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RERA VIOLATED BY BDA KEMPEGOWDA LAYOUT MUST PROVIDE 75 METERS BUFFER ZONE AROUND ALL LAKES/KERE/TANKS AS PER REVENUE MAPS



By: M.S.Yatnatti: Editor and Video Journalist Bengaluru: The recent BDA notification inviting applications for allotment of 5,000 sites in the second phase in Nadaprabhu Kempegowda Layout, West Bengaluru, is a violation of the Real Estate Regulatory Authority (RERA) Act, 2016. "It's a violation on the part of the BDA to have called for applications without getting the layout project registered under the RERA. The buffer zone law is also applicable to BDA Layouts also as it is rejecting to give NOC for buffer zone "no construction area". I have asked Public Information Officer and Deputy Director TPM Bangalore Development Authority to provide me certified copy of all approved Layout Plans of Nadaprabhu Kempegowda Layout Plans showing all lakes/kere/Tanks as per revenue Maps and showing 75 meters Buffer Zone around all lakes/kere/Tanks and 50 meters for Rajakaluve coming in Nadaprabhu Kempegowda Layout Plans as per NGT Orders. Also I have asked him to provide me whether any sites made and were allotted in buffer Zones in Nadaprabhu Kempegowda Layout Plans. The BDA is THE PUBLIC AUTHORITY under obligation to provide information "PUBLICLY" under section 4(I) (a) (b) (c) (d) RTI Act. Reportedly BDA finalized the plot prices and is making allotment finalized. The Bangalore Development Authority (BDA) appears to have flouted its rules and regulations for allotment of sites in the Nadaprabhu Kempegowda Layout. Constituted to provide housing for people who do not have a own roof over their head, BDA, in its paper notification for Nadaprabhu Kempegowda layout, omitted the clause of people owning private sites or apartments being ineligible for allotment of BDA sites. Section 10 (3) of the BDA (site allotment) rules of 1984 says: "No person who or any dependent member of whose family, owns a site or a house, or has been allotted a site or a house by the BDA, or a co-operative society registered under the Karnataka Co-operative Societies Act, 1959 or any other such Authority within the Bangalore Metropolitan Area, or has been allotted a site or a house in any other part in the state by any other Urban Development Authority or the Karnataka Housing Board or such agency of the government, shall be eligible to apply for allotment of a site." However, the paper notification calling for Kempegowda Layout allotment omits the "who or any dependent member of whose family, owns a site or a house..." from the 10 (3) clause and says: "Any person either in his name or his spouse or any dependent member of his family has been already allotted a site or any other form of shelter by the erstwhile CITB BDA KHB House Building Co-operative Societies or any such other government authority within the Bangalore Metropolitan Area or has been allotted a site or house in any part in the state by any other urban development authority or KHB or such other agency of the government are not eligible to apply for allotment of site as per rule 10 (3) of the BDA (site allotment) rules of 1984." You need to Digest this: A 30 X 40 site will cost Rs 24 lakh plus registration; a 2,400 sq ft (60 X 40 feet) is Rs 54 lakh; and (hold on!) the 50 X 80 site will come for Rs one crore. Gone are the days when BDA sold sites for Rs 195 and Rs 225 per sq ft and when no Tom, Dick or Harry gave a second thought to apply for one. This is evident from what is happening at the Nadaprabhu Kempegowda Layout which is being developed between Mysore and Magadi roads in the NICE road circuit. Now time has come that BDA should truly function as Planning authority and do only infrastructure projects instead of layout making and layout making and group housing should be left to private sectors. If at all government want to do the projects it should give free sites and free houses to poor. Instead of making layout it can make money in approving layout and private builders are capable of selling the sites less than the BDA and market rates.

