



UPDATE ON KARNATAKA PLANNING AUTHORITIES (AMENDMENT) **RULES, 2021**

The Karnataka Planning Authorities Rules, 1965 (“**KPA Rules**”) deal with the power of planning authorities in terms of the Karnataka Town and Country Planning Act, 1961 (“**KTCP Act**”). Under the KTCP Act, the Planning Authorities are empowered to collect various charges *inter alia* betterment charges, surcharge for Mass Rapid Transport System, Water Supply Scheme Cess, Slum Improvement Cess, Ring Road Formation Cess and Lake Rejuvenation Cess.

I. HISTORY

- Although the KTCP Act provided for imposition of betterment charges, and various cess and surcharges, the Planning Authorities in the state were previously collecting only betterment charges and lake rejuvenation charges.
- The KPA Rules as it stood originally provided only for collection of betterment charges at fixed rates on a per sq. mtr. basis without reference to market value of the land.
- The KPA Rules were amended on 25 February 2020 *vide* notification bearing no. UDD 3 TPP 2015 (“**KPA 2020 Amendment Rules**”) wherein

- the rate of betterment charges were revised to reflect for various land types situated in different places on the basis of population,
 - betterment charges were linked to market value of the property on a per sq.mtr. basis, and also a minimum rate per sq.mtr. was stipulated.
 - Cess and surcharge for MRTS, water supply scheme, slum improvement, ring road formation and lake rejuvenation were all provisioned for separately by insertion of new rules, and rates were to be calculated on the basis of market value of the property on a per sq. mtr. basis.
- In W.P. No. 9048/2020 and W.P. No. 9061/2020, the Hon'ble High Court of Karnataka *vide* ad interim order dated 10/08/2020, stayed the operation of the KPA 2020 Amendment Rules insofar as betterment charges, and MRTS surcharge & water supply scheme cess. However, the BBMP and BDA continued to levy the rates on the basis of the KPA 2020 Amendment Rules for all builders, and further even started imposing the same retrospectively. Several builders have approached the Hon'ble High Court of Karnataka in this regard, and the Hon'ble High Court of Karnataka was pleased to extend the benefit of the stay to all builders who approached the Hon'ble High Court.
- In light of the continuous stay orders being granted by the Hon'ble High Court and repeated representations to the Urban Development Department, the State Government has come up with the draft amendments to the KPA Rules.

- Thereafter, the State Government has enacted the Karnataka Planning Authorities (Second Amendment) Rules, 2021 as on 21 June 2021. As per these rules, the rates of levy for betterment charges remain the same as the proposed draft amendment to the KPA Rules. The levy of cess and surcharges has increased as compared to the proposed draft amendment.

II. AMENDMENTS

- ***What aspects are amended***

A. Rule 37-A (1)(A)

- i. Modification of rates of levy of betterment charges to be collected for the site/plot/land at the time of land development/building construction.
- ii. Addition of certain clarifications about implementation.

B. Rule 37-C

- i. Modification of rates for levy of **water supply scheme cess, formation of ring road surcharge, slum improvement cess and mass rapid transport system surcharge.**

- ***What aspects are not amended***

A. Rule 37-A(B) – betterment charges levied on buildings and rates thereof.

B. No further clarification on utilisation of betterment fee collected.

C. Charges levied for lake rejuvenation.

D. Mode of utilisation and transfer of cess and surcharge collected for water supply, formation of ring road, slum improvement, mass rapid transport system.

E. Deduction of service charge by Planning Authority.

III. RELEVANT MODIFICATION TO RATES OF BETTERMENT CHARGES FOR BANGALORE METROPOLITAN REGION AND SURROUNDING AREAS

Betterment Charges for site/land situated within Bangalore Metropolitan Region					
Sl. No.		Residential	Industrial	Commercial	Others
1.	Rate as per prevailing Rules (per sq.m)	0.5% subject to a minimum of 25/sq.m	1% subject to a minimum of 37.5/sq.m	1.5% subject to a minimum of 62.5/sq.m	0.5% subject to a minimum of 25/sq.m
2.	Rate as per amended Rules (per sq.m)	0.2% subject to a minimum of 40/sq.m	0.3% subject to a minimum of 60/sq.m	0.5% subject to a minimum of 100/sq.m	0.2% subject to a minimum of 40/sq.m

Betterment Charges for site/land situated in Local Planning Area with a population of 10,00,000 (Ten Lakh) and above					
Sl. No.		Residential	Industrial	Commercial	Others
	Rate as per prevailing Rules (per sq.m)	0.5% subject to a minimum of 12.50/sq.m	1% to a minimum of 20/sq.m	1.5% to a minimum of 25/sq.m	0.5% to a minimum of 12.50/sq.m
	Rate as per amended Rules (per sq.m)	0.2% subject to a minimum of 25/sq.m	0.3% subject to a minimum of 37.5/sq.m	0.5% subject to a minimum of 62.5/sq.m	0.2% subject to a minimum of 25/sq.m

[Note: Other rates are not relevant since they relate to Local Planning Area with a population of less than 10 lakh people.]

