

MATHUR

COMMITTEE

REPORT

Kaushal Kumar Mathur
Chairman

CONFIDENTIAL
Committee of Experts
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December 29, 2006

Respected Shri Reddy,

As you would be aware, vide the Notification No. K-12016/6/2006-DDIB dated the 25th July, 2006 of the Government of India, Ministry of Urban Development, our Committee of Experts was set up to look into the various aspects pertaining to Farm Houses and unauthorized colonies inhabited by affluent sections of the Society. We are happy to submit our report to the Government by the due date of the 31st December, 2006.

We gratefully acknowledge the valuable secretarial support extended to our Committee by Shri A.K. Gupta, Addl. Commissioner (Plg.), Shri P.S. Uttarwar, Director (Plg.), Shri Kailash Chandra, Asstt. Director (Admn.) and Shri Kamal Kumar, Sr. Stenographer of the DDA.

We trust that the recommendations made in the Report would help in finding balanced and practicable solutions to the issues relating to farm houses and unauthorized colonies in Delhi inhabited by affluent sections of the society and contribute meaningfully to bring these areas within the fold of planned development.

With our best regards,

Yours sincerely,
Sd/-
(Kaushal Kumar Mathur)
Chairman

Sd/-
(E.F.N. Ribeiro)
Member

Sd/-
(A.G.K.Menon)
Member

Sd/-
D.S. Meshram
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Sd/-
Dinesh Rai
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Shri S. Jaipal Reddy
Hon'ble Minister for Urban Development
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New Delhi 110 001

Report of the
K.K.MATHUR COMMITTEE OF EXPERTS
set up by the Government of India
to look into the issues with regard to the
unauthorized development in the form of 'farm houses'
as well as 'unauthorized colonies inhabited by
affluent sections' of the society

New Delhi, the 29th December 2006

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CHAPTER-1

INTRODUCTION:

BACKGROUND, METHODOLOGY & APPROACH

1.1 Delhi occupies a very important place in the life of our country. Not only is it a key centre of trade, commerce and small industries as well as art and culture, but it is also the seat of the capital of our country. Therefore, planned development of Delhi has a special significance and has been engaging the attention of the Government from the very beginning. In 1957, the Delhi Development Act was passed under which the Delhi Development Authority (DDA) was set up as the organization for overseeing the planned development of Delhi. The Master Plan for planned development of Delhi was promulgated in 1962 (MPD-62). This Master Plan covered the period upto 1981. Thereafter, the Master Plan was extensively modified to cover the period upto 2001 (MPD-2001). Currently, modification of the Master Plan for the period upto 2021 is under active consideration (MPD-2021).

1.2. Unfortunately, many of the projections made, regarding the planned development of Delhi could not be realized on account of the explosive growth of population of the Union Territory, due to both natural growth and migration of people from the neighbouring States. Actually, for proper planned development of Delhi, it is essential that there is a corresponding planned development of the

whole National Capital Region with other well developed growth centres to deflect some of the migrant population which comes to Delhi. Such growth centres have not come in sufficient numbers so far. The fact that there has been unforeseen very high growth of trade, commerce and Industry in Delhi has accentuated the population problem. The figures of planned population for Delhi and the actual population growth are indicated in the following table:

TABLE-1

Projected & Actual Population, 1981-2021:

Year	Projected Urban Population in Millions	Actual Population in Millions	Urban Population in Millions	Rural Population in Millions
1961	-	2.66	2.30	0.36
1981	5.10	6.25*	5.75*	0.50*
2001	12.80	13.76*	12.80*	0.96*
2021	22.50**	-	22.0**	0.50*

Source: *Census of India - (1961-2001)
 **Subgroup on Demographic Profile, MPD-2021, DDA

1.3. With the growth of population, acute shortage of land has been felt, both for residential and commercial purposes. This has pushed up the cost of land to levels which are unaffordable for poor persons, particularly migrants who come to Delhi for seeking unskilled jobs. The fact that there has also been a gap between housing programmes for weaker sections indicated in the Master Plan and the actual construction of such houses, has further contributed towards the acute shortage of housing in Delhi. The

infrastructural development for providing the requisite civic services has also not been able to keep pace with the increased population growth in Delhi.

1.4. The DDA has been pursuing the programme of large-scale acquisition and development of land under which land is acquired for implementation of projects according to the Master Plan. However, as there is a time gap between acquisition of land and its actual utilization for the projects, some parts of the acquired land are encroached upon. Unauthorized colonies have come up on public land in this way. Further, large chunks of private land, which is earmarked for uses other than residential, such as green and agriculture, have been taken by unscrupulous persons for making unauthorized colonies. The number of unauthorized colonies has been increasing. Unfortunately, the enforcement machinery of the Municipal Corporation of Delhi (MCD), DDA and New Delhi Municipal Council (NDMC) has been ineffective in checking the growth of unauthorized colonies on account of connivance of the field staff of these bodies as well as political pressures.

1.5. While most of the unauthorized colonies are inhabited by poor and weaker sections of the society, taking advantage of the confusion in land matters in Delhi and the weak enforcement machinery of the local authorities, some affluent people have also, either by way of encroachment on public land or by misuse of private land, put up unauthorized colonies.

1.6. Due to inadequate infrastructure, the quality of life in unauthorized colonies is very poor. Therefore, both from the humanitarian angle and political considerations, in the past some of these unauthorized colonies were regularized by the Government as follows:

1961	-	110
1969	-	101
1977	-	567
Total	-	778

1.7. Subsequent to 1977, the question of regularizing more unauthorized colonies has been raised a number of times, but due to a variety of factors, including Court orders, so far no additional unauthorized colonies have been regularized. It also needs to be noted that so far the Government has not regularized any unauthorized colonies said to be inhabited by affluent persons.

1.8. As a result of detailed examination by several Committees, at present 1520 unauthorized colonies are reported to be under consideration for regularization. The Government of India in the Ministry of Urban Development & Poverty Alleviation had, vide their letter No. 0-33011/2/94-DDIIB-Vol.VIII dated 10.2.2004 (ANNEXURE-1) issued revised Guidelines for regularization of unauthorized colonies in Delhi. In these Guidelines, two unauthorized colonies inhabited by affluent persons, viz. Anant Ram Dairy and Mahendru Enclave are mentioned. The Guidelines also

indicated that the matter relating to Sainik Farms would be considered separately.

1.9. When the Master Plan was prepared in 1962, there was considerable rural area in the Union Territory of Delhi. Agriculture was being carried on in several pockets. Moreover, a number of areas were kept for green purposes. With a view to facilitating the people engaged in agricultural pursuits to live in their farms, the concept of Farm Houses was incorporated in Master Plan 1962 as follows:

TABLE-2

Size of farm	Maximum coverage of the dwelling unit	Maximum height of the dwelling unit
1 to 3 acres	300 sq. ft.	Single storey Maximum Height 20 ft.
Above 3 acres	1500 sq. ft.	-Do-

NB: (1) Set-back for a dwelling house should be 50 ft. from any boundary line of the property.

(2) Where the property abuts on urban road the dwelling house building should be set-back from the centre line of that road by 200 ft. Where the property abuts a village road the building set-back from the centre line of that road should be 100 ft.

(3) No dwelling unit should be built within 2 furlongs of the right of way of any national highway.

(4) In the ease of special farms, for example, horse breeding farms covering a large area, Government may allow a large coverage as may be considered necessary for farm houses to be built on these farms.

1.10. Subsequently, in the Master Plan 2001, the provision for Farm Houses underwent some changes and became as follows:

TABLE-3

Size of Farm	Maximum floor area of the dwelling unit	Maximum height of the dwelling unit
1.0 ha. and above but less than 2.0 ha.	100sq.m (Including mezzanine floor)	Single Storey Max. Ht.-6 m.
2.0 ha. and above	150 sq.m (including Mezzanine floor)	Single Storey Max. Ht.- 6 m.

Farm houses on a minimum of 1 Hac. land could be located in the rural use zone. These could be developed for flowers, fruit, vegetables, poultry farming, etc.

