

TO WHOMSOEVER IT MAY CONCERN

I. At the instance of M/S. UNNATHI ESTATES, a partnership firm registered under the provisions of the Partnership Act, 1932 and having its office at Laxmi Narayan Residency, Opp. Ma Niketan, Pokharan Road No.2, Village Majiwade, Thane 400 610 (hereinafter referred to as 'the said Developers'), I have investigated the title of THANE MUNICIPAL CORPORATION, a Corporation formed & constituted under the provision of the Bombay Provincial Municipal Corporation Act, 1949 having its principal office at Mahapalika Bhavan, Chandan Wadi, Panchpakhadi, Thane (hereinafter referred to as 'the Corporation') to the property being all those pieces or parcels of land bearing Survey Nos.186 & 364 admeasuring about 2957 sq. mtrs. situated, lying and being at Village Majiwada, Vartak Nagar, Tal. and District Thane in the Registration District & Sub-District Thane and within the local limits of Thane Municipal Corporation (hereinafter referred to as 'the said land') together with the buildings bearing Nos.54, 55 & 56 then standing thereon (hereinafter referred to as 'the said Buildings').

II. In the course of investigation of title, I have caused searches to be taken at the Office of Sub Registrar of Assurances at Thane for the year 2015 to 2016. I have also perused the documents of title, Declaration executed by you and other related papers furnished to me relating to the said land and the said buildings.

III. On perusal of the above it appears that :

a) MAHARSHTRA HOUSING AND AREA DEVELOPMENT AUTHORITY (hereinafter referred to as the Authority), a Statutory Corporation, has been constituted under the Maharashtra Housing and Area Development Act 1977, (hereinafter referred to as the said Act) is entitled to the said land.

b) Vartak Nagar MHADA layout is a housing project which was implemented by MHADA under S.I.H.S. Scheme (subsidizes Industrial Housing Scheme).

c) The said Buildings were constructed by the said Authority on the said land.

d) By a Lease Deed dated 14/03/2008 r/w Deed of Confirmation dated 03/03/2009 (hereinafter collectively referred to as the 'said Lease Deed') made and executed by and between said Authority on the One Part and the Corporation therein referred to as the Lessee of the other part, the Authority demised the said land by way of lease unto and in favour of the lessee therein for a period of 90 years beginning from 01/02/1976 at and for the consideration and upon the terms and conditions therein contained. The said Deed of Confirmation dated 03/03/2009 along with the said Lease Deed dated 14/03/2008 is registered with the office of Sub-Registrar of Assurance at Thane under Sr. No.1282/2009 on 23/03/2009 and by virtue of the said Lease Deed, the said Corporation has become the lessee of the said land.

e) By a Sale Deed dated 12/11/2008 r/w Deed of Confirmation dated 26/03/2009 (hereinafter collectively referred to as the 'said Sale Deed') executed by and between the said Authority and the Corporation, the said Buildings were conveyed by the said Authority in favour of the Corporation at and for the consideration and upon the terms and conditions therein contained. The said Deed of Confirmation dated 26/03/2009 together with the said Sale Deed dated 12/11/2008 is registered with the office of Sub-Registrar of Assurances at Thane under Sr. No.1411/2009 and by virtue of the said Sale Deed, the Corporation UNNATHI ESTATES become the owner of the said Buildings constructed on the said land on 31/03/2009.



f) The said Buildings consisting of ground plus three upper floors standing on the said land comprises of 240 occupants altogether. The said Buildings standing on the said land being very old had outlived their utility and the Building No.56 had already been demolished

  
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and the occupants therein shifted to the alternate accommodation. It was impossible to carry out any repairs to the said structures.

