**ITEM NO. 08 (E-02)**

1. **Name of Subject**

 Agenda for NDCC-II building

1. **Name of Department**

 Estate-I

1. **Brief History of subject**

3.1. Ministry of Home Affairs (MHA) occupies a space of 132811 Sqft from 1st to 5th Floor of NDCC Phase-II building on licence basis. Their present licence is valid from 17.11.2011 to 31.3.2021.

3.2. Ministry of Home Affairs vide office memorandum No. F.No. 14035/3/2011 – Delhi- II dated 10th September 2012 have forwarded a copy of minutes of meeting chaired by Secretary and Financial Advisor (Home), MHA on 3.9.2012. **(Annexure ‘A’ See pages 62 - 64)**

3.3. In these minutes, it has been conveyed that it is felt by MHA that instead of paying rent to the NDMC, MHA may purchase the building from NDMC.

**4. Detailed proposal:**

4.1. As per the book ‘New Delhi Eighth City’ authored by Sh. Madan Thapliyal who was Director (Public Relations) NDMC, Press Information Officer and In-charge of the NDMC Library, the foundation stone of Headquarters of the New Delhi Municipal Committee, the New Delhi Town Hall was laid on 14th March 1932. The extract from the speech of Sir John Thompson, Chief Commissioner, Delhi delivered on 14.3.1932 when he laid the foundation stone of New Delhi Town Hall is as under :-

***“It gives me peculiar pleasure to comply with your request that I should lay the foundation stone of the New Delhi Town Hall. It marks a definite stage forward in the civic history of New Delhi and I am glad that this tags should have been reached before I go. It is only from the beginning of this month that New Delhi has become what you have called a full-fledged municipality and it speaks well for your energy that before its close you should have laid the foundation of your Town Hall. In one respect your experience has been almost unique. You have been presented with a model city and you have to see that the standard is maintained. But your task is not the easier for that. The standard set for you is the highest and it is by that standard that your work will be judged.”***

4.2. As per sanction dt. 26th March 1932, an estimated amount of Rs.1,36,000/- for construction of Municipal Town Hall New Delhi was sanctioned by the Chief Commissioner, Delhi. Another Rs.23,000/- was sanctioned for residence of Secretary, New Delhi Municipal Committee. As per this book, land for the Town Hall as well as residence of the Secretary was provided by the Government free of cost. The building was completed and inaugurated by Hon’ble Viceroy Lord Willingdon on 13th August 1933. It appears from this publication that prior to the construction of this building, the headquarters of New Delhi Municipal Committee operated from rented buildings. The headquarters of Municipal Government of New Delhi Municipal Committee was thus completed and become operational from 13th August 1933.

4.3. It is well known that N.D.M.C. has an area of about 42 Sq.Kms. and as per statement of Objects and Reasons attached to the New Delhi Municipal Council Bill of 1994, “the New Delhi Municipal Council area comprises the territory that has been described as Lutyens’ Delhi and which has historically come to be regarded as the seat of central authority in Union of India. It comprises important buildings like Rashtrapati Bhawan, Parliament House, Supreme Court, North and South Blocks and buildings abutting Central Vista and also all diplomatic missions which functions as territorial entities under the sovereign jurisdiction of their Flag States. The Government of India are nearly the sole land-owners and also own about eighty percent of the buildings in the New Delhi Municipal area. Private ownership of property in this area is marginal”.

4.4. The State bhawans, the buildings of the State Governments are also housed in N.D.M.C. area. Properties of the Union of India and State Governments are exempt from payment of property taxes. The properties of the Diplomatic Missions are regulated by Vienna Convention of 1960 and are not contributing to municipal finances. Through executive orders Union of India properties are liable to service charges. Railways refuse to follow these orders. With the limited resources available from property tax, to provide the quality municipal services in N.D.M.C. area, particularly to the properties of the Union Government, State Government and Diplomatic Missions and avoiding dependence on loan and grants from the Government, N.D.M.C. decided to develop renting stock by developing certain buildings and to provide municipal services out of the user charges / licence fee derived from these buildings. Development of Yashwant Place Complex in late sixties and certain Municipal markets was in that direction.