1.11. In 1998, on the basis of the recommendations of Shri Vijay Kumar Malhotra Committee, farms of 2.5 acres and above were allowed to construct a dwelling house upto 200 sq. mts. under the rules of the MCD. A Gazette Notification issued by the Ministry of Urban Development on 23.7.1998 allowed farm houses of 2.5 acres of covered area of 500 sq. mts. to be regularized upon payment of penalty. This was to be valid till 30.6.2000 and thereafter an additional penalty of 15% (on the penalty amount) was to be paid for regularization for every month of delay. These orders were withdrawn by the Ministry of Urban Development on 7.6.2000. Therefore, at present the provision for farm houses is what was initially given in the Master Plan 2001 and what has been indicated in Table-3.

1.12. While the original concept of farm houses was to have a simple dwelling for people to live there to carry on their agriculture pursuits in their farms, over time, most of the farms were acquired by affluent people, who have constructed huge mansions and villas on them in violation of the existing regulations and development controls.

1.13. With the increased requirement of urbanization of the limited land available In the Union Territory of Delhi to accommodate the estimated huge growth of population in the coming years, the future of farm houses has become questionable.

1.14. In this background, the Government of India in the Ministry of Urban Development decided to set up a Committee of Experts to look into the issues involved with regard to the unauthorized development in the form of 'farm houses' as well as 'unauthorized colonies inhabited by affluent sections' of the society and to recommend a comprehensive strategy to deal with the matter in the context of the planned development of Delhi. A copy of the Order No. K-12016/6/2006-DDIB dated 25.7.2006, under which the Committee was set up, is attached as ANNEXURE-2.

1.15. The Terms of Reference of the Committee are as follows: .

- (i) *To assess the extent of unauthorized development in the form of 'farm houses' and 'unauthorized colonies inhabited by affluent sections' of the society.*

- (ii) *To examine and recommend whether it is feasible and/or desirable to regularize unauthorized development, as mentioned at (i) above.*
- (iii) *If so, to recommend broad principles governing the terms and conditions and guidelines for regularization of such areas, particularly covering the following aspects:*
 - (a) *identification of areas of such unauthorized development for regularization;*
 - (b) *planning and development control norms to regulate regularization and future development of such areas;*
 - (c) *levy of conversion charges or recovery of cost of land depending on whether such development has taken place on private or Government land respectively and imposition of penalty, if any, for such unauthorized development;*
 - (d) *levy of development charges for infrastructural facilities and services to be provided by the local bodies and payment of damages/compounding fee, if any, for regularization of such unauthorized development;*
 - (e) *basic principles and guidelines for preparation of feasible area/layout plans for integration of such unauthorized areas, in the overall process of planned development of Delhi;*
- (iv) *To recommend measures for prevention of such unauthorized development in future; and*
- (v) *Any other matter incidental or related to any of the terms of reference, mentioned above.*

1.16. The Committee had 18 meetings. It issued public notice on the 14th and 15th August, 2006 by giving advertisements in leading newspapers of Delhi to invite comments/representations from all

those who wanted to interact with the Committee on the issues before it. The Committee also made spot inspections of the colonies said to be inhabited by affluent people. In response to the public notice, a large number of representations were received. They have been summarized in ANNEXURE-3. Those representationists, who wanted to meet the Committee in person, were given public hearings on 6.10.2006 and 19.10.2006. No political party had responded to the public notice. As the matters before the Committee have political ramifications, the Committee felt it appropriate to send intimation to recognized political parties in Delhi Assembly about the matters before it, so as to give them one more opportunity to interact with it. A copy of the letter issued to the political parties is at ANNEXURE-4. In response to this letter, no political parties sent their comments/representations. Only Shri Ramvir Singh Bidhuri, President, NCP, Delhi Pradesh, expressed a desire to meet the Committee. The Committee met him on the 9th December, 2006 and had the benefit of his views.

1.17. Even before the setting up of our Committee, other Committees/Commission have either partially or substantively looked into and commented upon the issues before this Committee. We have gone through the reports of these Committees/Commission, which include the following:

- (i) Janak Juneja Committee appointed by Government of National Capital Territory of Delhi (GNCTD) for looking into various issues relating to Sainik Farms - 1995.

- (ii) High Level Committee appointed by the Government of India (N.P. Singh Committee) to examine various issues in respect of unauthorized colonies-1997.
- (iii) Report of Prof. Vijay Kumar Malhotra Committee set up by the GNCTD regarding amnesty scheme for regularization of unauthorized constructions in plotted development in farm houses - 1998.
- (iv) Report of Justice Nanavati Commission of Inquiry set-up by the Government of India to look into unauthorized colonies/constructions in the NCT of Delhi - 2005.
- (v) Report of Tejendra Khanna Committee of Experts set-up by the Government of India to look into various aspects and unauthorized constructions and misuse of premises in Delhi - 2006.

1.18. We have benefited by going through all these reports and have found them relevant to our field of inquiry. However, we have examined the issues' before us with an open mind on merits. Therefore, while in our recommendations we have reiterated some of the recommendations which have been made earlier in previous reports, on some matters we have recommended a departure from the earlier thinking and suggested new solutions.

1.19. The Committee invited comments from the following officers of the Govt. of National Capital Territory of Delhi (GNCTD) and the local bodies in Delhi:

- (i) Shri R. Narayanaswami, Chief Secretary, GNCTD.
- (ii) Dr. M.M. Kutty, Joint Secretary, MOUD, Govt. of India.
- (iii) Shri Ashok Nigam, Commissioner, MCD.
- (iv) Shri K.K. Paul, Commissioner of Police, Delhi.
- (v) Shri Narendra Kumar, Divisional Commissioner, GNCTD.

- (vi) Shri K.T. Gurumukhi, Chief Town Planner, TCPO, Govt. of India.
- (vii) Shri Onkar Singh, Conservator of Forest, GNCTD.
- (viii) Shri H.S. Anand, Member Secretary, NCRPB.
- (ix) Shri B.B. Saxena, Secretary, Urban Development, GNCTD.
- (x) Ms. Aparna, Director (DO), MOUD, Govt. of India.
- (xi) Dr. A.K. Sinha, Member Secretary, CGWA.
- (xii) Shri Arun Mathur, CEO, Delhi Jal Board, GNCTD.

1.20. Comments were received from Shri R. Narayanaswami, Chief Secretary, Government of National Capital Territory of Delhi; (GNCTD); Shri Qamar Ahmad, Jt. Commr. of Police (Traffic) and Smt. Sindhushree Khullar, Chair Person, NDMC. These comments are annexed as ANNEXURE-5.

1.21. The Committee met Shri R. Narayanaswami, Chief Secretary, GNCTD; Shri Rakesh Mehta, Pr. Secretary (Power), GNCTD; Shri Arun Kumar, CEO, DJB; Shri Ashok Nigam, Commissioner, MCD; Shri O.P. Kelkar, former Secretary (UD) and presently Pr. Secretary (Home), GNCTD; Smt. Janak Juneja, Retd. Secretary of GNCTD; Smt. Naini Jayaseelan, Divisional Commissioner, GNCTD; Shri Parimal Rai, Addl. Commissioner (Engg.), MCD; Shri Vivek Rai, Pr. Secretary (UD), GNCTD; Shri B.M. Dhaul, Chief Engineer (South), DJB, GNCTD; Shri S.K. Singh, ADM (South), GNCTD; Shri C.M. Sharma, Jt. Director (UD), GNCTD; Shri Sanjib Sengupta, Chief Architect, NDMC; Shri Qamar Ahmad, Jt. Commr. of Police (Traffic); Shri M.K. Parida, Spl. Secretary (UD), GNCTD; Shri Ashok Kumar, Additional Commissioner (Pig.), DDA; Shri V.D. Dewan, Chief Architect, DDA and Shri C.K. Chaturvedi, Chief Legal Adviser, DDA.

1.22. With a view to facilitating the work of the Committee, it had co-opted the officers from the DDA and MCD, named below, as permanent invitees, so that it could have the benefit of the past decisions as well as the situation on the ground from the view point of these organizations at all times:

- (i) Shri A.K. Jain, Commissioner (Pig.), DDA.
- (ii) Shri V.K. Bugga, Chief Town Planner. MCD
- (iii) Shri M.M. Das, Chief Engineer (Bldg.), MCD

The association of these officers as permanent invitees to the Committee was of great value to the Committee, particularly to understand the nitty-gritty of the various policy issues and dimensions of the problem of unauthorized colonies.