The blueprint for several residential layouts in the city has been drawn. However, every layout or subdivision of land within the local planning area of the planning authority needs prior approval from the planning authority as per the KTCP Act. The Bangalore Development Authority is the planning authority for the Bangalore Metropolitan Area covering about 1,306 sq km. The procedure for approval of private layouts for residential use under the purview of the local planning area of BDA has been outlined below: Any person who wishes to develop a layout within the local planning area of BDA has to apply in the prescribed format enclosing all the relevant documents such as ownership documents (sale deed, RTC, mutation extract etc), atlas/tippa, khata extract, latest tax paid certificate, encumbrance certificate etc. along with a no objection certificate from KSPCB, BWSSB and BESCOM. The documents are verified and the land use of the area is checked in the CDP/Master Plan. The application is considered only if the land use is legally permissible, or in cases of violation, it is rejected. Site inspection is carried out to check the topography of land, land features, surrounding developments, road access etc. The draft layout plan is scrutinised as per the Zonal Regulations. The Draft Plan should conform to the provisions of the Zonal Regulations, that is, maximum 50 percent of area for residential which has now been increased to 55 percent as per the recent government order, minimum 15 percent of area for parks and the rest for roads and CA sites, overall circulation pattern and CDP/Master Plan. The subject is placed before the BDA Committee for approval. The Committee has the powers to approve or reject the subject based on its merits within prescribed norms. If the subject is approved, as per the meeting resolution the applicant is asked to remit prevailing layout approval charges specified by the BDA. After the payment is made, the applicant has to relinquish the park, CA area and roads to the BDA as per the Draft Layout Plan. After relinquishment of these areas, work order, sanctioned layout plan and release order for 60 percent of sites is issued to the applicant. After the layout is fully executed with civic facilities such as water, electricity, drains, roads etc., the remaining 40 percent of sites are released. If the applicant fails to execute or develop the layout within five years, the authority has the powers to execute the works on its own and allot the remaining 40 percent sites. Prevailing layout approval charges Supervision charges: Rs 65,700 per acre Betterment fee: Rs 20 per sq mt Scrutiny fee: Rs 0.5 per sq mt Slum improvement cess: Rs 25,000 per hectare. LAND ACQUISITION BY BDA ONLY FOR DESIGNATED PURPOSES IN CDP IS VALID UNDER KTCP ACT. In BDA Act there is mention of "Layout" in under section 32 of BDA Act which states that Forming of new extensions or layouts or making new private streets is permitted by BDA. This section indicates that BDA should be involved only with developmental scheme and infrastructure projects and leave Layout making to private owners of land of private developers. BDA itself should not embark on becoming real estate agent or selling sites to public. As per the zoning regulations of the Master Plan (ODP/CDP), the land owner who applies for approval of private layouts is required to reserve 15 per cent as open space i.e. for gardens and parks. After making a provision of 55 per cent for residences, roads and parks, the remaining portion should be earmarked for civic amenities. Such reserved open space and Civic Amenity sites will come to the BDA/local body free of cost and free of encumbrances. This adds to the assets of the BDA/local authority. With this provision, BDA/BBMP should have got up to 20-22 per cent of the 30,000 hectares, amounting to about 6,600 hectares, from the private land owners. The loss to the local body will be about Rs.40,000 crore assuming land value of Rs.6 crore to Rs. 6.5 crore per hectare. The BDA has to perform its function under Karnataka Town & Country Planning Act, 1961 and Bangalore Development Authority Rules, 1976. The Bangalore Development Authority is designated as the Planning Authority under the Karnataka Town and Country Planning Act, 1961. People have started questioning BDA commissioner to act as per KTCP Act 1961 as BDA Act 1976 adopted it under section 67 of the per BDA Act 1976. As per KTCP Act BDA has only power to acquire land for infrastructure development of Bangalore and it should have prepared the CDP as per KTCP Act and only prepared development schemes or town planning schemes as per law. It is publicly stated that BDA should stop exhibiting the style of functioning in a dictatorial manner either without understanding the statutory provisions, law laid down in a catena of decisions, violating rule of law or in utter ignorance of law. BDA cannot exercised powers illegally, arbitrarily and discriminately giving a go-bye to all norms, guidelines and principles required to be scrupulously followed for taking possession of the acquired property, formation open spaces, roads, streets parks pleasure or recreation grounds parking spaces. BDA is not a real estate agency to buy and sell the sites and land and make Layouts. BDA has committed crimes against farmers of Bangalore by blatantly violating KTCP Act 1961. Under section 67 of the per BDA Act 1976 which amends KTCP Act by substituting section 2 (i) (a) (7) as BDA and Section 81-B of KTCP Act 1961 The BDA is planning authority and can acquire lands only under KTCP Act and not under BDA Act. BDA Deputy Commissioner land acquisition stood divested of his power under Section 17 AND 19 of the BDA Act in BDA planning area land acquisition has to be done by town planning officer designated under town planning Act and not under BDA Act. In view of the CDP and Sections 12 and 14 and 24 and 69 and 76M of the Planning Act or KTCP Act 1961, on and after 18-10-1984 the Deputy Commissioner, Bangalore, DC land acquisition has had no power or authority to deal any land acquisition for land lying within the area of the CDP and as acquisition can done only for designated purposes under section 12 (b) (c) (d) of sub section (1) KTCP Act 1961 that power vested with the Town planning officer of Planning Authority.