4.5. The New Delhi Municipal Committee, with a view to meet the requirements of various departments of the N.D.M.C. for additional space and also to meet its day to day requirements of municipal services, decide to re-develop the headquarters complex known as New Delhi Town Hall. The Committee vide Reso. No. 72 dt. 12th February 1969 approved the construction of ***“New Delhi City Centre”***. The said city Centre was to be constructed in two Phases. In the first phase, was constructed the 20 storey building on the vacant portion of the plot and in the second phase was to be constructed a multi-storey block, auditorium, art gallery and library after demolishing the Town Hall building. The construction was carried out in three phases as under :-

Phase-I – 20 Storey building which was completed in 1984

Phase-II - 32 storey tower for office use

Phase-III - Art gallery, Committee room and auditorium

4.6. M/s. Raja Rewal and Kuldeep Singh were appointed as Architect Consultants in June 1985 for Phase-II and Phase-III. In 1986, the Ministry of Urban Development changed the FAR limits resulting into huge restrictions on construction of building and proposed 32 storey building was changed into 10 storey office complex. During 1992, Phase-II and Phase-III were named Block – C and Block-B respectively of the New Delhi Civic Centre. Delhi Urban Art Commission approved the building in 1992 and in the year 1992, it was proposed that the already constructed Phase-I will be used for providing excess space, if any, for user by others and NDCC Phase-II building for housing offices of the Committee. As per Council’s Reso. of 01.10.1992, it was decided that the existing Palika Kendra building would be utilized for commercial purposes as envisaged. Consequently the proposed building will be utilized for housing offices of the Committee.

4.7. During the construction of the building, there were objections from ASI that the proposed building is within the regulated area opposite Jantar Mantar Monument. There was lot of correspondence between the N.D.M.C. and ASI and this badly delayed the construction and completion of this building.

4.8. After completion of the Palika Kendra in 1984 and shifting of offices of the Committee in this building. In April 1992 order for demolition of the old Town Hall building was issued for constructing a new building for establishing new headquarters of the municipal government of New Delhi. The construction of NDCC Phase-II was challenged in the Delhi High Court and Supreme Court in litigation raised by one Sh. Narender Kumar Anand who was not allowed construction by ASI as the same was within the prohibited area. The Supreme Court finally decided the issue in their judgment dt.16.1.2012 in the case Archaeological Survey of India Vs. Narender Anand, CA No. 2430 of 2006. The Supreme Court held that NDMC has not constructed this building in violation of ASI notification.

4.9. When the NDCC Phase-II building was completed and the Council had to shift its offices to the said building, it was decided that pending shifting of Council’s offices from various other buildings to the main building, this newly constructed building may be temporarily permitted to be occupied by O.C., of Common Wealth Games 2010 for period upto March 2011 and as soon as the building is vacated, it will be utilized for other offices and shifting of the Council’s Secretariat and Council’s meeting room to the new building. When the building was vacated by O.C. of Common Wealth Games, MHA showed interest in occupying 05 floors in this building for their offices on payment of same user charges as were being paid by the O.C. of Common Wealth Games. This user was agreed to for a period upto 31st March 2021. Now the MHA wants to purchase this building.

4.10. Mayur Bhawan, Akbar Bhawan and Lok Nayak Bhawan are occupied by the various offices of the Central Government. Major portion of Mayur Bhawan is occupied by the Income Tax Deptt., Lok Nayak Bhawan by the Directorate of Estate and MHA while Akbar Bhawan, which was constructed as a hotel building was occupied from 1986 by Ministry of External Affairs, C-DoT and ET&T. A portion at the Ground Floor and the basement of the Annexee building was vacated by the ET&T and is now occupied by Gesture Hotel on a licence basis. Their term has expired but the Court has allowed them to continue till further orders.

4.11. In 2005, the Ministry of Home Affairs in the letter dt. 28th April 2005, proposed that Akbar Bhawan, Lok Nayak Bhawan and Mayur Bhawan be transferred to the Directorate of Estate, Ministry of Urban Development in lieu of the markets that are being transferred to the N.D.M.C.

4.12. The Council, in its Special Meeting held on 24.5.2005 at 11:00 AM, considered the above proposal.

**The Council was informed of the views, received in writing, of the Hon’ble Chief Minister, Govt. of NCT of Delhi, on the matter, which are reproduced as under :**

“I agree with the observations forwarded by the Advisor (Revenue) and the Legal Advisor, NDMC. Our endeavour should be to make NDMC a financially viable body and avoid the debt trap which other civic bodies progressively fall into.