The Committee also met Dr. M.M. Kutty, Joint Secretary, Ministry of Urban Development, to understand the background in which it had been set-up and the Government policies on various issues relevant to the working of the Committee.

1.23. The Committee has deliberated upon the various issues before it and has made recommendations with the objective of finding practicable, just and workable solutions to the long standing problem of unauthorized colonies inhabited by affluent sections of the society and unauthorized development in the form of farm houses. For this, it has adopted the following approach:

- (i) In making its recommendations, it has kept the vision of the Draft Master Plan 2021 in view. While some of its recommendations are such which may not yet have found place in the Draft Master Plan, they are largely consistent with the framework of the Master Plan. The Committee recognizes that the preparation of Master Plan is a long exercise involving inputs from various quarters and coalition of diverse information. It is not the mandate of the Committee to re-write the Master Plan and, therefore, it has thought it appropriate to make such recommendations, which are capable of being accommodated in the broad frame work of the Master Plan.

- (ii) The Committee has kept the existing Government policies as well as the stand it has taken in various cases before the Courts in view. Indeed, the recommendations represent an evolution of Government policy, rather than radical departure from it and in this way should lend themselves for acceptance in practice without much difficulty.

- (iii) The Committee has deliberately not dealt in detail with the past history, causes and responsibility regarding the creation of unauthorized colonies and unauthorized development in the form of farm houses because these matters have already been gone into in great detail by other Committees/ Commission in the past.

- (iv) The Committee has also consciously not suggested wholesale changes in the organization of the existing institutions like the MCD and DDA. Other Committees are reported to have gone into these matters and we feel that we need not get into the larger issues of governance.

- (v) As the Committee has endeavoured to make such recommendations which can be put into effect without loss of much time, we are also not suggesting setting up of new bodies and organizations .

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CHAPTER-2

EXTENT OF UNAUTHORIZED DEVELOPMENT IN THE FORM OF FARM HOUSES AND UNAUTHORIZED COLONIES INHABITED BY AFFLUENT SECTIONS OF THE SOCIETY:

2.1. For assessing the extent of unauthorized development in the form of farm houses and unauthorized colonies inhabited by affluent sections of the society, detailed ground surveys of the whole Union Territory of Delhi are required. The Committee did not have the requisite time and resources for having such detailed surveys conducted. Therefore, we decided to bring out certain principles, which could determine what constitutes unauthorized development in the form of farm houses and unauthorized colonies inhabited by affluent sections of the society.

2.2. Farm Houses:

(i) As already mentioned, MPD-1962 had indicated that there was considerable rural area in the Union Territory of Delhi and planning norms were given for having farm houses for people who wanted to carry on agriculture pursuits. These norms have undergone some modification from time to time and at present the norms are as follows:

S. No.	Size of Farm	Max. coverage of d.u.	Max. ht. of d.u.
(a)	1 hect. & above but less than 2 hecets.	100sq. mts. (including mezzanine floor)	Single storeyed Maximum ht. 6 mts.
(b)	2 hecets & above	150 sq. mts. (including mezzanine floor)	Single storeyed Maximum ht. 6 mts.

N.B. (1) Set, back for dwelling house should be 50 feet from any boundary line of the property.

(2) Where the property abuts an urban road, the dwelling house building should be set back from the centre line of that road by 200 ft. Where the property abuts a village road, the building set back from the centre line of that road should be 100 feet.

(3) No dwelling unit should be built within two furlongs of the right of any National highway.

(ii) In accordance with these norms, MCD has sanctioned 3023 farm houses. The ground situation, however, is that over and above these sanctioned farm houses, many other farm houses have come up, which do not conform to the planning norms indicated above. Moreover, in most of the farm houses sanctioned by the MCD, there are gross violations of the building bye-laws and instead of humble farm houses, large mansions and villas have been constructed. Therefore, the unauthorized development in farm houses is as follows:

(a) Farm houses which have not been sanctioned by the MCD because they did not meet the planning norms of area of one hectare, etc.

- (b) Unauthorized construction and development in sanctioned farm houses - both in terms of having built-up area in excess of the permissible limit and violation of height restrictions.
 - (c) Farm houses which were sanctioned, but where the original plots have been subdivided.
 - (d) Farm houses where commercial activities are going on.
 - (e) Farm houses which are being used for non-residential and non-profit - making activities like religious-cultural and educational centres.
- (iii) For assessment of unauthorized development in farm houses, a detailed survey would have to be made of the rural area to identify those farm houses which have come up without sanction of the MCD as well as to examine each and every sanctioned farm house to determine whether the building constructed therein is in conformity with the norms laid down for farm houses or not and as to what use they are being put to.

2.3. **Unauthorized Colonies:**

- (i) As far as unauthorized colonies are concerned, three colonies viz. Anant Ram Dairy, Mahendru Enclave & Sainik Farms, have already come in various Government records as colonies inhabited by affluent sections of the society. The Guidelines issued by the Government of India vide their letter No. 0-33011/2/94-DDIIB-Vol.-VIII dated 10.2.2004 (ANNEXURE-1) mention the following:

"(c) For affluent unauthorized colonies on developed public land and like Anant Ram Dairy, Mahendru Enclave, cost of land would be recovered as per the current market value determined by the CBDT on basis of market rates prevalent in similar affluent but authorized colonies in the neighbourhood plus a penalty for encroachment of 50% of market value."

This letter also mentions that the question of Sainik Farms was separately under consideration. Sainik Farms have a long history. It was started in the late 60s as a co-operative society for rehabilitation of war-widows and retired defence personnel. With Government support, land was purchased by the society and allotted to the defence personnel for having farm houses. Over time, the area commonly called as Sainik farms has attracted many non-defence personnel also. There are hardly farm houses in the colony and in fact on many plots large houses and villas can be seen. The situation of this colony has further been complicated by the issue of notices for acquisition of land. Some affected parties had challenged the acquisition proceedings and in many cases as a result of orders of the Courts, acquisition proceedings have been quashed. Some cases are still reported to be pending. The position of Sainik Farms has been discussed in greater detail in the reports of the Task Force headed by Janak Juneja and Nanavati Commission. From the report of Nanavati Commission (pages 18 and 69), it appears that it has come in Government records that affluent people

live in this colony. A site visit by the members of this Committee also brought out that the colony has affluent persons living in it because there are many large houses with gardens, etc. Indeed, Sainik Farms should be classified as a colony of affluent persons and the recommendations being made by this Committee for dealing with unauthorized colonies inhabited by affluent sections of the society should apply to Sainik Farms also, besides Anant Ram Dairy and Mahendru Enclave.

(ii) On spot inspection of these three colonies, Members of the Committee found that in Sainik Farms area, some other colonies have come up contiguous to it, which are not deemed to be a part of Sainik Farms. However, their character is the same as that of Sainik farms and they too appear to be peopled by affluent sections of the society. In Anant Ram Dairy, it was found that while most of the colony has large houses and appears to be inhabited by affluent persons, there are some well defined pockets of the colony, which have very small houses and do not appear to be inhabited by affluent sections of the society. Therefore, we recommend that detailed ground surveys should be made by the concerned local authority of these three colonies. Wherever colonies are found contiguous to these three colonies, which have a similar character and affluent people are residing in them, they should be given similar treatment as these colonies. At the same time, if detailed surveys reveal that some well-defined pockets in these colonies are

such which have small plots and are inhabited by non-affluent sections of the colony, they should be separated from these colonies and their further treatment should be on the same lines as the Government is contemplating for other unauthorized colonies not inhabited by affluent sections of the society.

(iii) Apart from these three well-defined colonies inhabited by affluent persons, we feel that all other unauthorized colonies in the National Capital Territory of Delhi where more than 50% of the plots, are of the size of 350 sq. mts. or above, should be deemed to be colonies inhabited by affluent persons and dealt in the same manner as Mahendru Enclave, Anant Ram Dairy & Sainik Farms. We have arrived at this principle of identifying a colony as that inhabited by affluent sections of the society because the land costs in Delhi are very high and it can be reasonably surmised that a colony which has got more than 50% plots of the size of 350 sq. mts. and more is inhabited by affluent sections of the society. The Master Plan-2001 also lays down 350 sq. mts. as the maximum size of the new plotted residential development and any colony with 50% or more of such maximum size of residential plots needs to be categorized as a colony of affluent persons.

