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Government of Odisha
Housing & Urban Development Department

No. 7216 /HUD, Bhubaneswar, dated 17.3.18
TP-(apl)-45/2017

From

Shri A.K.Singh
Desk Officer

To

The Planning Member/ Secretary, Bhubaneswar Development Authority,
Bhubaneswar/Senior Municipal Planner, B.M.C., Bhubaneswar/ M.D.,
IDCO, Bhubaneswar

Sub: Appeal Case No.45/2017 under section 18(1) of the Orissa Development
Authorities Act, 1982 filed by M/s Risk Software Solution Pvt. Ltd.-vrs-B.M.C.,
Bhubaneswar & others.

Sir,

I am sending herewith the copy of the Order dated 16.03.2018 passed by the
Appellate Authority i.e. the Commissioner-cum-Secretary to Govt., Housing & Urban
Development Department in the aforesaid appeal for favour of information and necessary
action at your end.

You are further requested to furnish the copy of the said orders to the aforesaid
appellant immediately.

Yours faithfully,


Desk Officer/16.3.18

Memo No. 7217 /HUD., dated the 17.3.18


Copy along with copy of the order forwarded to the Team Lead, OUSIP, Housing &
Urban Development Department for information & necessary action.

He is requested to take necessary steps in order to make the said order available in
the official website of this Department.


Desk Officer 16.3.18

Memo No. 7218 /HUD., Dated 17.3.18

Copy along with copy of the order forwarded to Sri Ashok Kumar Lakhota,
Director, M/s Risk Software Solution Pvt. Limited, Office No.05, 1st Floor, Block-1, BMC
Bhawani, Saheed Nagar, Commercial Enclave, Bhubaneswar-751007, Dist.- Khurda for
information and necessary action.


Desk Officer 16.3.18

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16.12.2017

The learned advocate on behalf of the appellant, Associate Town Planner of Bhubaneswar Development Authority and Senior Municipal Planner, Bhubaneswar Municipal Corporation are present. But none appeared on behalf of Industrial Infrastructure Development Corporation, Bhubaneswar.

Heard.

Order is reserved.

Sd/-

(G.Mathi Vathanan)

16.03.2018

The instant appeal has been filed u/s-18 (1) of the Odisha Development Authorities Act, 1982 by M/s Risk Software Solution Pvt. Ltd., challenging the legality and propriety of the order dated 2.7.2016 and 30.5.2017 passed by the Senior Municipal Planner, Bhubaneswar Municipal Corporation.

The learned advocate on behalf of the appellant submitted that the appellant submitted building plan for approval of a LB+UB+G+11 multi-storeyed hotel-cum-multiplex building over IDCO allotted plot No.7, Rev Plot No. 65(P), 66(P) and 97(P), Khata No.612, Mouza-Chandrasekharapur, Industrial Estate at Chandaka on 20.05.2015 in terms of the provisions of section 16 of the Odisha Development Authorities Act, 1982. In response to the same, some sought of compliance was sought for by Bhubaneswar Municipal Corporation on 27.05.2015. He further pointed out that while the matter stood thus, the Respondent No.3 i.e. Bhubaneswar Development Authority has communicated to the Chief General Manager, IDCO that the land leased out prior to Comprehensive Development Plan, 2010 shall be considered on the case to case basis on 20.07.2015. Lease deed was executed with the Appellant by IDCO for change of activities from soft ware development to I.T.Park, Social Infrastructure on 15.10.2015. Thereafter IDCO intimated to the Vice Chairman, Bhubaneswar Development Authority on 19.12.2015 regarding approval of construction plan and confirmation regarding change of activity from Software Development Management and Consulting Unit to I.T.Park and Social Infrastructure. The Appellant obtained license for construction purposed from Bhubaneswar Municipal Corporation on 26.12.2015. Thereafter, the appellant submitted an application for seeking No Objection Certificate for approval of Building Plan / Project on 08.01.2016. But Bhubaneswar Municipal Corporation vide letter dated 02.07.2016 raised objection regarding purpose of said leased land used for and pointed out that the said land is affected by 60'-00" road as per Comprehensive Development Plan, 2010 and also advised to submit the revised building plan on 02.07.2016. He again pointed out that the Appellant requested vide letter dated 26.07.2016 to the Bhubaneswar Municipal Corporation to accelerate the process of building plan approval. The Chief General