- g) As per Govt. Notification No.TPS-1208/150/CR-340/08/UD-12 dated 27/02/2009, all the MHADA colonies within the limits of Thane were permitted 2.5 FSI. In accordance to the said notification Vartak Nagar was granted the revised permission vide V.P. No. 90/150 permission No.TMC/TDD /482 dated 30/10/2009.
- h) The General Body of the Corporation vide Resolution No.194 dated 19-10-2012 was pleased to resolve that the said Buildings be redeveloped on the basis of Public Private Partnership and the funds so generated from the said project be utilised for construction of other Rehabilitation Buildings. The General Body of the Corporation vide Resolution No.278 dated 20-02-2013 was further pleased to accord its sanction for redevelopment of the said Buildings on PPP basis.
- i) The standing committee of the Corporation vide Resolution No.322 dated 07/06/2013 considered redevelopment of said Buildings and further resolved to invite tenders for the purpose of redevelopment by defining the terms and conditions of redevelopment.
- j) Tender Notice as well other relevant documents were made available on the official website of the Corporation, [www.thanecity.gov.in](http://www.thanecity.gov.in) and [www.tmc.abcpocure.com](http://www.tmc.abcpocure.com). The tender notice was also published in Local News Papers Dainik Janadesh, Mid-Day and Samna on 06-09-2013 and 07-09-2013.
- k) The standing committee of the Corporation granted its sanction for common qualification criteria so also for terms and conditions of tender notice for a proposed redevelopment of various buildings in the area of Corporation vide their General Body Resolutions No.2248 dated 12/11/2013 and 412 dated 24/01/2014.
- l) The Corporation with a view to have participation of a private operator who has a strong presence in the residential construction industry and is able to set up the project with the highest standards of housing with a view to improve affordable housing in the area invited Request for Proposal (RFP). The Corporation adopted a single-stage process for selection of a Developers (Successful Bidder) for the project. The RFP detailed out the condition that Corporation/MHADA shall allow the said buildings for the proposed redevelopment and also that the tit bit land/tit-bit plot area abutting the said land of the Corporation shall be available to the said Developers on payment of price in respect thereof and therefore, the permissible BUA to the redevelopment is considered as 23,367 sq. Mtrs. The said land along with tit bit areas abutting thereto together with the said buildings and more particularly described in the Schedule hereunder written shall hereinafter be collectively referred to as 'the said property'.
- m) The Corporation appointed CRISIL Risk and Infrastructure Solution Ltd. Company (hereinafter referred to as 'the said CRISIL') for checking/evaluating the responsiveness of the bid submission against the requirement as laid down in the RFP document and further to that evaluation, the said CRISIL have prepared a report for the Corporation based on the information and documents provided by each of the bidder. In its report, the said Developers were found qualified.
- n) The Corporation, after evaluating the aforesaid bids, accepted the Bid submitted by the said Developers as a highest Bidder and issued its Letter of Award No.TMC/BSUP-CELL/585 dated 01/03/2014 (hereinafter called the "LOA") to the said Developers.
- o) The Corporation also granted Work Order No.TMC/CE/WO/27 dated 16/08/2014 in favour of the said Developers.
- p) By a Development Agreement dated 06/06/2015 registered under Sr. No.6492/2015 in the Office of the Sub Registrar of Assurances at Thane - 2 (hereinafter referred to as 'the said Development Agreement') executed by and between the Corporation therein also referred to as the Corporation of the one part and the said Developers therein also referred to as the Developers of the other part, the Corporation therein granted to the Developers therein and the Developers therein acquired from the Corporation therein the Corporation therein granted to the Developers therein and the Developers therein acquired from the Corporation

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therein the development rights for Redevelopment of the said property on PPP Basis by utilising and consuming the entire FSI, including tit bit FSI to the extent of 23,367 sq. mtrs. at or for the consideration and upon the terms and conditions contained therein.

q) the Corporation, vide its Letter dated 04/03/2014, requested Kokan Housing Area and Development Board (KHADB), a regional board of MHADA to grant it's NOC for carrying out redevelopment of said Buildings on the said Property. Accordingly, KHADB has issued NO Objection Certificate dated 16/12/2014 in favour of the Corporation, wherein KHADB on behalf of MHADA has granted NOC to the Corporation and the said Developers for carrying out the redevelopment of Building Nos.54 and 55 vide No.CO/KB/AA/Vartak Nagar/2571/2014 subject to the terms and conditions therein contained. Similarly, KHADB has issued NO Objection Certificate dated 16/12/2014 in favour of the Corporation, wherein KHADB on behalf of MHADA has granted NOC to the Corporation and the said Developers for carrying out the redevelopment of Building No.56 vide No.CO/KB/AA/Vartak Nagar/2572/2014 subject to the terms and conditions therein contained.

r) The said Developers prepared, through their architect, layout plans in respect of the said property and submitted the same to the Corporation for its sanction and approval and the Corporation has granted its IOD cum Commencement Certificate in respect of the same vide V.P. No.S04/0068/14/TMC/TDD/1320/15 dated 01/01/2015 subject to the terms and conditions contained therein.

s) According to the plans presently sanctioned by the Corporation, the said Developers are entitled to construct the rehab building upto 29<sup>th</sup> floors and the sale building upto 5<sup>th</sup> floors. However, I have been informed that the said Developers propose to construct two (2) Nos. of buildings i.e. one rehab building comprising of Ground (P) Commercial and Stilt (P) + 1<sup>st</sup> to 29<sup>th</sup> floor residential and one sale building comprising of two wings being Wing "A" comprising of Ground (P) + Stilt (P) + 29<sup>th</sup> upper floors and Wing "B" comprising of Ground (P) + Stilt (P) + 27<sup>th</sup> upper floors + 28<sup>th</sup> (P) upper floor to be known as "RAUNAK RESIDENCY" on the said Property.