(iv) Many representationists from Mahendru Enclave and Sainik Farms have argued before the Committee that these colonies have been wrongly categorized as colonies of affluent persons. Some of them have stated that they are retired Government official or middle

class private persons and should not be deemed to be affluent persons. As already mentioned in this report, previous Government records have recognized Anant Ram Dairy, Mahendru Enclave and Sainik Farms as colonies inhabited by affluent sections of the society and, therefore, the Committee feels that there is no point in taking a different view about these colonies. A visit to these colonies also brought out that there are large houses of high quality of construction in these colonies and their general look is of colonies inhabited by affluent persons.

(v) In this connection, it needs to be noted that a particular colony has to be categorized as being inhabited by affluent persons or not on the basis of its broad character and not on each and every individual case of families living in the colony. To amplify this point, MCD has categorized various residential colonies in Delhi as A, B, C, D, E, F, G & H. The property tax and other regulatory charges are made accordingly. In some higher category colonies also, poor people are living and there are pockets where there are great deficiencies in infrastructure. However, such colonies have been given a higher categorization on the basis of the overall infrastructure and ambience. Similarly, some of the lower category colonies also have rich people living there and in some pockets there is high quality infrastructure and good ambience. But, these colonies have been categorized as of lower categories on account of the totality of circumstances and not on account of individual pockets or families. Therefore, while recognizing that in the identified

colonies peopled by affluent sections of the society, some poor families also would be living, we feel that the overall treatment for them has to be different than those given to unauthorized colonies where majority of the people are from poorer and weaker sections of the society.

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CHAPTER-3

FEASIBILITY/DESIRABILITY OF REGULARIZING UNAUTHORIZED DEVELOPMENT:

3.1. It hardly needs to be emphasized that as unauthorized colonies and other unauthorized development run at cross purposes to the interest of planned development of Delhi, they need to be checked effectively. The matter becomes of even greater concern when unauthorized colonies are inhabited by affluent sections of the society or there is unauthorized development in farm houses, which too generally have affluent persons. Affluent persons can afford to have houses and land in regular colonies of Delhi and unlike the case of economically weaker sections of the society, their occupation of unauthorized colonies cannot be said to be a matter of finding basic shelter. Moreover, affluent persons are generally knowledgeable and are fully conscious of the various regulations which they violate when they inhabit unauthorized colonies or undertake unauthorized development in farm houses. Indeed, in the fitness of things, strong action needs to be taken in regard to unauthorized development by affluent persons whether by way of occupation of unauthorized colonies or in farm houses.

3.2. When contemplating strong action, no doubt, the logical action is demolition of all unauthorized development and construction. However, after considering all aspects of the matter, we feel that demolition is not the right answer to handle unauthorized

development in colonies and farm houses inhabited by affluent persons. This is due to the following reasons:

- (i) Even the unauthorized colonies and farm houses which are inhabited by affluent persons have large number of people living there. Therefore, any demolition will render these people homeless and cause hardship to them.
- (ii) When there is general great shortage of the housing stock in Delhi, it would not be prudent to destroy the assets of housing stock already created.
- (iii) The concerned local authorities, viz. MCD, DDA and NDMC, already have their hands full with many other pressing tasks. If they are burdened with the huge task of demolition of all unauthorized colonies inhabited by affluent persons and unauthorized development in farm houses, it would create severe pressure on their resources and energies and would adversely affect all other important civic works and services.
- (iv) The general trend of Government policies, as evinced from the various documents seen by the Committee, appears to be to first work out the modalities of regularization of unauthorized colonies before taking the extreme step of demolition. In the guidelines issued by the Ministry of Urban Development vide their letter No. 0-33011/2/94-DDIIB-Vol.-VIII dated 10.2.2004, there is a mention about regularization of colonies inhabited by affluent sections of the society.

- (v) Various Committees and Commission set up in the past, which had gone into the question of dealing with unauthorized colonies, also favoured regularization as a solution to the problem with certain conditions of conforming to planning norms and recovery of costs. In this context, we would like to quote a passage (pages 103-104) from the report of Justice Nanavati Commission with which we agree totally:

"If all these dwelling units are demolished then all the persons residing in these houses will become homeless. There is already a shortage of housing accommodation in Delhi and if these colonies/houses are demolished then the shortage of housing accommodation in Delhi will become worse. Thousands of houses will have to be demolished resulting in huge financial loss. The only positive benefit of such an action would be that it will act as a deterrent in future. Question again arises whether this would be worthwhile considering the huge economic loss and great amount of hardship and misery that the people residing in such unauthorized colonies/constructions will have to suffer. It would be almost criminal to demolish so many houses and make lakhs of persons homeless when there is already a shortage of housing accommodation. It would be unwise and unfair to adopt such a course. Wisdom would require a more intelligent and a better solution. Unauthorized colonies have been existing since years

and the persons who were responsible for their coming up may not now be concerned with them any more. The occupants of such houses might have changed and persons residing therein now may not have flouted any of the development rules or the building regulations. To punish them by demolishing their dwelling units would be unfair and inequitable particularly when those dwelling units have been allowed to exist for so many years. It would be almost impossible for the Government to take such a drastic action in view of the social, economic and political consequences that would follow."

3.3. Indeed, after considering all aspects of the matter, we recommend that unauthorized colonies inhabited by affluent sections of the society as well as unauthorized development in farm houses need to be regularized. However, the modalities of regularization of such unauthorized development by affluent persons should be different from those laid down for regularization of other unauthorized colonies, which are generally peopled by economically weaker sections of the society. Not only the cost of infrastructure which would have to be developed for having regular colonies with the requisite services should be recovered from the people in these unauthorized colonies, but also the extra land which would be required for bringing up these colonies to the level of regular colonies has to be taken from the residents of these colonies. Wherever there is encroachment of public land, the cost of the land

should also be recovered. The regularization process is to be done in such a way that all the costs are recovered from the residents and there is no financial burden on Government or any local authority. In addition, we feel that some penalty needs to be imposed on residents of these colonies at the time of regularization, so that a clear message goes that nobody, howsoever rich and powerful, can get away with unauthorized development.

X

CHAPTER-4

REGULARIZATION OF UNAUTHORIZED COLONIES INHABITED BY AFFLUENT SECTIONS OF SOCIETY:

4.1. When the question of unauthorized colonies inhabited by affluent sections of the society is considered, it is necessary to classify these colonies in two parts as follows:

- (i) Unauthorized colonies which have come up on public land and where violation is both in terms of encroachment of Government land and construction of buildings without sanction of the competent authorities.
- (ii) Unauthorized colonies which have come up on private land and where the violation is in the form of land use against that indicated in the Master Plan as well as construction of buildings without sanction from the competent authorities.

4.2. We feel that the first type of unauthorized development, which is on public land, is a far more serious matter than the second type indicated above. There has to be zero tolerance for any encroachment on public land. Therefore, if any colonies, which have come up in unauthorized way on public land have to be regularized, their residents need to pay very high costs, which should be deterrent in nature. The Guidelines of the Ministry of Urban Development for dealing with the unauthorized colonies issued vide

their letter No. O-33011/2/94-DDIIB-Vol-VIII dated 10.2.2004 mention that affluent unauthorized colonies on developed public land should be regularized after recovery of the cost of land as per current actual value determined by the Central Board of Direct Taxes (CBDT) on the basis of market rates prevalent in similar affluent but authorized colonies in the neighbourhood plus penalty for encroachment of 50% of market value. Justice Nanavati Commission has also made a similar recommendation. The Commission has also suggested that market value of the land should be recovered plus a penalty of 50% for the unauthorized development. We feel that for regularization of unauthorized colonies of affluent people, which have come up on public land, this is an appropriate basis of regularization and we too would like to endorse it.

4.3. The unauthorized colonies inhabited by affluent people, which have so far been identified are (1) Anant Ram Dairy, (2) Mahendru Enclave and (3) Sainik Farms. The land use as per the Master Plan/Zonal Development Plans for Anant Ram Dairy is "Government", for Mahendru Enclave is "Recreational (Green)" and for Sainik Farms is "Agricultural (Rural)". None of these colonies have "Residential" as the approved land use in the Master Plan 2001/Zonal Development Plans.