BDA has issued several land acquisition notification. But No one is as per section 17 and 19 of BDA Act. BDA cannot acquire land Under Section 17 of the B.D.A. Act and Section 19 of the B.D.A. Act for 'Layout' as there is no provision in the law. It can acquire only for development scheme or infrastructure projects on self financing basis under the Act and it can only approve private layout under section 32 of BDA Act. Under Section 17 of the B.D.A. Act and Section 19 of the B.D.A. Act land acquisition can be made only for Development scheme of infrastructure project like Ring Roads or peripheral roads and Fly Over's or Large scale public utility projects or Town planning schemes. Such development scheme require huge funding and funding is arranged on self financing basis using the BDA Act as it states that a statement under Section 17 of the B.D.A. Act specifying the land which is proposed to be acquired and of the land in regard to which a betterment tax may be levied may be seen at all reasonable hours. Bangalore Development Authority (BDA) was constituted on 16 January 1976 under an Act of the State Legislature for development of Bangalore and not demolition of Bangalore. This Authority combined in itself the planning functions of the City Planning Authority and developmental functions of C.I.T.B. The Bangalore Development Authority is the planning and development Agency for the Bangalore Metropolitan Area. It has to develop outline development plan and comprehensive development plan and accordingly it has develop development scheme or town planning scheme as per BDA Act or KTCP Act. Question of BDA acquiring land for Layout does not arise as it is mandated only to acquire land for development scheme Because in the Act only development scheme is mentioned. The Land Acquisition Division need to works in close liaison with Planning division and the Engineering Division for the purpose of acquiring lands required for executing various developmental schemes. BDA has no mandate for formation of new layouts. The discharge of normal functions is governed under the provisions of BDA Act 1976 and the Karnataka Town and Country Planning Act. Each division is the custodian of records pertaining to the following broad activities, as envisaged under BDA Act 1976. Development schemes under section 15 of BDA Act need to be read conjointly with section 26 of KTCP Act 1961 in respect of town planning scheme as both are same. Section 17 (1) of BDA Act and Section 27 and 28 29 and 30 and 31 and 32 and 33 and 33 and 35 of KTCP Act are about publication of preliminary notification and Under 37 of KTCP Act 1961 Town planning officers are appointed to perform the duties of land acquisition officers. Section 19 of BDA Act and section 45 of KTCP Act is similar about final notification and under final notification only designated lands under section 69 of KTCP Act are valid as Town planning schemes or development schemes can be made only for public purpose of providing open spaces, roads, streets parks pleasure or recreation grounds parking spaces or for the purpose of any work or under the land incidental to a town planning scheme whether in the nature of building work or not. And the draft schemes can be about construction of or alteration of bridges roads open spaces gardens recreation grounds drainage and sewage disposal and water supply etc. The Zoning and Land Use Regulations having come into force as noticed is subject to the provisions of the KTCP Act. Section 69 of the said Act reads thus: "69. Acquisition of land designated for certain purposes in a Master Plan. - (1) The Planning Authority may acquire any land designated in a Master Plan for specified purpose in clause (b), (c) or (d) of sub-section (1) of Section 12, or for any public purpose out of those specified land in clause (a) of sub-section (1) of Section 12 by agreement or under the Land Acquisition Act, 1894 (Central Act 1 of 1894), as in force in the State. If the land is acquired under the Land Acquisition Act, 1894, the provisions of said Act as amended by Section 72 of the Act shall apply to the determination of compensation for the acquisition of such land. (2) If the designated land, except land specified for the purpose in clause (b) of sub-section (1) of Section 