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Manager, IDCO also requested to the Commissioner, Bhubaneswar Municipal Corporation on 27.07.2016 to take early steps for approval of building plan submitted by the appellant. He further submitted that in response to the objection raised by the Bhubaneswar Municipal Corporation on 02.07.2016 the appellant has submitted his reply on 05.08.2016 that the change in land use from allotment has been confirmed by the letter of IDCO dated 11.06.2015. Further, the proposed 60'-00" wide road passing through plot in question as per Comprehensive Development Plan, 2010 has been proposed to be realigned. He further contended that the appellant has also submitted the No Objection Certificate from the Airport Authority of India on 16.01.2017 with regard to the height clearance for the said project and consent to establish permission from the State Pollution Control Board on 10.04.2017. He again submitted that the Bhubaneswar Municipal Corporation vide letter dated 30.05.2017 has approved the building plan subject to fulfilment of the following conditions:-

1. The proposed road affected area to be free gifted back to BDA/BMC for development of master plan road.
2. NOC from PHED towards water supply and sewerage.
3. Clearance from BMC towards development of infrastructure.
4. Recommendation towards Fire-safety from competent authority.
5. NOC from National Airport Authority of India.
6. NOC from State Environment Impact Assessment Authority before commencement of work.
7. Structural vetting by any State Resource Centre or equivalent agency.
8. The developer to execute an agreement with BMC towards maintenance of a park of about 1 Acre size for a period of five years.

In response to the same, the appellant has submitted compliance on 20.06.2017 wherein he has submitted that the proposed road affected area to be free gifted back to BDA/BMC for development of master plan road is not possible as the appellant has been allotted the plot in question on lease basis from IDCO and the appellant is not authorised to do so. Regarding NOC from PHED towards water supply and sewerage, it is also not possible as the infrastructure of the said area is to be provided by IDCO only. Regarding clearance from BMC towards development of infrastructure, he has pointed out that the same has been applied for. Regarding fire-safety, he has submitted that NOC in this regard from the competent authority has been applied for and the NOC from National Airport Authority of India has been submitted. He further submitted that NOC from State Environment Impact Assessment Authority is to be applied to Environmental Cell of Bhubaneswar Development Authority for which necessary documentation is going on and will be submitted before commencement of work. Structural vetting as per the guidelines before the commencement of civil construction of the said project will also be submitted.

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Regarding maintenance of a park of about 1 Acre size, the appellant has undertaken to maintain the same. He further submitted that construction over the property on which the appellant sought for approval involves large sums of money running into crores of rupees for which non-granting of approval on the total area causes huge loss. At last he prayed for a direction to the Bhubaneswar Municipal Corporation and Bhubaneswar Development Authority to approve the building plan in question on the entire project area so as to utilise the FAR to make the project feasible and viable.

The Senior Planner, Bhubaneswar Municipal Corporation submitted that the appellant applied for approval of a LB+UB+G+ 11 multi-storeyed hotel-cum-multiplexes building over IDCO allotted plot in question on 20.5.2015. On scrutiny of the said plan, it was found that the said land was leased by IDCO for establishment of IT/ITES software development management and consulting unit and was also affected by proposed 60ft wide CDP road. Accordingly, the appellant was asked to submit revised plan conforming to the purpose of lease and deleting the proposed road affected portion. But no response was received for which show cause Notice was sent to the appellant on 29.03.2017. Thereafter, the appellant submitted compliance on 28.04.2017 with revised plan. She further submitted that the revised LB+UB+G+ 10 multi-storeyed hotel-cum-multiplexes building plan was placed before the 13th Multi Agency Building Permission Committee on 23.05.2017 wherein the said plan was approved subject to submission of the documents supra. But the said compliance has not yet been made by the appellant. Since compliance has not yet been made, the appeal petition merits no consideration.

In view of the above submissions and perusal of records, it is clear that the appellant has been allotted the plot in question on lease basis by IDCO. Hence, the appellant can not make the proposed road affected area free gift to BDA/BMC for development of master plan road. Rather, the authorised agency is IDCO who can do so. As IDCO is an essential party in this dispute, IDCO has been noticed to appear. But IDCO has not appeared in the hearing stage. Hence I am of the view that as the issue is relating to development of Master Plan Road of BDA & the land belongs to IDCO leased to the appellant, BDA & IDCO should together resolve this issue between them. Hence appeal is allowed. The case is referred to the Bhubaneswar Development Authority with a direction to resolve the issue with BMC & IDCO keeping in view of the above observation.

Sd/-
(G.Mathi Vathanan)