Further, I believe that instead of taking a decision for transfer of properties/markets, the issue of maintenance should be kept for most in our minds. Multiplicity of authorities leads to dilution of responsibility and accountability. This also cause confusion in the citizens perceptions as to who maintains the properties/markets as a result of which both the user and the upkeep of the asset suffers.

**Sd/-**

**(Sheila Dikshit)**

**Chief Minister**

**23.5.2005.”**

**Similarly, of other Members presents, Shri O.P. Kelkar, Pr. Secretary (UD), Govt. of NCT of Delhi also placed on record his comments which are as under :**

“1. As per Section 144 of the NDMC Act, 94, it is not appropriate to transfer any properties of NDMC to any agency organization unless “a fair and normal competitive price is paid” and without the sanction of the Council. Therefore, this proposal is not according to the legal provisions governing the transfer of properties of the Council.

2. As per the items circulated by Secy, NDMC, there is going to be huge revenue loss to the NDMC and there is no mention about any compensation resultantly this is going to be weaken the financial position of the Council, which is not desirable. The Council has been doing a good job and has built up its financial position and no efforts should be made to weaken it under any pretext.

3. It is not clear from the proposal as to how would NDMC will gain from this proposal? Chairperson NDMC may like to clarify during the meeting on this point.

4. On transfer of the L&DO markets and Director of Estate Markets to NDMC, the Govt. of India should pay to NDMC for maintenance of these markets if there is any short fall on account of realization of license fee from these markets. In conclusion, the UD Deptt., GNCTD does not feel inclined to agree with the proposal of transfer of the NDMC commercial complexes to the Director of Estates, Ministry of UD, Govt. of India.

5. It has been noted that NDMC is already performing its obligation towards maintaining these markets as a part of its normal obligatory functions.

**Sd/-**

**(O.P. KELKER)**

**Pr. Secretary (UD)**

**24.5.2005”**

**Smt. Tajdar Babar, Vice-Chairperson, NDMC had following comments :**

“(a) As regards transfer of all the markets under L&DO and Dte. Of Estates in NDMC area to NDMC, it is a good proposal being considered by the Government since all the Civic responsibilities are being borne by NDMC with utmost care without any profit from these markets since long and Govt. is just holding its title. In case, these markets are transferred to NDMC, the revenue generated from these markets will compensate the responsibilities being borne by NDMC without any profit since long.

(b) So far as the creation of a “Corpus of Fund” by the NDMC is concerned, it is not clear how much revenue will be generated from these markets and what proportion of amount will have to be invested by NDMC for creation of such Fund towards its renovation/development. Although, NDMC has already such a provision, of funds for development of such markets in its budgetary allocation, it would be appropriate to bring out the facts on record about generation of estimated revenue from these markets.

(c) As regard transfer of the buildings/properties with NDMC to the Dte. of Estate, Ministry of U.D., Govt., of India is concerned, the undersigned will not asset to this proposal, as the same will land NDMC in financial debt trouble like other Corporations and its decades old cherished dream for financial independence to finance its obligatory functions through remunerative projects will never be fulfilled.

**Sd/-**

**(TAJDAR BABAR)**

**VICE CHAIRPERSON”**

4.13. The Council resolved that “N.D.M.C. be given due and fair compensation in order to ensure that the present stream of revenues from these properties to N.D.M.C. is safeguarded and a Committee be set up to recommend the principles and quantum of fair compensation payable to the N.D.M.C. for transfer of such properties to Directorate of Estates.” (**Annexure ‘B’ See pages 65 - 72**)

4.14. After considering the objections raised by the NDMC, proposal for the transfer of three buildings was de-linked from the transfer of markets and markets were transferred in April, 2006 without insisting upon the transfer of the three buildings to Dte. of Estate, MoUD.

4.15. Under the N.D.M.C. Act 1994, Chapter-X relate to “Property and Contracts”. Section 141 relate to disposal of immovable properties. The said section provides that the Chairperson may with the sanction of the Council, lease, sell, let out on hire or otherwise transfer any immovable property belonging to the Council. The consideration for which any immovable property may be sold, leased or otherwise transferred shall not be less than the value at which such immovable property could be sold, leased or otherwise transferred in normal and fair competition. As per sub-section (3) of this section, the sanction of the Council under this section may be given either generally or for any class of cases or specially for any particular case.