t) The Developers have availed Credit facility/Term Loan of Rs.50 Crore from Housing Development Finance Corporation Ltd. (hereinafter referred to as 'the said HDFC') by an Unilateral Indenture of Mortgage dated 08/09/2016 (hereinafter referred to as 'the said Mortgage Deed') and as a security for the repayment of the said amount along with interest & other monies that may become due & payable to the said Bank, the Developers have created mortgage in respect of the said property alongwith other adjoining properties and all the units constructed and/or to be constructed thereon in favour of the said HDFC. The said Mortgage Deed is registered with the Sub-Registrar of Assurances at Thane on 09/09/2016 under Sr. No.10935/2016.

u) The said Developers have, as per the terms of the said Agreement, agreed to cause to provide leasehold rights for a period of 30 (thirty) years after the issuance of the occupancy certificate and execution of lease deed in that regard and as per the approval of the Corporation which shall be further increased in steps of 30 years for maximum up to 90 years in favour of the Developer and/or its assigns.

v) The said Developers have appraised me and furnished to me the proceedings of the following matters:

(i) One Shri Vijay Gade and others have filed Writ Petition bearing No.8640/2015 (hereinafter referred to as 'the said first petition') against the Corporation & others in the Hon'ble High Court, Mumbai for quashing and/or setting aside the Resolution dated 07/06/2013 passed by the Standing Committee of the Corporation and the said first petition is pending for disposal. In the said first petition, the Petitioners have questioned and challenged the alternate carpet area agreed to be provided to the Petitioners as mentioned in the impugned Resolution dated 07/06/2013 as well as to grant them alternate accommodation by considering them as the occupants of structure belonging to Lower Income Group (LIG) and accordingly grant them premises on ownership basis. Since the matter in litigation is more in the nature of question to be taken up for consideration, if deemed fit by the Corporation, and less in the nature of legal conflict pertaining to or affecting the title of the Corporation to the said land and therefore, the said first petition bears no significance for consideration.

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(ii) One Shri Sanjay Gunaji Rane and others have filed Writ Petition bearing No.9447/2015 (hereinafter referred to as 'the said second petition') against the Corporation & others in the Hon'ble High Court, Mumbai thereby challenging the impugned notices all dated 14/08/2015 issued under Sec. 264(3) of The Bombay Provisional Municipal Corporation Act, 1949 and the said second petition is pending for disposal. In the said second petition, the Petitioners have questioned and challenged the validity and correctness of the aforesaid notices inter alia the structural audit report submitted by Veermata Jijabai Technological Institute (VJTI) dated 29/06/2015 in respect of Building Nos.54 & 55 and had made a demand for carrying out fresh structural audit in respect thereof from an independent and competent authority other than VJTI. Since the subject matter of the litigation i.e. the aforesaid buildings have already been demolished and the Petitioners therein have been shifted to alternate accommodation and therefore, the said second petition also bears no significance for consideration as regards to the title of the Corporation to the said land.

Moreover, no restrictive order has been passed by the Hon'ble High Court, Mumbai against the Respondents therein in both the aforementioned petitions.

In view of the above, I hereby state that in my opinion, subject to: 1) the outcome of the said first petition and the said second petition, 2) mortgage created in favour of the said HDFC, 3) compliance of the various terms and conditions mentioned in the aforementioned Agreements, orders and permissions, NOC'S and documents and 4) what is stated hereinabove, the title of the Corporation to the said leasehold property i.e. the said land is clear, marketable and free from all encumbrances and further the said Developers are entitled to develop the said Property as per the terms and conditions agreed in the said Development Agreement.

SCHEDULE ABOVE REFERRED TO:

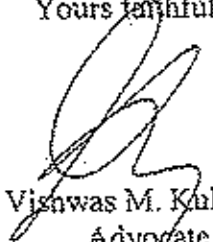
ALL THAT piece and parcel of land admeasuring 2957 sq. mtrs. along with tit bit area abutting thereto at Vartak Nagar comprising of building Nos.54, 55 and 56 then standing on land bearing Survey Nos. 186 & 364 situated at Village Majiwada, Vartak Nagar, Tal. and District Thane, within the local limits of Thane Municipal Corporation.

Dated this 3<sup>rd</sup> day of October, 2016

Yours faithfully

For UNNATHI ESTATES

 PARTNER

  
Vignwas M. Kulkarni  
Advocate