IV. RELEVANT MODIFICATION OF CESS AND SURCHARGES

Sl. No.		Water Supply Scheme Cess	Formation of Ring Road Surcharge	Slum Improvement Cess	Mass Rapid Transport System Surcharge
1.	Rate as per prevailing Rules	0.1% of the market value of the plot or land	0.1% of the market value of the plot or land	0.1% of the market value of the plot or land	0.5% of the market value of the plot or land
2.	Rate as per amended Rules	10% of the betterment charges collected under sub-rule (1) of Rule 37-A.	10% of the betterment charges collected under sub-rule (1) of Rule 37-A.	5% of the betterment charges collected under sub-rule (1) of Rule 37-A.	50% of the betterment charges collected under sub-rule (1) of Rule 37-A.

V. INDICATIVE EXAMPLE DEMONSTRATING THE REDUCTION IN RATES OF LEVY

a. Land Area – 1000 sq.m

b. Guidance Value – 50,000 sq.m

[Note – For the purposes of illustrations/calculations only]

Betterment charges comparison:-

- Percentage mentioned * Market Value = Betterment Charges/sq.m

- Betterment Charges/sq.m * Total Area (sq.m) = Total Betterment Charge

Residential projects on site/plot located within Bangalore Metropolitan Region

Calculation as per prevailing 2020 KPA Rules (for Residential Projects)	Calculation as per 2021 amendment to KPA Rules (for Residential Projects)
$0.5\% * 50,000 * 1000 = 2,50,000/-$	$0.2\% * 50,000 * 1000 = 1,00,000/-$

Commercial projects on site/plot located within Bangalore Metropolitan Region

Calculation as per prevailing 2020 KPA Rules (for Commercial Projects)	Calculation as per 2021 amendment to KPA Rules (for Commercial Projects)
$1.5\% * 50,000 * 1000 = 7,50,000/-$	$0.5\% * 50,000 * 1000 = 2,50,000/-$

Comparison of cess and surcharges

	Calculation as per prevailing 2020 KPA Rules	Calculation as per 2021 amendment to KPA Rules
Water Supply Charges Cess	$0.1\% * 1000 * 50,000 = 50,000/-$	$10\% * 1,00,000 = 10,000/-$
Formation of Ring Road Cess	$0.1\% * 1000 * 50,000 = 50,000/-$	$10\% * 1,00,000 = 10,000/-$
Slum Improvement Cess	$0.1\% * 1000 * 50,000 = 50,000/-$	$5\% * 1,00,000 = 5,000/-$
Mass Rapid Transport Surcharge	$0.5\% * 1000 * 50,000 = 2,50,000/-$	$50\% * 1,00,000 = 50,000/-$

VI. ANALYSIS AND PROPOSED OBJECTIONS

On the basis of the above, it is clearly discernible that:

- there is about a two to three fold reduction in the betterment charges being stipulated to be levied.
- there is about a five fold reduction in the various cess and surcharges being stipulated to be levied towards MRTS, water supply, slum improvement and ring road formation.

However, the same being said, the proposed amendments yet again suffer from the vice of manifest arbitrariness in that

- linking the charges to market value of property is inherently bad, inasmuch as it results in uneven charges being levied for properties of similar sizes but located in different areas. In fact, the guidance values fluctuate substantially in the same area, on different roads or different sides of the area.
- Removal of fixed charges for computing betterment charges and other charges would lead to an undesirable situation since similarly placed property owners/developers would have to bear differential rates.
- the minimum threshold being specified, for instance, betterment charges being to be levied at a minimum of 40/sq.mtr. and 100/sq. mtr. for residential and commercial projects, respectively, are bad in law, and amounts to being expropriatory, without any reasonable basis for the same.
- MRTS surcharge, ring road cess and slum improvement cess should not be levied uniformly, rather it should be levied only for such areas where the specific work is being undertaken, and if the property is located in a specific location. For instance, only properties which are located on the metro rail corridor should be charged MRTS surcharge, and not any other property.
- Water supply scheme cess should not be levied within Bangalore Metropolitan Region inasmuch as there is a different corporation (BWSSB) which provides water supply, and collects beneficiary capital contribution and pro rata charges for all services provided. However, in the Grama Panchayat areas, if the Grama Panchayat has actually undertaken water supply scheme, then only Grama Panchayat should levy such charges.



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