

Real Estate Newsflash dated 19 October 2005

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» RECENT DEVELOPMENTS IN REAL ESTATE

Bombay High Court Sets Aside Sale of Mill Land:

In a momentous judgement dated October 17, 2005 passed in a Public Interest Litigation filed by the Bombay Environmental Action Group (BEAG) the two-member bench of the Bombay High Court, comprising Justice Radhakrishnan and Justice Dharmadhikari JJ struck down the rule governing mill redevelopment and consequently set aside the sale of five mills by the National Textile Corporation (NTC).

Their Hon'ble Lordships have struck down the 2001 amendment to the Development Control Rule (DC rule) 58, which allowed mill owners to retain most of their land and exclude the 'already developed' land from the land which is to be made available to the State. In its interpretation of "open land" under the 2001 law, the Court held that it included all land that fell vacant after demolition of the mills and directed that one third of the textile mill land can be commercially re-developed while the remaining 2/3ds must go to civic bodies Briham Mumbai Municipal Corporation (BMC) and Maharashtra Housing and Area Development Authority (MHADA) for open spaces and construction of low income housing.

This judgement has not only knocked down plans of numerous developers who are in various stages of building glitzy shopping malls, fancy high-rises and multiplexes in the premises of defunct, dilapidated textile mills but has also come as a major embarrassment to the Congress-NCP Government headed by Chief Minister Vilasrao Deshmukh, which in 2001 amended the DC Rule 58 to allow the mills to sell a larger portion of the land than was permitted earlier.

The future of a vast swathe of land in central Mumbai, which is dotted with sick textile mills is now under a cloud but the mill owners are certain to appeal to the Supreme Court.

Environmental Impact Assessment now Mandatory:

The Union Environment Ministry has by way of a notification dated 15th September 2005 made an environmental impact assessment mandatory for large housing projects. The Environment Impact Assessment Notification (amended July 2004) states that all housing projects with investment of Rs 50 crores that discharges sewage of over 50,000 litres a day will need to get clearance from the Union

environment agency after conducting a public hearing for the same. This is also a pre-requisite for housing projects which accommodate 1000 or more people. The Maharashtra Chamber of Housing Industry, an umbrella body of the real estate sector has lodged a strong protest against the Ministry stating that the rule is detrimental to the real estate sector.

For further details please contact the Real Estate Team.

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