12, is not acquired by agreement within five years from the date, the Master Plan is published in the gazette under sub-section (4) of Section 13 or if the proceedings under the Land Acquisition Act are not commenced within such period the designation shall be deemed to have been lapsed." Regard being had to the fact that five years having gone by from the date on which the zoning regulations were brought into force the BDA failed to acquire the said land designated it is needless to state that by operation of sub-section 2 of Section 69, that designation is deemed to have lapsed. So presently BDA has lost all rights under all its acquisition notifications as they have lapsed. In view of overriding effect given by the provision a change in land use of land falling within the area of ODP or CDP could be effected or undertaken with the permission of the planning authority. Further in view of the section the jurisdiction of the Deputy commissioner under section 95 of the land revenue Act gets ousted and such permission could be obtained or secured only from the planning Authority under the Act. BDA Green belt area is diminishing. Trees are uprooted. CDP is violated. BDA Town Planning Department is responsible for preparing and enforcing the CDP. Are Indian town planners are incompetent or Town planning board is incompetent to make and prepare and approve CDP. Then question arises when there is no provision under Act to appoint external agency to prepare the CDP how BDA is appointing an external agency for preparing and enforcing CDP. Reportedly Several complaints have been made to BDA on violations of CDP. But TPM BDA did nothing on those violations. BDA Town Planning Department is responsible for enforcing the CDP. It need to file criminal cases who violates the CDP under section 73 of Town and Country Planning Act. BDA Town Planning Department is responsible for preparation and revision of the Comprehensive Development Plan for Bangalore Metropolitan Area, periodically, preparation of Layout Plans, approval of Development Plans for Layouts and Group Housing Schemes and generally assists the Authority in its function as the Planning Authority for Bangalore. It also monitors the change of land use in the CDP area. BDA is to transform Bangalore to an ideal global destination with high quality infrastructure, better quality of life by ensuring sustainable and planned development based on effective monitoring, regulation, through participatory and innovative approach. Plan, regulate, control, monitor and facilitate urban development in Bangalore Metropolitan Area, to ensure



sustainable and orderly growth. BDA Town Planning Department need to prepare under section 6 of KTCP Act and rule 30 of The Karnataka planning Authority Rules 1965 has to keep present land use register and map with the particulars mentioned in rule 30. But as per town planning Act and rules it should have kept Land use Register and Map for each of the property but it has prepared none which is blunder committed by TPM BDA .And then how many cases of CDP violations were registered by BDA / BBMP / and other development authorities under their respective Acts since 1987 till date is not known ? How many cases of CDP violations were legalized in the CDP revision / modification by the authorities by way of reported unlimited corruption is not known? in Bangalore city , many building complexes , buildings have been built fully violating building bye-laws – no set off , no parking space , no emergency fire exit , no earthquake tolerant . What action by BDA / BBMP / KIADB / GOVERNMENT have taken not known to the public? How many cases of building bye-laws violations has been registered by BDA / BBMP / KIADB / GOVERNMENT since 1987? What is the action status report year wise? How much of BDA / BBMP / KIADB / GOVERNMENT lands, sites, buildings & houses have been illegally occupied by criminal trespassers since 1987 ? Have the BDA / BBMP / KIADB / GOVERNMENT registered criminal cases against each such illegal occupation? If not why? Provide status report year wise? How you are monitoring the net wealth growth of some BDA / BBMP / KIADB / GOVERNMENT officials & their family members, who have land acquisition / de-notifying , land usage conversion authorities ?.

