

Note on New Regulatory Framework for Building Regulations in India*

The impact of Building Bye-laws, Zoning and Sub-division regulations, particularly the latter on the quality and quantity of housing supply and city environment is not always appreciated. The forces of urban growth are making it imperative to intensify use of existing urban sites or to bring more and more rural lands under urban uses. A framework to control and regulate this phenomenon of city expansion is essential to make not only the existing but even future human settlements, “safe, orderly and beautiful”.

Revision of building bye-laws to streamline the approval process and to make rainwater harvesting mandatory in all buildings to come up in future and for adoption of water conservation measures has been considered optional reforms under Jawaharlal Nehru National Urban Renewal Mission (JNNURM).

The urban landscape of Delhi is diverse and historical. It encompasses the city of Shahjahanabad which is five hundred years old. It envelopes the Lutyens Bungalow Zone which is one hundred years old. It is expanding to the extremities of Delhi’s borders as a city planned by the Delhi Development Authority. It is dotted with organic unplanned settlements in the form of unauthorized colonies. It strains to redefine its character from rural to urban in the form of “urbanized villages”.

All these kaleidoscopic urban forms were sought to be seen through a single prism of the Unified Building Bye-laws framed in 1983. Prior to these, the building bye-laws of different local bodies were different and underwent changes in 1959 and 1967.

The need of the hour is thus to create new Building Bye-laws which can encompass and correspond to the diversity of the city.

Accordingly, in December 2003, a Steering Committee was constituted by the Municipal Corporation of Delhi (MCD) to provide the policy guidelines for the new regulatory framework for building regulations for Delhi and scrutinize the evolving policy agenda so that the interests of all the stakeholders are duly protected.

Some of the aspects which were considered for preparation/revision and enforcement of Building Bye-laws were –

- i) *Administration* - It was felt that the existing administrative framework to enforce the building bye-laws, and the procedures for getting the building plans scrutinized or sanctioned are too cumbersome and dilatory. The citizen is often subjected to undue harassment and avoidable expenditure.
- ii) *Rigidity of Building Bye-laws* - Many difficulties originate from the fact that the building bye-laws are too rigid and have failed to take into account the changing technology of

* Regulatory Framework for Building Regulations in Delhi”, Indo-USAID FIRE (D) Project and MCD, 2005

construction industry, etc. Most of the standards prescribed in the bye-laws are often found to be obsolete and outdated as some of them had been framed a couple of decades ago. There are uniform bye-laws applicable throughout the city, irrespective of the needs of various zones or localities depending on land uses and development patterns.

- iii) *Uniformity in Bye-laws* - Though inter-city variations need to be reflected in the bye-laws, the uniformity of standards, in essence, was considered to be helpful both to the citizen and to the city Government, as qualified architects could then attain more inter-city mobility. There is a need to achieve the goal of “uniformity with diversity”.

One of the basic hurdles in the programme of framing an ideal set of building bye-laws was the so-called incompatibility between the low cost housing and the requirements of building bye-laws.

The existing mushroom growth of unauthorized colonies and encroachments could be attributed to the prodigal standards adopted in our development control regulations.

- iv) *Jurisdictions of enforcement agencies are unclear* - The task of enforcing building bye-laws is that of DDA in areas under its jurisdiction and that of Local Authorities for their areas. In theory, whenever an area is sufficiently developed, DDA transfers the responsibility of enforcing bye-laws for subsequent additions and alterations to Local Authorities. In practice however, particularly from the viewpoint of the public, jurisdiction are not sufficiently well established causing considerable hardship. MCD's involvement in the planning and sanction of DDA's developments is limited. This handicaps MCD in effectively enforcing regulations when areas are transferred to it.

To ensure higher compliance it is imperative that hardship to applicant be reduced. Therefore, first and foremost it is necessary to clearly define the jurisdictions of various enforcement agencies. It will also be necessary to formulate a clear policy for transferring responsibility from the DDA to Local Authorities. It will also be necessary to streamline the process of transfer so that, once an area is handed over, the Local Authority can effectively enforce bye-laws there.

