or loft; and
- (e) flattening of roof or repairing roof with different material",

The officer responsible for detection shall be very careful in above cases as under the guise of tenantable repairs there is every likelihood that the work listed at 'a' to 'e' above or not listed at 'i' to 'vii' above may be carried out.

8) In case, the work is detected after completion a notice under Section 351 shall be served giving seven days time to the party to show that the work mentioned in the notice is carried out in accordance with the provisions of Sections 337 or 342 and

5

the provisions of Sections 337 or 342 and Section 347 of the M.C. Act. If the party does not submit any document or the documents submitted do not prove the authenticity of the unauthorised development, a reasoned order shall be passed by the Ward Officer giving seven days to the party to remove/reinstate the unauthorised work, as may be appropriate. The existing procedure of examination of documents submitted shall be followed.

On failure to comply with the order, a copy of all concerned papers shall be sent to the Legal Assistant of the ward for prosecution under section 475 A (1)(a). The Legal Assistant of ward shall lodge prosecution immediately on receipt of the papers. Any further information and papers required for prosecution shall be provided by A.E. (B).

Simultaneous action shall be taken under the provisions of the M.R.T.P. Act.

10) The registers viz. detection, notice, court injunction & demolition are very important documents and the entries in them should be made very carefully and exactly as per the instructions issued. All detections of unauthorised constructions shall be brought on the detection register the same day, so that further course of action on such unauthorised construction can be pursued immediately.

10) It is also observed in many cases where the intimation of unauthorised construction in progress or completed are given by the Councillors and the general public to the concerned ward office, concerned zonal D.M.C.'s, Additional Commissioners, Municipal Commissioner, V.O.S.D., WO.(R.E.) etc., cognizance of such information is not taken by the Ward Office immediately. In fact by providing such information Municipal Councillors and the public are assisting the building department of the ward. In all such cases, action should be initiated immediately. A reply should go

the provisions of Sections 337 or 342 and Section 347 of the D.M.C. Act. If the party does not submit any document or the documents submitted do not prove the authenticity of the unauthorised development, a reasoned order shall be passed by the Ward Officer giving seven days to the party to remove/reinstate the unauthorised work, as may be appropriate. The existing procedure of examination of documents submitted shall be followed.

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from the Ward Office to the concerned officer / councillor / member of the public within seven days of receipt of the complaint indicating the action taken or being taken. Where action is being taken, a further reply should be sent after completion of the action. A.E.(B) of the Wards will be personally responsible for ensuring compliance with this instruction.

Sd/-19.9
W.O. (R.E.)

Sd/-
Addl. Law Officer

Sd/-26.9.
A.M.C. (E.S.)

No. WO/RE/OID-430 Date 6th October 1998.

Copy forwarded to All W.Os.

With 20 copies to distribute amongst Building & Maintenance Department Staff, AO(Estate), Colony Officer's, Asstt.A.& C., Legal Asstt. and other concerned officers of the Ward.

Copy forwarded to Law Officer, Assessor and Collector, W.O.(Estate), Dy. C. E.(Slum Improvement)

With the request to bring these instructions to the notice of all concerned

Copy forwarded to All Zonal D.M.Cs.

Copy forwarded to A.M.C.(City)/A.M.C. (W.S.)/A.M.C. (Proj.):

Copy forwarded to M.C.

For information please.

etc/198
W.O. (R.E.)