

# **Municipal Corporation of Greater Mumbai**



## **Enquiry Committee Report**

**On**

**Fire Incident at Kamala Mills Ltd.**

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## **1. Preamble**

A fire started in two restaurants named 1Above and Mojo's Bistro on the terrace of a building called Trade House in the Kamala Mill compound, Lower Parel, Ganapatrao Kadam Marg/ Senapati Bapat Marg in G/South ward of MCGM, Mumbai. Fourteen people died out of which eleven were female and three male, all of whom died of asphyxia while they took the shelter in a toilet on the terrace of 1-Above restaurant.

A preliminary report was submitted to me based on which and looking at the serious nature of this incident I had issued orders to suspend the Assistant Engineer(B&F), M.O.H., Sub-Engineer (B&F), Junior Engineer and Assistant Divisional Fire Officer. the Assistant Commissioner, 'G/South' was transferred immediately.

I had also ordered a full-fledged enquiry by Additional Municipal Commissioner (E.S.) of above staff and any other whose name may come up during this enquiry or during Full Fledged Departmental Enquiry.

This report intends to find out the causes of fire lapses & people responsible for the same including MCGM employees and fixing their responsibilities.

## **2. Terms of Reference**

Hon'ble Chief Minister on 29/12/2017 directed the undersigned to enquire in this incident of fire.

- A.** To find out circumstances leading to fire and people responsible and fixing their responsibility & lapses therein.
- B.** Recommendations for avoiding such incidents in the future.

## **3. Enquiry Committee**

The Municipal Commissioner, Mumbai Municipal Corporation, Mr. Ajoy Mehta is appointed as 'One man Committee'.

## **4. Documentation by Enquiry Committee**

### **4.1. First information report filed by the Police and MCGM staff.**

#### **4.1.1. FIR filed by Police suo-motto.**

The N. M. Joshi Police Station has registered a F.I.R. filed by Mr. Santosh Narayan Khedekar Police Constable on 29/12/2017. In the complaint, he has given account of fire incident in short after he visited the trade house building. It gives the list of deceased in the fire. The copy of F.I.R. is attached as Annexure 8.1.

This F.I.R. mentions that the owners of 1-Above restaurant Mr. Kripesh Sanghavi, Mr. Pritesh Sanghavi and Mr. Abhijeet Mankar have left the place without taking any efforts to save their customers. There are not much details in the F.I.R. about the causes or status at the place of fire. The police have filed F.I.R. under I.P.C. Sections 304, 338, 337, 34. It is learnt that police have arrested Mr. Yug Pathak, partner of Mojo's Bistro restaurant and summoned Mr. Yug Tuli partner of Mojo's Bistro restaurant. The police had declared Mr. Kripesh Sanghavi, Mr. Pritesh Sanghavi, Mr. Abhijeet Mankar, partners of 1-Above restaurant absconding and declared an award of Rs.1 lakh for citizens giving information of their whereabouts but later on police has arrested Mr. Kripesh Sanghavi, Mr. Pritesh Sanghavi and Mr. Abhijeet Mankar partners of 1-Above restaurant.

#### **4.1.2. F.I.R. by MCGM Staff after issuing notice under M.R.T.P. Section 52 read with Section 43 against Mojo's Bistro Restaurant:**

The Assistant Engineer (B&F) 'G/South' Ward on 30/12/2017 filed complaint under M.R.T.P. section 52 read with section 43 against Mr. Yug Pathak, Mr. Ramesh Gowani and Mr. Duke Tuli for constructing unauthorised shed admeasuring 30 mtrs by 15 mtrs having height 10 mtrs with the help of tarpaulin sheet and bamboo at Hotel Mojo's Bistro and shed with the help of G.I. rod, fibre sheet admeasuring 5 mtrs by 3 mtrs and height 3 mtrs at hotel Mojo's, second floor terrace, Trade House Building, Kamala Mill Compound. The Senior

Inspector of Police, N.M. Joshi Marg Police station has filed F.I.R. on 30/12/2017 based on above complaint. of the F.I.R. is attached as annexure - 8.1 .

**4.1.3. F.I.R. by M.C.G.M. Staff after issuing notice under M.R.T.P. section 52 read with section 43 against 1-Above Restaurant:**

The Assistant Engineer (B&F) G/South Ward on 30/12/2017 filed complaint under M.R.T.P. section 52 read with section 43 against Mr. Ramesh Gowani and Mr. Abhijeet Mankar, Mr. Kripesh Sanghvi for constructing unauthorised partition wall admeasuring 30 mtrs in length having height of 5 mtrs, unauthorised construction of 2 no. of rooms with asbestos sheet G.I. sheet roof adm 19 mtrs by 3 mtrs and unauthorised construction of shed admeasuring 30 mtrs by 3 mtrs having height 10 mtrs with the help of tarpaulin sheet and bamboo at 1 Above Restaurant and shed with the help of G.I. rod, fibre sheet admeasuring 5 mtrs by 3 mtrs and height 10 mtrs at Mojo's Bistro Restaurant, second floor terrace, Trade House Building, Kamala Mill Compound. The Senior Inspector of Police, N.M. Joshi Marg Police station has filed FIR on 30/12/2017 based on above complaint.

**4.2. Investigation report of Chief Fire Officer dated 05/01/2018**

The Chief Fire Officer has submitted his report vide no. FB/R-II/GEN/OD/947 dated 05/01/2018 to undersigned. I have gone through the same in details and its put in public domain. The report is attached herewith as Annexure 8.3, the salient part of this report is mentioned as below.