Revision of Master Plan under Section 13 of KTCP Act – At least once in every ten years from the date on which the Master Plan has come into force, subject to the provisions of section 13-C, the Planning Authority may and if directed so by the State Government shall, carryout a fresh survey of the area within its jurisdiction, with a view to revising the existing Master Plan and the provisions of section 9 to section 12 (both inclusive) shall mutatis mutandis apply in respect of such revision of the Master Plan.” And enforcement is done under section 14 of KTCP Act Enforcement of the Master Plan and the Regulations—[(1) On and from the date on which a declaration of intention to prepare a Master Plan is published under sub-section (1) of section 10, every land use, every change in land use and every development in the area covered by the plan subject to section 14-A shall conform to the provisions of this Act, the Master Plan and the Report, as finally approved by the State Government under sub-section (3) of section 13.]The Bangalore Development Authority was established on 6th January 1976 under the BDA Act 1976.The Authority was set up with the primary objective of fulfilling the Planning functions of the city. Prior to this the planning functions of Bangalore were vested in the hands of the City Improvement Trust Board. Initially the planning and development of the city was the responsibility of the CITB. The Bangalore Development Authority was formed with the aim of creating good quality infrastructure, providing sites for residential and commercial purposes and providing homes to the under privileged citizens of the city. Since its establishment the Bangalore Development Authority has allotted 200,000 sites spread across the city to different individuals for the purpose of residential construction. The Authority has also constructed a number of civic amenity sites like hospitals and other organizations catering to the specific needs of the people of Bangalore.Bangalore Development Authority is the Planning Authority for Bangalore Metropolitan area. As a Planning Authority, BDA has to prepare the Comprehensive Development Plan (CDP) for Bangalore Metropolitan area. CDP will be revised once in ten years as per section 25 of the Karnataka Town and Country Planning Act 1961. The first Comprehensive Development Plan for Bangalore Metropolitan area was approved on 12.10.1984. Subsequently Revised CDP was approved on 05.01.1995 The total jurisdiction of BDA as per Revised CDP is 1279 Sq. Kms. area. Out of this, the Green Belt area covers 682 Sq. Kms. The conurbation area (urbanisable area) is 597 Sq. Kms. including spotted development. Out of this conurbation area, about 225 Sq. Kms. areas is the Bangalore Mahanagara Palike area. BDA has now taken up re-revision of CDP for 2031 , which is under progress. • Preparation of Comprehensive Development Plan for the Bangalore Metropolitan Area. BDA is the Planning Authority for Bangalore Metropolitan Area. Comprehensive Development Plan will be revised once in 10 years as per section 25 of K.T. & C.P. Act 1961. The first Comprehensive Development Plan for Bangalore Metropolitan Area was prepared and approved on 12.10.1984. Subsequently Revised Comprehensive Development Plan was approved on 05.01.1995 . As per Section of 25 KT & CP Act 1961. BDA has taken up revision of Comprehensive Development Plan which is under active progress. • Preparation of schemes and layouts plans for BDA schemes. After acquisition of lands by BDA, Town Planning Section will prepare for BDA lands under section 16(d) of BDA Act 1976. At present Authority has taken up Arkavathy scheme providing for 20,000 sites. • Approval of residential Industrial & Commercial Layouts in favour of House Building Co-Operative Society (HBCS) / Institutions and individuals and also approval of development plan for Group Housing Scheme. After receipt of applications from HBCS, individuals and institutions, proposal will be examined as scrutinised with reference to the Zoning of Land use regulations of RCDP and also land use of RCDP. No Objection Certificates from BWSSB, Bescom, Pollution Control Board are required in addition to other documents such as ownership conversion of land etc. Likewise authority also receives application for approval of development of plan for group Housing. In this case if it is more than Ground + Four and above Floors, No Objection Certificates from Air Port Authority, Telecom (BSNL) Fire-force are required in addition to BWSSB and KPTCL. No Objection Certificates. Both layout and Development Plan are considered as per norms are as prescribed in the Zoning Regulations.Change of Land Use: Authority receives applications for change of land use from Residential to Commercial, Industrial to Residential, Public and Semi Public to Residential etc. This application will be processed under section 14: A of KTCP Act 1961. Objection from the public will be invited for calling objections, if any within 16 days from the notification published in the New Papers. After this subject will be placed before the Committee for taking a decision. The cases which are approved by the Committee will be sent to the Government for according approval for Change in Land Use. After seeking Government Approval, a necessary fee is to be collected and Commencement Certificate will be issued.Conclusion: People have started questioning BDA commissioner to act as per KTCP Act 1961 as BDA Act 1976 adopted it under section 67 of the per BDA Act 1976. As per KTCP Act BDA has only power to acquire land for infrastructure development of Bangalore and it should have prepared the CDP as per KTCP Act and only prepared development schemes or town planning schemes as per law .BDA is not a real estate agency to buy and sell the sites and land and make Layouts. BDA has committed crimes against farmers of Bangalore by blatantly violating KTCP Act 1961



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