- v) *Professionals are insufficiently responsible for ensuring compliance*- Enforcement procedures follow *traditional* formats. Area under MCD's jurisdiction is divided under twelve Zonal Offices. Applications for building on residential plot up to 400 sq. yds. and issue of Occupancy Certificates for all buildings are dealt with by Zonal Offices. The Head Office deals with applications for all other buildings, policy issues and interpretation of building bye-laws and Master Plan. Generally speaking, the enforcement regime does not positively involve professionals (architects, engineers etc) making enforcement primarily the responsibility of the Authority and therefore difficult.

Higher compliance cannot be ensured without also significantly making it a responsibility of professionals involved in the building process. At present no effective citywide system for testing competence and empanelling professional exists. Professionals are also insufficiently empowered to stay construction if owners build without compliance to sanctioned plans. In addition to this, no system exists to penalize professionals who abet non-compliant construction. On the contrary there is a provision allowing regularization

of unsanctioned construction by paying compounding fees, which provides a perverse incentive to bypass official procedure.

A new regulatory framework for building regulation in Delhi including a draft of the Delhi Municipal Corporation (Amendment) Bill, 2005 which aim to replace chapter XVI on “Building Regulations” and Chapter XXI on “Improvement” of the Delhi Municipal Corporation Act, 1957 was prepared in a manner so as to be applicable to all the local bodies in Delhi including the Municipal Corporation of Delhi, the New Delhi Municipal Council, the Delhi Development Authority and the Delhi Cantonment Board. It included following notable additions :-

- a) Streamlining procedures for obtaining various permits, easing monitoring during construction, and improving compliance. The emphasis is on clarifying procedures, making them time-bound and addressing all eventualities. Procedures for appeals and for obtaining variance to the byelaws are instituted. Roles of different agencies involved in the process viz. authority, owner, architect, advocate, structural engineer and construction engineer clearly defined.
- b) The bye-laws focus on setting performance standards rather than prescriptive rules. A clear distinction has been made between mandatory aspects of design and specifications as against the recommendatory ones. The new byelaws leave many aspects of building design entirely to the Architect on Record. Emerging concerns such as accessibility and disaster mitigation have also been accommodated.
- c) Another mainstay of the new building byelaws is professional self-certification. This new approach vests far greater responsibility on the professional, combined with commensurate power, autonomy and privilege. To ensure quality services and ethical use of these privileges, a state-level Special Purpose Vehicle for chartering professionals and monitoring their performance is proposed.
- d) Introduction and acceptance, even by the Delhi Development Authority of the concept of framing area-specific building bye-laws based on Local Area Plans prepared at the municipal level, having due regard to the mandates of the Master Plans and Zonal Plans as prepared and enforced by DDA. These local area plans would help create an interface between the macro-level plans at the metropolitan and zonal levels to the neighbourhood plans at the micro-levels.
- e) The development of a special purpose vehicle by CRISIL styled as the Professional and Service Provider Rating Agency which would grade the qualifications, experience and actual professional inputs of advocates, architects, engineers and other professionals who are proposed to be assigned new roles in the scrutiny and sanction of building plans so that the mammoth task of disciplining the activities of builders and developers on the one hand, and the small plot owners on the other, could be streamlined to enable the official agencies to concentrate more on regulation of building activities which influence the urban fabric on larger scales.

It may be mentioned here that report has been prepared with consultative process at all key stages. The concern for proper codification of building bye-laws on the one hand to meet modern standard and on the other, about the capacities of low income groups to satisfy any high

level of construction codes were duly taken into account. The building bye-laws have been approved by the Government of NCT of Delhi and Ministry of Home Affairs, Government of India (GOI). It is presently under consideration of the Ministry of Law & Justice, Government of India.

Some issues/areas of further research are:

- i) Impact of land use zoning regulations guiding the use of land and protection of public health, welfare and safety. These regulations include provision for the use of premise/property and limitations upon shape, size and type of building that are constructed or occupy the land.
- ii) Review/evaluation of compliance of various building codes required for safety against hazard; load bearing of multi-storeyed buildings; and
- iii) Review/preparation of guidelines for protective measures in natural hazard prone areas.