



Bombay Chamber of Commerce & Industry

Dr. Atindra Sen, IAS (Retd.)
Director General

BY HAND

LA/4709

November 30, 2010

Assessor and Collector
Assessment and Collection Department
Municipal Head Office, Ground Floor
MCGM Old Building
Mahapalika Marg
Mumbai 400 001

Sir,

**DRAFT RULES FOR FIXING CAPITAL VALUE OF LANDS
AND BUILDINGS**

We refer to the Draft Rules for fixing capital value of Lands and Buildings posted by the MCGM on its website for objections and suggestions in the prescribed format.

On behalf of the members of the Bombay Chamber, we submit our suggestions in the prescribed format for favour of consideration.

Thanking you,

Yours sincerely,

Atindra Sen

Encl : As above.



Bombay Chamber of Commerce & Industry

Suggestions on BMC's draft rules fixing capital value of lands and buildings.

Sr. No.	Rule No. and Particulars	Proposed Provision	Suggestion
1.	Rule 2(k) -Open Land	<p>Open land is defined as vacant land not built upon or land being built upon, but does not include land appurtenant to a building</p> <p>There is scope for confusion between the terms "land appurtenant to a building" and "open land".</p>	<p>There should be a clear definition of "land appurtenant to a building" and "open land".</p> <p>More clarity is required about inclusion / exclusion of the following areas:-</p> <ol style="list-style-type: none"> 1) Recreation area/ garden 2) Setback area 3) Pump room land which is exempt from BUA calculation.
2.	Rule 10 (2)(a) Built up area = 1.2 x carpet area.	Under existing system, the assessment is based on carpet area, which can be easily ascertained. The new systems shifts to Built up area and assumes it to be +20% of carpet area.	Capital value calculation should be based on actual assessment of built up area instead of +20%, as same may not be true for large office spaces.
3.	Rule 16 -Valuation of open land capable of utilizing more than 1 FSI or TDR	Any open land which is capable of utilizing more than 1 FSI or TDR shall be valued at a proportionately higher rate if it is proposed to utilize greater than 1 FSI or TDR.	<p>The stage of valuation at which FSI or TDR greater than 1 shall be considered should be clarified. Whether it will be applicable on mere potential of land or upon submission/approval of building plans.</p> <p>We also propose that for those lands where less than 1 FSI is being consumed, the land valuation for the purpose of the property tax should be proportionately reduced.</p>

4.	Rule 17 (1)- $CV = BV \times UC \times FSI \times AL$.	The formula provides for permissible or approved FSI. If for example the permissible $FSI + TDR = 2$, but the approved utilization is only 1, whether the FSI shall be taken as 2 or 1.	It is suggested that unused potential of land in terms of FSI or TDR, should not be used for calculating capital value. It should be only the approved utilization which should be taken into account for the purposes of Capital Value.
5.	Rule 17(2) - CV of a building $CV = BV \times UC \times NTB \times AF \times FF \times BA$	<p>The weightage given to both residential and commercial properties is the same.</p> <p>User Category:- Schedule A , Part -II Residential -weightage = 1.0</p> <p>Schedule A, Part -iii Shops/Office- weightage=1.0</p>	<p>There should be difference in weightage and property tax between residential and commercial property. And the benefit of lower weightage for residential property should also be extended to IT park / BT park /EOU etc.</p> <p>Further there is expected to be a steep rise in built up areas like basement car park, AC plant room, AHU room , security cabin, toilet areas, passages based on the property tax (0.1% to 1.0% as per resolution No. 1544 dt. 13/01/2003 clause- 1). This means even if property tax is charged at 0.1%, the utility areas mentioned above would be subjected to a higher incidence of property tax.</p>
6.	Schedule 'C' - Weightage for age of building in completed years.	As per Schedule C, buildings that are 50 years old or more, have a capital value of 0.70 as against a building that is new or up to 5 years old. Old buildings should be subject to much lesser incidence of property tax.	<p>Weightage by multiplication (column No.3), should be further reduced by 0.03 and the age of the building column be extended to 100 years or more correspondingly.</p> <p>Accordingly a building which is 100 years old would then be subjected to a weightage of app. 0.35</p>

			The age factor must decline at a steeper rate than is presently considered and should be at around the 60% mark for a thirty year old building, not the 85% (0.85) considered in the first example in the draft rules.
7.	Per BMC resolution No. 1544 dt. 13-01-2003 Clause 2 mentions that up to five years from the date of implementation of capital value based property tax, such tax, for residential property, will not be more than double of property tax <u>chargeable</u> in previous year of date of implementation. (In case of commercial property this shall be not more than three times).	We are not clear as to what the word 'Chargeable in previous year' means. Does it mean the actual property tax paid in the previous year or property tax chargeable as if it was a fresh assessment based on ratable value for the year 2009 -2010.	Our suggestion is that the property tax for current year should not be more than 2 times (residential) or 3 times (commercial) of the actual property tax paid for the previous year.
8.	Property tax on Let out property	Based on new draft rule there is no distinction between self occupied and let out property for calculation of capital value, hence the property tax for a let out property is same as owner occupied property.	As the systems shifts from ratable to capital value, the rule should clarify that there is no separate weightage for a let out property.