4.16. After the N.D.M.C. Act 1994 came into force, general guidelines to attend to cases of Estate Deptt. were not available. The Council in Resolution dt. 19th March 1999, approved detailed guidelines on the aforesaid subject. This was re-considered in the meeting of the Council on 30.8.2000 (The copy of resolution may be seen at **Annexure ‘C’ See pages 73 - 75**). In respect of building with Govt. Deptt., the decision was under:-

*“(ii) New licence to Ministries/Govt. Deptt. in commercial complexes shall be as per the provisions of section 141 (2) of the NDMC Act. 1994*

*(iii) The present approved rate of 5% per year on the renewal is not in accordance with the renewals by the Central PWD, in the case of Government properties, where the increase has been offered at about 9% per annum and as per the increase permissible under the Delhi Rent Act 1995 where the permissible yearly increases have been approved at 10%. Accordingly, the enhancement of licence fee on the renewal of the licence fee may be at 10% per year and the licence may be for a period of ten years.*

*(iv) In the case of renewals of the licenses of the premises with the Ministries/Government Departments, the renewal, if agreed shall be at 10% per annum or the Central PWD enhanced rates, whichever is higher.”*

4.17. The licence fee being received from the portions on the buildings occupied by departments of the Central Government, is already on the lower side as compared to the licence fee paid by the departments or occupiers other than the Central Government Departments, as is clear from the following :-

4.18. In Mayur Bhawan 56278 sq.ft. is with the Income Tax Deptt. at Rs.87.37 per sq.ft. licence fee payable by other licensees i.e. M/s. Aristo Pharmaceuticals and All India Council for Technical Education is at Rs.130/- per sq. ft. p.m. In Lok Nayak Bhawan, 288249 sq.ft. is with Directorate of Estate and MHA at Rs.46.24 per sq.ft. p.m. of the covered area. In the case of Akbar Bhawan, an area of 332244 sq.ft. is on licence with the Ministry of External Affairs at a licence fee of Rs.58.96 per sq.ft. p.m. of the covered area. The annual increase is 8%. In the same building, covered area of 15,000 sq.ft., is occupied by Gesture Hotel at Rs.90.65 per sq.ft. p.m. In the same complex, licence fee paid by other Central Government Departments in Chanakya Bhawan is Rs.145.48 per sq.ft. p.m.

4.19. In NDCC Phase-II, MHA is paying user charges at Rs.232/- per sq.ft. p.m. when in the same building, other departments are paying Rs.350/- per sq.ft. p.m. In newly constructed buildings at Talkatora Stadium and Shivaji Stadium the payment of licence fee has been expected at Rs.330/- & Rs.380/- per sq.ft. p.m. respectively.

4.20. The requests are being made by the licensees of municipal markets that they should be given ownership rights on the premises occupied by them. The Council has rejected their demand on the ground that selling N.D.M.C. buildings is not a municipal function and so far no case has been approved by the Council for sale of N.D.M.C. buildings.

4.21. The proposal from the MHA is to purchase the re-developed Town Hall building, the headquarters of New Delhi Municipal Government which has been re-developed to house N.D.M.C. offices. Temporarily space has been allowed to be occupied by Government Departments on payment of user charges so long as the accommodation is not being occupied by the Council for its offices.

4.22. The land was allotted in 1932, as aforesaid for construction of New Delhi Town Hall. On the said land, three Blocks have been constructed, namely, Block-A, Block-B and Block-C and these are integral and supplementary to each other and not separate buildings on separate piece of land. The construction has been raised and FAR availed on the said piece of land as a single unit and the land cannot be divided for sale of a Block of the said Town Hall building. All the Blocks are on the said land and are called instead of New Delhi Town Hall “New Delhi Civic Centre” and as aforesaid, neither the buildings nor the land can be divided.

4.23. NDMC has been trying to get some additional land from the L&DO to develop further rent stock which can be utilized by the NDMC or other Government Departments but land is not being made available by the L&DO. If the existing buildings are also sold or purchased by the licensees, further land in NDMC area would not be available. As such to improve the renting stock, the NDMC has resorted to re-develop the existing buildings and structures like NDCC, Yashwant Place etc.

4.24. The Council has to take a decision as to whether it permits selling of the Headquarters building of the N.D.M.C. known as New Delhi Civic Centre Phase-II and if so, on what terms and conditions.

