

Transferable Development Rights

Case Study: Mumbai, Maharashtra



Transfer of Development Rights (TDR) is a **land-use planning tool** that allows property owners to transfer the property's development rights from one to another for public projects/ preserve cultural heritage. The basic **concept of the TDR is (FSI) credit** received on surrender of land or part thereof for public purpose projects. Such FSI credit can be used on a remaining plot or on another plot in a permitted zone.

Transferable Development Rights - The case of Mumbai, Maharashtra

Overview

TDR is a potentially significant instrument of developing and financing urban infrastructure projects.

In India, Mumbai has pioneered the use of TDR in a conceptually different manner. The **1967 Development Plan of Mumbai** had liberally designated land for public purposes, which was supposed to have been compulsorily acquired. However, the financial resources available with the municipal corporation did not permit such acquisition. While revising the **Development Plan in 1991**, an alternative to monetary compensation was sought by way of TDR for procuring land designated for public purpose, by accepting TDR in lieu of monetary compensation free of all encumbrances to the municipal corporation.

The in-situ slum redevelopment model of the Slum Rehabilitation Scheme (SRS) in Dharavi allowed for a higher Floor Space Index (FSI) of 2.5 compared to the existing FSI of 1.33. Families received a free 225 sq ft tenement, Rs 20,000 for maintenance and taxes, and commercial spaces free of cost. Municipal taxes were reduced to 20% of existing rates, with gradual increases. The scheme utilized Development Right Certificates (DRCs) for FSI allocation.

Overview

Mumbai has successfully used the TDR concept in the **“Slum Redevelopment Scheme”**. In the 1990s, the state formulated major programmes for slum-dwellers. These aimed to provide enough incentives – such as increasing the Floor Space Index (FSI) allowed in slum areas and the ability to transfer development rights to other areas of the city - for private developers and builders to redevelop slums. The theory was that by selling the extra space in the open market, tenements for slum dwellers would be cross-subsidized and made affordable to them.

Legal Basis

Reference Section of the Act

- Section 126 (c) of **“The Maharashtra Town & Country Act 1966”** have provision for the acquisition of land required for public purposes as specified in the plans.
- Regulation 34 of the **“Development Control Regulations (DCR) for Greater Bombay, 1991”** (framed in accordance with the provisions of the **Maharashtra Regional and Town Planning Act, 1966**), the municipal corporation adopted the practice of TDR.

Reference Clause

For public purposes, the government can acquire land. In lieu of the payment, it can pay an amount equivalent to the value of land (as assessed by the authority) on the principles laid down in the **Land Acquisition Act, 1894 or Floor Space Index (FSI) of TDR** against the area of land surrendered free of cost. The government can also impart further additional FSI or TDR against the development or construction of the amenity on the TDR against the development or construction of the amenity on the surrendered land at his cost as per the **Final Development Control Regulations (DCR)**.

Who administers the TDR?

- The TDR programme started in the Municipal Corporation of Greater Mumbai (MCGM) with the intention of acquiring land for public amenities, i.e., reservations such as gardens and playgrounds, and for road construction.
- A **Slum Rehabilitation Authority (SRA)** was set up by amending the **Slum Area (Improvement, clearance & Rehabilitation) Act of 1971** for coordinating with the multiple executing agencies such as like developers, public bodies, NGOs, and co-operative housing societies of the slum-dwellers. The SRA is the planning authority with powers to make changes in the development plan of the city, grant building permissions, and so on. Since these powers belonged to the MCGM, necessary changes were made in the **Bombay Municipal Corporation Act** and the **Maharashtra Regional Town Planning Act**.

Collection from TDR

By using the TDR concept, the MCGM was able to acquire about **9,00,000 sq.m of spare area** reserved for public purposes by the year 2000 as per the Development Plan, without paying any cash compensation whatsoever. Conservatively estimating land value at **INR 4000 per sq.m**, the cost of land obtained free of cost amounted to about **INR 360 crore**. About **15,64,440 sq.m** was estimated to have been released into the market through TDRs, of which road and reservation TDR constituted **10,73,360 sqm and 4,91,080 sq.m**, respectively (2004 data). In addition, the slum TDR to the tune of another **5,60, 965 sq.m** was released at the same time. This resulted in estimated monetary savings against land acquisition for the same purpose, to a magnitude of about **INR 1,841 crore** (as per ready reckoner rates) at 2004 prices.