4.4. The Land and Development Office, Ministry of Urban Development, has intimated that Anant Ram Dairy occupies an area of 16 bighas 12 biswas (approximately 3.5 acres). All the land in this

colony was acquired for Government use. It has 152 plots with sizes varying from 25 square meters to above 500 square meters.

4.5. As Anant Ram Dairy has come up on public land, for its regularization the market value of land as determined by CBDT and 50% of the market value of the land as penalty for both encroachment of public land and misuse of land use need to be recovered.

4.6. As we have mentioned in Chapter-2, there are certain pockets in Anant Ram Dairy area, which in a contiguous way appear to be inhabited by people who cannot be said to be affluent. After detailed ground survey, these pockets need to be identified, earmarked and excluded from the rest of the area of Anant Ram Dairy for which we have suggested recovery of the market value of land and 50% penalty of this market value for regularization. People living in these areas, which are to be excluded, are also, no doubt, guilty of encroachment on public land. However, their residential area should be regularized along with all other unauthorized colonies on the basis of the guidelines which are finally notified by the Government.

4.7. All other such colonies inhabited by affluent sections of the society, which have come up on public land would have to be also regularized in a similar way.

4.8. The position of Mahendru Enclave and Sainik Farms is different from that of Anant Ram Dairy. We have been informed that these colonies are partly on Public land and partly on private land.

Unfortunately despite repeated efforts, we have not been able to get a clear picture of the distribution of public and private land in these two colonies. The position of the area of these colonies and the extent of land acquired for public purposes is different in the records of the DDA than what was intimated to the Committee by the GNCTD. The difference is not very significant in the case of Mahendru Enclave where it would appear that the whole area of the colony is about 181 bighas 31 biswas (37.84 acres). Of this area, 66.15 bighas was acquired, but possession was taken only of 21 big has because the rest of the acquired land had houses on it. In any case, the total area which can be called public land is about 66 bighas 15 biswas (13.90 acres) and the private land is 114 bighas 18 biswas (23.94 acres). All the area of this colony, whether of private land or public land which was earlier acquired and taken possession of, is now part of the unauthorized colony because the public land has been encroached upon.

4.9. The case of Sainik Farms is also similar, though the position there is even more confused. According to records of the DDA, the total area of the colony is about 3500 bighas, of which 1243 bighas of land had been handed over to the DDA after acquisition. However, the information which GNCTD has given, shows that the total area of the colony is 2512 bighas 10 biswas and the entire land is in the process of acquisition or is acquired land. This confusion regarding the Sainik Farms has particularly arisen because there have been many Court cases relating to acquisition proceedings. In some cases the acquisition proceedings have been quashed, while

in some other cases the acquisition proceedings can be said to be still pending as final verdicts of courts have not been received. Moreover, the legal connotation of public land as to whether it is a land which is acquired and possession taken thereof or it is a land which is under notification of sections 4 & 6 of the Land Acquisition Act is not clear.

4.10. Indeed, in regard to both Mahendru Enclave and Sainik Farms, a detailed exercise would have to be conducted to determine which of their plots can be deemed to be on public land and which on private land. Those pockets of Mahendru Enclave and Sainik Farms which are on public land can be regularized in the same way as Anant Ram Dairy by recovering the cost of the land as per current actual value determined by the CBDT on the basis of market rates prevalent in similar affluent but authorized colonies in the neighbourhood, plus penalty for encroachment of public land and misuse of land use as 50% of the market value. Other pockets of these colonies, which have come up on private land, can be regularized, but we feel that for this purpose they should suffer a lesser penalty. In regard to unauthorized construction of residential houses on private land, the violation is misuse of land and not encroachment of public land. It would be only just and fair if the penalty for this violation is less than that suggested for unauthorized colonies on public land where the violation is both encroachment and misuse of land. Therefore, considering all aspects of the matter, we feel that for regularization of such pockets of land, a penalty for misuse of land at the rate of 20% of the market value of the land as

determined by CBDT on the basis of market rates prevalent in similar affluent but authorized colonies in the neighbourhood, would be appropriate. We are consciously not suggesting a penalty more than 20% because, as brought out in the subsequent paragraphs of this Chapter, for regularization of the unauthorized colony, development charges would have to be also paid by the residents to bring up its physical and social infrastructure upto the acceptable levels. In addition, if the existing buildings are in violation of the prescribed building norms, penalty as per the building regulations will also have to be paid by the concerned residents. All these charges would total upto a considerable financial burden. Therefore, a penalty for misuse of land more than 20% will be excessive and not in order.

4.11. Other unauthorized colonies inhabited by affluent sections of the society, which are identified after a detailed survey on the basis of the principles indicated by us in Chapter-2 and which have come up on private land, could also be regularized similarly on payment of 20% of the market value of the land on the basis of determination of market rates by CBDT on the basis of the market value of similar authorized affluent colonies in the neighbourhood.

4.12. Affluent persons living in all these three colonies, viz. Anant Ram Dairy, Mahendru Enclave & Sainik Farms, would, of course, have to fully bear the cost of development of the physical and social infrastructure. The residents of these colonies need to be encouraged to form associations and get them registered as a

society, so that there is a well defined body to deal with regularization matters. The society of residents will have to engage planners for preparing layout plans for regularization of their colonies. The layout plans for regularization need to indicate proper network of roads of the required width, provision of services like water, power and sewerage, location of garbage dumps and social infrastructure like education, health, community facilities, etc. These plans would have to be submitted to MCD/NDMC, who in turn would consult the DDA for approval of these plans. It is recommended that the concerned local body should adopt a practical approach for approving the plans. After the plans have been approved by the concerned authorities, the development costs would have to be worked out. Ideally, the society of residents should carry out the work themselves in accordance with the approved plans. In this way, they would not have to deposit any money for internal development of the Colony. Of course, for external services like bringing water, power, sewer lines etc., the total costs would have to be deposited in advance to Delhi Jal Board, concerned Electricity Distribution Company, etc.

4.13. Where the resident associations are not in a position to take this initiative of having a layout plan prepared for regularization and for getting the requisite infrastructural works executed, they should indicate this to the concerned local body. Thereafter, the concerned local body would get a detailed ground survey done at the colony and, taking in account the ground realities, prepare the requisite layout plan for regularization with a pragmatic approach. On the basis

of the layout plan it will work out the development costs and the cost of providing external services of water, power, sewerage etc. All these development costs have to be recovered in full from the residents before the process of regularization of their colony is started.

4.14. In parts of these colonies, particularly Sainik Farms, land would be required for widening of roads and for development of physical and social infrastructure. The residents of the colonies would need to make available this land free of cost.

4.15. The Committee has noted that in the past the experience of local bodies in regard to recovery of the requisite costs from the residents of unauthorized colonies for the purpose of their regularization has not been very happy. Generally, after the first installment, further installments of costs are not paid by the residents and this holds up the progress of further works which are required for regularization of the concerned colonies. We, therefore, recommend that no step towards regularization of these colonies of affluent persons should be initiated till such time the following costs are recovered from all the residents:

- (i) Market value of land for colonies on public land.
- (ii) 20% or 50% of the market value of the land as penalty based on whether the colony is on public land or private land.
- (iii) Entire development costs; as indicated above.

4.16. If the total amount which would need to be paid by an individual resident works out to be a very high figure, the cost of the land and penalty should be recovered in one lumpsum and for recovery of development charges, installments should be fixed. One installment of the development cost should be payable outright, while for others a bank guarantee could be taken from the residents to ensure that they would ultimately pay the full cost for development works.

4.17. The market value of land and penalty for encroachment and misuse would go to the land owning authority, while the cost of development works would have to be paid to the concerned local body. The concerned local body would require sufficient funds immediately for carrying out the development works. Therefore, in cases where development charges are not recovered in one lumpsum, but installments are fixed for their recovery, we recommend that the monies recovered from the residents under all heads, viz. market value of land, penalty, first installment of development charges, should, to start with, go to a single pool of funds from where the concerned local body could draw funds for its works. Once all the money is recovered from the residents, the land owning authority could take its share of the cost of land and penalties.

4.18. Where the development works would be carried out by the association of the residents themselves and there would be no question of deposit of the cost of development works, the monies

involved towards the market value of land and penalty could straightaway be taken by the concerned land owning authority.