Bombay Chamber of Commerce & Industry

Dr. Atindra Sen, IAS (Retd.)
Director General

BY HAND

LA/4760

December 2, 2010

Assessor and Collector
Assessment and Collection Department
Municipal Head Office, Ground Floor
MCGM Old Building
Mahapalika Marg
Mumbai 400 001

Sir,

**DRAFT RULES FOR FIXING CAPITAL VALUE OF LANDS
AND BUILDINGS**

With reference to the Draft Rules for fixing capital value of Lands and Buildings, we had sent to you our suggestions vide letter No.LA/4709 dated November 30, 2010, based on the response received from our members.

In continuation of aforesaid letter, we submit herewith our supplementary suggestions in the prescribed format, for favour of your consideration.

Thanking you,

Yours sincerely,

Atindra Sen

Encl : As above.



Bombay Chamber of Commerce & Industry

Supplementary Suggestions on BMC's draft rules fixing capital value of lands and buildings.

Sr. No.	Rule No. and Particulars	Proposed Provision	Suggestion
1.	10(1)(a)(i)(iii)(iv)(vi)(vii)(viii)(xi)(xii)(xiii)(xiv)(xix), (2), 11 and 12(b)	Built –up area for the purpose of arriving at Capital Value, fixation of capital value of open terrace and fixation of capital value of mezzanine floor, loft and attic floor.	The Area accountable for the purpose of arriving at Capital value is not in accordance with the area accounted for F.S.I purpose. Further, clarity is required in regard to permissible or approved F.S.I. The area as per Development Control (DC) Rules should be accounted for as open terrace, service floor which is less than the regular height podium, stilt, loft, flower beds, etc., are free of F.S.I as such they should not to be included at the time of arriving the Capital Value. Further respective base value provided in the Ready Reckoner has been evaluated taking in to consideration the F.S.I. factor.
	10(1)(a)(x)	Built–up area for the purpose of arriving at Capital Value shall include	Refuge area is a compulsory requirement for fire protection in case of emergency and the area is free from F.S.I count. As per D.C. Rules 42 and 43, the same is not accountable as no F.S.I is used.
	2(e)	"Ready Reckoner" means the Stamp Duty Ready Reckoner, for time being in force, referred in Sub-section (1A) of section 154 of the Act.	The Rules are arbitrary in as much as the discount allowed in stamp duty rates are not made applicable while arriving at capital value of premises. For example a shop abutting main road is always higher than that of shop which falls in the rear side of the premises. In stamp duty Ready Reckoner the same is accounted for as 1:90 or shop on upper floor of the mall is subject to stamp duty at 90%, whereas as per draft rule it is 100%. Since the whole exercise is based on the Ready Reckoner, the relief given in the Stamp Duty Ready Reckoner should be adopted. The Stamp duty rates being on the higher side, can be challenged before the appellate authority. In a number of cases, the duty is reduced. To avoid needless

			litigation, corresponding effect should be permitted in the capital value of the property under reference.
	3, 4 and Schedule "A"	The definition of appurtenant land is missing. If the total F.S.I of plot is consumed and building is constructed on small portion of that plot then as per the draft Rule the open land after deducting the appurtenant land is chargeable.	The proposed Rule merits a review / reconsideration since it is contrary to the D.C Rule.
	9(a)(b)	Area of hoarding or tower for the purpose of fixing capital value	The Incidence of tax in case of advertising hoarding, is bound to reduce to match the revenue paid earlier and chargeable in new scheme. In case of mobile antenna tower this will be an enormous amount. Reason: in advertising and hoarding , if poles are in liner position and hoarding erected on top, the surface area ground beneath will be negligible, further land rate could not be applied to the hoarding surface area. In the case of antenna or any other tower as mentioned in the rule, the factor of height will give a wrong result. The product of factors: Length, Breadth, and Height gives either surface area or the volume of the structure. It may be clarified regarding how this yardstick will benefit to ascertain the capital value of the structure?
	Schedule – A parts II and III	Weightage by multiplication to the related base value. User category of residential building, the weightage factor is 1.00 in part II. In part III the user category shop/ shop in commercial building, the weightage factor is also 1.00. This is erroneous and wrong.	Under the Stamp Duty Ready Reckoner the market value is arrived on the basis of location of the building, the type of building, type of Road, facilities/ amenities provided therein, etc. Capital value is arrived on the basis of market value, however under Rule 10 of the draft, additional capital value is contemplated on terrace, entrance lobby, lounge, canopy, etc. In other words, the market value has already taken into account various other factors and hence there should not be again scope to charge as it amounts to double taxation.