4.25. Constructing and selling of the buildings in N.D.M.C. area is not a municipal function. The N.D.M.C. has been constructing buildings for its own occupation or to collect user charges on month to month basis to have a regular source of revenue to provide quality civic services in the N.D.M.C. area. N.D.M.C. has not so far opted to sell its properties and thereby reduce its options to have a regular stream of revenues. If at all N.D.M.C. decides as a special case to sell its properties, it has to be at a comparative rates but if one property is sold to a licensee there would be claims from more than 3000 licensees to sell the properties on the same principle as may be disposed of to the MHA.

4.26. The spirit of the 74th Constitution Amendment was to make the local bodies self sufficient and raise their revenues so that they do not depend on the loans and grants from the Government. NDMC has been following the spirit of the 74th Constitution Amendment as far as finances are concerned, in letter and spirit and NDMC is the only local body which is debt free. All the loans were repaid alongwith interest in 2002 and from 2002, NDMC is providing services out of its own resources without dependence on loans or grants from the Government.

4.27. In this regard, it may be brought on record that the MCD has given a portion of their newly constructed building to Income Tax Deptt. on a long lease after collecting Rs.1800 cr. The rate has been fixed on the basis of tenders available with the MCD in the following manner :-

(i) Rs.30500/- per sq. ft. for an area of 557024 sq. ft. for office block.

(ii) Rs.15250/- per sq. ft. for an area of 29590 sq. ft. for service block.

(iii) Rs.1110/- car parking at Rs.5,00,000/- per car lot.

 In other words, it has been given to the Ministry of Finance (Income Tax Deptt.) at a comparative market rent.

4.28. It may be beneficial to bring on record that N.D.M.C. is already been asked to provide municipal services in the N.D.M.C. area to 80% of the properties without collecting any property tax. The State Govt. and Diplomatic Missions as well as the Railways do not contribute. The licence fee being received by the N.D.M.C. from the Govt. buildings is also highly subsidized. If the Govt. starts purchasing these properties of the N.D.M.C. it will only cripple the local bodies financially and ultimately it may adversely effect providing quality municipal services which N.D.M.C. is expected to be and which was the policy direction of March 1932 when the foundation stone of New Delhi Municipal Committee Town Hall building was laid.

1. **Financial implications of the proposed subject**

If we accept MHA’s proposal it shall have a serious impact on NDMC revenue.

1. **Implementation schedule with timelines for each stage including internal processing.**

Not applicable

1. **Comments of Finance Deptt on the subject**

Sustainable and reliable source of revenue through licence fee has been the strengths of NDMC which has made NDMC to meet out its growing needs of funds on its own over the years in the matters of public utility services in the area of its operations. Selling out the properties on outright basis is financially unviable for NDMC and its is not recommended.

1. **Comments of the Deptt on the comments of the Finance Deptt**

NIL

1. **Legal implications of the subject**

Chapter-X relates to property and contracts. Section-141 provides for disposal of immovable property. According to this section, the Chairperson may with the sanction of the council, lease, sell let out on hire or otherwise transfer any immovable property belonging to the Council. This section makes it clear that only if the Chairperson wants to sell the property or lease out, he has to do so with a sanction of the Council. Here, the Chairperson is not proposing letting out or sale of the properties. It is the occupant who wants to purchase it which is not permissible under the NDMC Act. The NDMC Act had does not provide a right to the occupant to purchase a property and as such the Council has a right to reject the proposal of the licensee to purchase the property. If it is agreed to, it will have wider repercussions as most of the occupants/licensees will move applications for purchase of the property and if denied, it will involve avoidable litigation.

1. **Details of previous Council Resolutions on the subject**

NIL

1. **Comments of the Law Deptt on the subject**

As recorded in para 9 above.

1. **Comments of the Deptt on the comments of the Law Deptt**

NIL

1. **Clarification by the Deptt that all CVC guidelines have been followed**

Not applicable.

1. **Recommendations**

The Council may consider that the proposal of MHA may not be accepted in the light of the facts narrated above.

1. **Draft Resolution**

**COUNCIL’S DECISION**

The Council considered the proposal of Government of India, Ministry of Home Affairs to purchase NDCC Phase-II building from NDMC and unanimously resolved to reject it.

The Council further authorised the Department to take further necessary action in the matter in anticipation of the confirmation of the minutes by the Council.