4.19. In case it becomes difficult for the association of residents to carry out the work of development and infrastructure according to approved layout plan for regularization on account of non-participation of a handful of residents, there will be no alternative to acquisition of the plots of the concerned residents and going ahead with the development works towards regularization.

4.20. As far as Sainik Farms is concerned, we have noted that the colony was started with the support of the Government as a re-settlement scheme for retired defence personnel in farm houses. It is learnt that most of the original members of the society from defence services have also either wholly or partly sold and transferred their plots originally allotted to them. However, a few original members of the society or their legal heirs are still living in Sainik Farms with their entire holding of original plots intact. The Committee has taken note that in a case in the High Court of Delhi, WP(C) No. 9540-51/2005, Cmdr. Sureshwar D. Sinha & Others Versus Union of India & Others the then Secretary, Ministry of Urban Development in his affidavit dated 19.7.2006 has recognized this fact and has given a list of 16 members of the society who were holding the entire land allotted to them. A copy of this affidavit is placed at ANNEXURE-6. We feel that those original allottees from defence services or their rightful successors who are still holding the entire land allotted to them need to be viewed differently from other

residents of Sainik Farms who have come to the colony later or from those original allottees who by selling a whole or part of their land have already derived benefit through sale of land. While for regularization of Sainik Farms, even these original allottees who have not transferred any part of their land would have to pay the requisite cost of development works, the penalty of 20% may not be imposed on them.

4.21. The Committee considered carefully the question of development controls in these three colonies. On spot inspection, it was found that the conditions of these colonies vary markedly from one another and no uniform formula, can be given for imposing development controls in all these colonies. Of the three colonies, Sainik Farms has somewhat lesser density and, with effort, roads of a minimum basic standard could be constructed. We feel that Sainik Farms should have the approach roads with right of way of 18 mts., branch roads with right of way of 14 mts. and the remaining roads with right of way of 9 mts. No plot should face any road of lesser right of way than 9 mts. The residents association would need to make available the required land for this purpose or the land required for widening of the roads would have to be acquired.

4.22. We have suggested these widths of roads on the basis of our site inspection of Sainik Farms. We found that although the colony is peopled by affluent persons who have a number of cars, the road widths are very narrow and at places it is difficult for even two cars to negotiate the road width simultaneously. Moreover, for emergency

requirements, such as fire-fighting, ambulance, etc., certain minimum width of roads is a must.

4.23. Some land would have to be also earmarked for location of services like water, electricity, etc. as well as for social infrastructure according to the Master Plan. In case it is not possible to find land for all these infrastructural requirements, compensation would have to be recovered in the form of money from the residents, so that the requisite social infrastructure could be put up somewhere outside the colony.

4.24. Spot visits to Anant Ram Dairy and Mahendru Enclave by the Committee brought out that these colonies had even more intensive development than Sainik Farms. In these colonies also, as far as possible, the development control regime of approach roads with the right of way of 18 mts. and connecting roads with right of way of 14 mts. should be brought about. In any case, it should be ensured that no plot faces road of lesser right of way of 9 mts. In these colonies also, land will have to be earmarked for physical infrastructure, such as electricity, water, etc. as well as social infrastructure, such as health and educational facilities, according to the Master Plan. Wherever land is not available for locating the requisite infrastructural works, the residents would have to compensate the concerned organization by way of money, so that the infrastructure works could be located outside the colony in its vicinity.

4.25. In all the three colonies, no building construction should be allowed on vacant plots after there is acceptance by the Government to regularize them and the requisite notification is issued. The vacant plots which would be available in these colonies need to be kept frozen for location of infrastructural works.

4.26. As far as the development control norms for buildings are concerned, in all these colonies the norms already laid in the Master Plan, as modified from time to time, should be adhered to.

4.27. All this work of regularization of these three and similar unauthorized colonies of affluent persons would lead to considerable increase in the volume of work in the Planning Departments of the local bodies and DDA. Therefore, it is imperative to strengthen these Departments suitably. Unless this is done the whole proposed exercise of regularization of unauthorized colonies inhabited by affluent sections of the society would suffer in quality and it would be very difficult to complete it in a time bound manner.

CHAPTER-5

REGULARIZATION OF UNAUTHORIZED DEVELOPMENT IN FARM HOUSES:

5.1. As brought out in Chapter-2, unauthorized development in farm houses is as follows:

- (a) Farm houses which have not been sanctioned by the MCD because they did not meet the planning norms of area of one hectare, etc.
- (b) Unauthorized construction and development in sanctioned farm houses - both in terms of having built-up area in excess of the permissible limit and violation of height restrictions.
- (c) Farm houses which were sanctioned, but where the original plots have been subdivided.
- (d) Farm houses where commercial activities are going on.
- (e) Farm houses which are being used for non-residential and non-profit making activities like religious, cultural and educational centres.

5.2. For taking effective action to curb the unauthorized development in farm houses, MCD can demolish the farm houses which are unauthorized and have not been sanctioned by it. Moreover, it can have 3023 farm houses already sanctioned by it inspected and wherever buildings have been constructed in violation of the prescribed building norms, action can be taken first by imposing penalty and regularizing the excess in building construction on payment of penalty as per the prescribed norms. The excess

construction, which cannot be regularized even on payment of penalty has to necessarily be demolished.

5.3. But, though MCD can take recourse to such action against those who are responsible for unauthorized development in farm houses, the whole issue needs to be viewed in the larger context of the future of farm houses in the light of draft MPD-2021. Draft MPD-2021 envisages that except for a narrow strip of one revenue village boundary line periphery of the area of National Capital Territory of Delhi, there would be no farm houses as the entire area, which hitherto has been classified as rural, would be urbanized. For accommodating the future population growth of about 50 lakhs by 2021 in Delhi, there is no other area available except that which at present is classified as rural area. This area will have to be converted into urban area by providing the requisite infrastructure to have higher density of population in this area. In the past, the DDA has been developing new planned areas through the programme of large scale acquisition and development. This programme envisages one time acquisition of large chunks of land and its development in stages over time. The past experience has shown that pursuing planned development in this way creates some major problems. Firstly, now that the cost of land everywhere in Delhi, including the rural area, has gone up tremendously, very large funds are required for acquiring land. Secondly, when land is acquired and its possession taken, it becomes very difficult to protect it from encroachments. The ineffective enforcement machinery of local bodies and the connivance of the field staff also make it difficult to

prevent encroachments. Many unauthorized colonies have come up on public land due to the fact that the land once acquired could not be protected from encroachments effectively. Thirdly, farmers and others whose plots of lands are acquired, always have the feeling of deprivation. Despite higher compensation being now paid due to various Court orders, they still feel that they have been cheated out of realizing the full value of their land holdings. Fourthly, the land acquisition process could some times take a very long time with challenges to it in Courts at all levels.

5.4. In this background, it would be very difficult, and perhaps well nigh impossible, for the DDA to successfully do the massive exercise of acquisition of the whole rural area required for planned development as urban area to accommodate the future growth of population in Delhi.

5.5. After considering all aspects of this issue carefully, the Committee has come to the conclusion that it would be best if a unique model of public private partnership is brought about for urbanization of the rural area for accommodating large number of people in the future. The DDA could take the help of the owners of the land in rural area in this connection, particularly because this public private partnership could bring many benefits and advantages to them also. Although the details and nitty-gritty of this model could be worked out later, broadly, our concept is that, to start with, the DDA would prepare the Zonal Plans of the area indicating Master Plan & Zonal Plan roads and requirements of land for location of

public services, community services and other items of social and physical infrastructure. The construction of Master Plan & Zonal Plan roads will, no doubt, be the responsibility of the DDA or some other Government agency, like the PWD. For construction of these roads, the DDA or the concerned Government agency, normally would be required to acquire the land in question as well as to incur the cost of construction. In the public private partnership model which we are envisaging for the future planned development of the present rural area, the cost of construction of these roads could also be a charge on the planned development of the whole area through private initiative taken by the land owners themselves. The land owners would be encouraged to pool their land together with the minimum pooled block of land being 50 acres or 20 hectares. This is so because apart from the land required for construction of houses (including those for economically weaker sections), some land would have to be earmarked for location of services like water, electricity and sewerage as well as green areas, schools, health care units, commercial establishments, community centres, cultural institutions and other items of physical and social infrastructure according to the Master Plan norms. The land owners will also be required to compensate those whose land has to be taken for construction of Master Plan & Zonal Plan roads out of the benefits derived from the total development in the pooled block of land. Therefore, for accommodating all these items of physical and social infrastructure, which are required for planned development, our rough calculation shows that the pooled block of land should have a minimum area of 50 acres or 20 hectares.

5.6. We are aware that there are some farms which are so large that they can easily have multi storey group housing development, including housing for economically weaker sections of the society. Some clusters of farm houses have well planned roads also, giving them a look of upscale regular colony. However, unless individual farm houses have the requisite area to locate all items of physical and social infrastructure, they would not be able to discharge the responsibility of planned development of the rural area for urbanization in the future. Therefore, owners of even larger farm houses and such farm houses located in well planned clusters, would need to pool their land to have at least a block of land of the minimum size of 50 acres (20 hectares). The land owners would need to come together as a body which can then hire planners to prepare detailed layout plans, indicating various permissible uses for the block of land and get them approved by the concerned local body. The local body would approve the plans according to the Master Plan norms after levying a reasonable fee. They would have to provide the hierarchy of roads as per the Master Plan norms and ensure that all internal roads have a right of way of at least 9 meters. In all these new urban areas which would be developed, there would be only group housing residential development, including that for economically weaker sections of the society, so as to achieve the desired density of population.

5.7. Some good social, educational and cultural institutions are already existing in the rural area. The farm owners who pool the land for undertaking the requisite development of physical and social

infrastructure could profitably adjust these institutions within the pooled area. Thus, on one hand, they would not be required to incur additional expenditure towards creating social infrastructure, while on the other, existing good social, educational and cultural institutions, which are serving a larger public purpose, would have the desired continuity.

5.8. While the owners of land who would participate in the pooling and overall development exercise, would, no doubt, lose some land and may have to give up living in farm houses with a more attractive ambience of being surrounded by large green areas, they would get compensated by being able to live in more developed area with all the requisite facilities and being owners of the developed piece of land where many more residential houses can be constructed in the form of group housing. Not only will this help them to realize the full potential of their land holdings, but regular civic services and better amenities should go to improve the quality of life. They will also have an opportunity to participate in the planned development of Delhi by bringing new ideas of urban development of higher standards and with better facilities. All this should lead to better living conditions for those who will come to live in such newly developed urban areas in the future.

5.9. This pattern of public private partnership for planned development of land in the rural area in the future should be the first option and should be actively encouraged by the DDA and other Government authorities. If, however, the land owners are not willing

to participate in the pooling of land and developing it themselves according to layout plans approved by the DDA and concerned authorities, the DDA and other local bodies would have to undertake the future development in the normal course. Here again instead of acquiring land and giving monetary compensation to land owners, the DDA could take the land from land owners and return instead 15% of the land taken from them in the form of developed urban land, which would be of much higher value than of the land which was taken from the land owners. There could be isolated cases where in the sanctioned farm houses, their owners have constructed buildings totally according to the prescribed norms and the built up area is not in excess of 150 sq. mts. Such farm houses have no unauthorized development and fall in a special category. For the land taken from such farm houses for overall planned development, the DDA may return 16% of the developed urban land to them. This modality of the DDA taking land from the owners with their consent and returning 15 to 16% of the land as a valuable developed urban land to them would enable it to cut down the cost of acquisition of land and would also not involve it in long drawn court cases, etc.

5.10. If cooperation and participation from owners of farm houses, whether sanctioned or unauthorized, is forthcoming in this way towards future planned development of the area, no action need be taken against them for past misuse and unauthorized development in the past. The land which the owners of farm houses will contribute towards planned development of the existing rural area

could be deemed to be their payment towards the unauthorized development done by them in the past.

5.11. As a whole, the scheme of public private partnership for future planned development of the present rural area will go through in phases, as it would be dependent on the position of supply of external services like water, electricity, etc., which are bound to take some time. Therefore, to start with, after a view is taken on these recommendations of the Committee, it is suggested that all owners of farm houses may be directed to file affidavits within a period of six months from the decisions of the Government to indicate in which way would they participate in this scheme. Once the affidavits are received, further implementation of the programme can easily be done in phases and till such time a particular part of the rural area becomes ripe for such development, the owners of the farm houses could continue to remain in their farms as they are at present.

5.12. At present, one of the main commercial activities in farm houses is their utilization for marriage purposes. This has been objected to in several quarters because many of the farm houses do not have the requisite free area, nor are situated on roads of the requisite width and marriage functions when held in them create tremendous problems of traffic and crowding. Once the rural area is developed in a planned way in the future, as a part of community facilities to be provided for meeting the needs of the people, 'Barat Ghars' will have to be made available in a planned way. However, in the interim period, it needs to be kept in sight that there is a pressing

need to have places to have marriages performed, particularly because the population of Delhi is growing and many unauthorized banquet halls have been sealed. In many localities, marriages are not being allowed to be held in parks and open spaces. In the light of the comments from the Police Department, we feel that in the interim period, the marriages could be allowed in farm houses which have got (i) a minimum area of 1 hectare, (ii) have adequate parking place inside and (iii) which are on a road of the right of way of at least 18 mts. width. All such farm houses, where the marriages can be allowed in the interim period, should be certified by the Police and MCD and the necessary charges collected by the local body .

5.13. We do hope that the majority of farm house owners would come forward to willingly participate in the public private partnership of planned development of their area in the future and file affidavits within the stipulated period of six months. However, those owners of farm houses who do not give affidavits within the stipulated period and who do not want to participate in the planned development of Delhi in the manner suggested above, would become liable for action, including demolition for unauthorized development and violation of building norms in the normal course. Their farm houses would also have to be acquired in due course to fit in the larger requirement and process of planned development of the area.

CHAPTER-6

PREVENTION OF UNAUTHORIZED DEVELOPMENT IN FUTURE:

6.1. The unauthorized development in farm houses and unauthorized colonies inhabited by affluent sections of the society needs to be viewed in the larger context of unauthorized development in the whole National Capital Territory of Delhi. No machinery can be envisaged only for preventing unauthorized development in farm houses and unauthorized colonies of affluent people. Whatever steps have to be taken or machinery devised to prevent such unauthorized development in the future, has to be a part of the general steps taken or systems put in place for checking unauthorized development in the whole of the Union Territory. We are aware that some other Committees have also gone into the question of checking unauthorized development in the Union Territory of Delhi and have made many recommendations in this regard. These recommendations are reported to be still under consideration of the Government. We would, therefore, not like to discuss this question in great detail. However, the following suggestions and observations may be considered for checking unauthorized development in farm houses and unauthorized colonies:

- (i) We are not in favour of separating the enforcement machinery from the concerned local bodies and having some other outside organization doing the enforcement work. We feel

that local bodies like MCD and NDMC as well as authorities like DDA, who have the responsibility for sanctioning and looking to proper planned development of Delhi, should also have the wherewithal for checking any violations of their rules and regulations. Unless they have the teeth to enforce the regulations, their work would suffer. Therefore, the enforcement wings and machinery should remain with the concerned local bodies and authority.

- (ii) Considering the high growth of Delhi and the very large problem of unauthorized development and construction of buildings, the enforcement wings of the local bodies and DDA should be strengthened suitably by giving them the requisite staff and equipment.
- (iii) Every local body and DDA should have a separate unit equipped with remote sensing satellite imagery and Geographic Information System (GIS). Through monitoring of satellite imagery, the local body and DDA will have a better idea about the areas where unauthorized development is going on and would be in a position to check it more effectively.
- (iv) MCD in particular, should have dedicated police force of adequate strength to carry on demolition and other enforcement activities. The police personnel with MCD should have the powers to register FIRs for violation of rules and regulations.

- (v) Enforcement wings of local bodies and DDA should have mobile units which could make on the spot checking of unauthorized construction and development' and take action in quick time.

- (vi) It is easier to check unauthorized development and construction at the initial stages than when the buildings are constructed or whole colonies are developed. Therefore, with regular supervisory visits, responsibility should be fixed of the staff at the cutting edge level to check that they make timely reports of unauthorized development and construction.

- (vii) Every local body should have a monitoring unit headed by a very senior officer, who should be of a rank only one below the head of the local body, to oversee the enforcement work to be done by the concerned local body for checking unauthorized development and construction. GIS and remote sensing satellite imagery unit should be under this senior officer.

- (viii) As soon as any land is acquired, it should be put on the map which should be displayed for public information and also put on the internet. This would enable common people to know of the land which has already been acquired and which can not be utilized by them for their own use without the approval of the concerned authority.

- (ix) The Resident Welfare Associations (RWAs) need to be activated to report unauthorized development and construction to the monitoring unit of the local bodies. This will help in checking such unauthorized development in initial stages.
- (x) It is true that unauthorized development, whether by way of encroachment of public land or misuse of land, is done because of acute shortage of housing and other requirements. Therefore, as a larger issue, the concerned public agencies have to also look to accelerating programmes for housing of economically weaker sections and other people as well as for bringing up commercial facilities to fulfill the needs of a growing city.
- (xi) As many unauthorized colonies are created by unscrupulous builders, the legal provisions under Section - 29 of the Delhi Development Act should be utilized to file cases against such unscrupulous colonizers and land developers, so that they could be made subject to higher punishment, including rigorous imprisonment of three years. The action against such colonizers should be taken by invoking the expression of "otherwise dealing with any land", The higher punishment could act as a deterrent for unscrupulous colonizers in the future.
- (xii) Many cases against persons who have violated the rules and regulations regarding land matters linger on for years in the Court because even when they are theoretically booked for

official purposes, they take the plea that the concerned authorities had not served notices to them for the alleged violation. In such cases, instead of contesting the service of the initial notice in the courts, the concerned authorities should serve another notice on the violators in the presence of the Judge and enable the Judge to take cognizance of the case. In this way, court cases against those who violate the rules and regulations in land matters can be expedited.

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CHAPTER 7

GENERAL SUGGESTIONS AND OBSERVATIONS:

7.1. We have already made specific recommendations regarding identification of unauthorized development in farm houses and unauthorized colonies inhabited by affluent sections of the society as well as modalities of checking such unauthorized development and regularization thereof on payment of development charges, penalty, etc. We would also like to make some general suggestions and observations which are relevant to the issues before the Committee and would be helpful in viewing them in a larger perspective:

- (i) If the recommendations made by this Committee regarding identification of unauthorized colonies by affluent persons are accepted, it would be necessary to have ground surveys conducted at the earliest to identify such colonies which have more than 50% plots of size 350 sq. mts. or more with the help of remote sensing and GIS. This is so because these additional colonies identified as colonies of affluent people can then be treated in the same way as Sainik Farms, Anant Ram Dairy and Mahendru Enclave and are net clubbed with other groups of unauthorized colonies which are under consideration for regularization separately.

- (ii) In Sainik Farms before taking action as recommended in Chapter-4, the position of each plot would have to be examined carefully regarding its status as on being public land or on private land. This is because of the past history of cases relating to acquisition of land etc. and the various orders of the Courts. The clear position in this regard would have to be assessed by the DDA in consultation with the Land Acquisition Department of GNCTD, Those owners of the plots which are on public land will have to pay the market value of land as well as 50% market value as penalty, while others who are on private land will suffer a penalty of 20% only .

- (iii) For regularization of unauthorized colonies inhabited by affluent sections of the society, efforts should be made to encourage the associations/societies of residents to undertake the task of having plans prepared by planners and approved by the competent authorities as well as execution of the development works as per the approved plans. This could expedite the progress of the development works and also leave no room for the quality of these works being questioned by the residents. However, the process of regularization of these colonies should be initiated only when all costs, such as the cost of development works, penalties. etc. are recovered in one lumpsum from the residents or as suggested by us in Chapter-4, bank guarantees are taken in advance for amounts to be paid by them in installments towards the cost of development works.

- (iv) It has been represented to the Committee that Sainik Farms colony and the future urban areas which will come up in the land covered by farm houses should have low density planning and have larger green areas for providing lungs to the city and better ambience. While the concern for having larger and larger green areas for the city is appreciated, the overall pressing need of accommodating about 50 lakhs of additional population by 2021 in Delhi makes it imperative to convert the areas of farm houses and other presently low density areas like Sainik Farms into areas of higher population density. It is, no doubt, true that people living in farm houses in particular will have to undergo the somewhat painful adjustment of giving up their life style of having the enviable nice ambience of large green areas round them and instead have to start living in multi-storey apartments. However, this is inevitable on account of the inexorable march of the urbanization process and, sooner or later, they will have to give up their land in the rural area for its planned development for urban habitation. In the past too, the DDA has acquired land of many farmers in this way for its various programmes of urban development. The argument that farm houses (which mostly now have stately buildings and villas) are different from the land of farmers acquired earlier, also has no force. Actually, under the Master Plan norms, farm houses have to be humble dwellings of area not more than 150 sq. meters. Therefore, if, in an unauthorized way, large houses have been built as farm houses, they do not get any special sanctity and

are as much liable to be acquired as the land earlier acquired from many farmers for the public purpose of planned development of Delhi. It is just that the model of public private partnership which we have suggested in Chapter-5, can now give the owners of farm houses a unique opportunity of not only realizing the full potential of their land, but also of participating in the planned development of Delhi for the greater good of all.

- (v) The future housing in the urban areas to be developed in place of the present farm houses has to be in the form of group housing, so as to accommodate the maximum possible number of persons. No plotted housing development may be allowed in the future. With proper planning of set backs etc., group housing can also have as much green area as the rest of Delhi, which is basically considered a green city.
- (vi) No unauthorized colony inhabited by affluent sections of the society, identified in the future, should be regularized if it is on forest land, ridge, river bed of Yamuna or its regularization comes in the way of preservation of our cultural heritage as indicated by the Archaeological Survey of India.
- (vii) It has been represented to us that development control norms for Sainik Farms should be at par with those in Civil Lines. We have not found it possible to accept this for two reasons. Firstly, the pressing need of accommodation of larger population requires development norms for high density

habitation. Secondly, once the colony is regularized, it would be difficult to single it out from the general development norms given in the Master Plan. It needs to be noted that different norms are prescribed for Civil Lines and Lutyens' Delhi because of considerations of heritage which is not the case in Sainik Farms.

- (viii) Some representations have come to us to the effect that as residents of Sainik Farms or farm houses have carried out development works on their own, such as roads, provision of electricity and water, these areas should not be touched and not incorporated in the overall plans for future development of Delhi. This is a totally unacceptable argument because the present situation is far from satisfactory . The residents of Sainik Farms and farm houses are drawing water from ground and the water table is sinking very fast. In fact, if this situation goes on for some time, not only the residents themselves will suffer on account of the poor quality and restricted supply of water, but also a serious ecological problem will crop up. The present system of generation of electricity through diesel generators is also very costly and wasteful as well as harmful to the environment. Therefore, it is important that these areas are brought into the fold of normal planned development of Delhi and such activities which harm the environment are discontinued.

7.2. Finally, we would like to state that we have endeavoured to make such recommendations on the issues before us which are balanced and practicable. As we have envisaged, the Government can bring unauthorized colonies inhabited by affluent sections of the society within the fold of planned development by regularizing them in a way that there is no financial burden on it. Not only the market value of the encroached land and the cost of development works will be recovered, but the penalties imposed could act as a deterrent and send an important message that no person can get away with unauthorized development, howsoever rich and powerful he may be. In the land occupied by farm houses, through the model of public private partnership suggested by us, planned development for accommodating the future growth of population can proceed smoothly without the hassles of land acquisition and financial burden of development works. For the residents of the unauthorized colonies, the regularization process will remove the sword of uncertainty and fear of precipitous action, such as demolition, etc. While they will have to pay for the value of the encroached land and penalties for its encroachment and misuse as well as bear the cost of development works, they will gain in terms of improved physical and social infrastructure, regular supply of electricity and water and in general get a better quality of life. The owners of the farm houses, will no doubt, have to physically part with their lands, but through the public private partnership can realize the full potential of their lands, get the benefit of all civic services and urban facilities for their living

and above all get an unique opportunity to participate in the planned development of Delhi in the future. In sum, therefore, our recommendations could contribute significantly towards providing just and fair as well as balanced and practicable solutions to the long standing problem of unauthorized development in farm houses and colonies inhabited by affluent sections of the society.