**4.2.1. Intimation to fire brigade**

As per C.F.O.'s report the first call about this fire was received by the department only at 00:27 even though as per the eyewitnesses who have deposed before the C.F.O. and were at the site of fire, have mentioned that fire started around 12:05 to 12:10 am. It is also noted that none of the restaurant owners/manager or their security personnel intimated the fire brigade. The fire brigade report further says that security guard Mr. Suraj Giri of the trade house building intimated the fire

brigade from his mobile phone on hearing the commotion and receiving a call from another security guard Mr. Mahesh Sable informing him about the fire at third floor terrace of their building. The response of the fire brigade was swift and their assessment of the severity of fire after reaching the site accurate in briefing with the sequence of events. The fire department personnel raised the level of fire from level one to level three once they saw the fire and assessed the intensity of the same and looking at number of people that might get affected due to the same.

#### **4.2.2. Sequence of Events as reported by C.F.O.**

The spread of fire was rapid as informed by the eye witnesses whose statements have been recorded in writing by the fire brigade. The time mentioned by witnesses for fire spread from one end of terrace covering to another is within twenty seconds to one minute. The reasons for the same after multiple which led to heavy fire load. There was large stock of combustible materials such as various types of bamboos, plywood sheets, cotton cloth & nylon cloth curtains, plastic sheets, tarpaulin sheets, carpets, flex materials, all this was used for backdrops/ fencing/ trusses. These were also used for temporary shed structure/ monsoon shed illegally constructed by the restaurant operators/owner, partly on east side by Mojo's Bistro restaurant and fully by 1-Above restaurant on the supposed to be open terrace of the third floor of trade house building. There were tablecloth & furnishing, stock of liquor/beer bottles, draught beer kegs, stock of hookah & other materials, sound system and other accessories, speakers, A.C. Machines/units & other temporary structures involved in the fire. All this individually and taken together was combustible and easily flammable materials. This was compounded by use of hookah, which appear to be rampantly used by the customers in both the restaurants illegally without any permission for the same. The wind velocity and direction has also it appears to have contributed in rapid spread of fire within no time. The staff of both restaurants did not inform the fire brigade about the fire.

#### **4.2.3. Statements of the witnesses present at the time of fire**

The fire brigade has taken statements of the eyewitnesses who were present in the two restaurants on the fateful night of fire and survived with no or minor burn injuries. These have proved crucial to deduce the sequence of events and also cause of fire. It can be derived from aggregated understanding of statements of various witnesses that the fire apparently started from the south-east corner of the Mojo's Bistro restaurant. The witnesses have submitted the videos, photographs and given account of their ordeal during the unfortunate incident which supports findings of the chief fire officers.

#### **4.2.4. Probable supposed causes of fire based on various sources of information including eyewitnesses of the incident:**

The Chief Fire Officer has used the method of elimination for arriving at the cause of fire in his report by giving reasons for ruling out a particular possibility. He has ruled out the possibility of

- a. Incendiarism, sabotage and doubtful
- b. Arson
- c. Chemical reaction auto ignition and spontaneous combustion
- d. Electricity
- e. Careless disposal of lighted cigarette
- f. Naked light/flames

After ruling out the above causes the fire department has mentioned as below

“it was revealed from most of the eye-witnesses that the hookah was served in Mojo's restaurant at the time of fire and the preparatory arrangement of hookah was made at the spot near the first ignited curtains/decorative material. At this place the stock of charred coal-cubes, hookah intake pipes & stands, a pedestal fan & a coal-segree used for burning charcoal was found. The

pedestal fan must have been used for fanning the lighted charcoal for hookah. Thus, there is every possibility that during removal of lighted charcoal from the segree and/or transferring it into hookah or during fanning of the charcoal the flying embers came in contact with the combustible curtains/decorative materials nearby & started the fire.”

They have finally concluded as follows,

“In view of above, statement of witnesses and the observations, the probable supposed cause of fire is derived as “flying embers” i.e. Burning/lighted flying embers from the lighted charcoal segree came in contact with the combustible cloth material used for curtain in Mojo's Bistro restaurant and very rapidly spread to unauthorised highly combustible thatched roof of 1 above restaurant (where no permission was issued).”

They have further given their conclusion as below:

“After going through the statements of the eye-witnesses, observations, inspection and compiling the circumstantial evidences of the incident, the tweets by the alert citizens & the video clippings & photos of the fire incident gone viral on the social media considered as a supportive evidence ( however if required the authenticity of the tweets & video clips shall be verified by police department), considering all these aspects, the probable cause of fire is derived as “ flying embers” ( burning/lighted flying embers from the lighted charcoal/segree came in contact with combustible cloth curtains in Mojo's Bistro restaurants & rapidly spread to unauthorised highly combustible thatched roof of 1 above restaurant.”

#### **4.2.5. Violations at the restaurant as per fire brigade department:**

The fire brigade department has further mentioned about various violations by the two restaurant owners in their report under paragraph 16 on page no 13 to 14. They have mentioned that the restaurants had unauthorisedly covered the open air terrace with combustible materials, smoking/hookah activity was being carried, fire tricks by bartenders were being played by Mojo's Bistro restaurant,

various addition and alterations were carried out on third floor and part terrace, the fire escape balconies on all floors were enclosed/encroached blocking the escape route. Way to staircase was found blocked with doors and/or decorative partitions/barricade etc. Passage leading to staircase on east side was found to be used for storage. No visible exit signs were displayed on the premises. Both the restaurants were found carrying out trade activity of eating house, hookah parlour & liquor bar. Mojo's Bistro failed to produce any permission/trade license u/s 394 of MMC ACT. 1888. 1-Above did not have necessary permission from C.F.O. Department for hookah parlour & liquor bar. The fixed fire fighting system of the trade house building was not in working condition. Basement of the building was found used for non-permitted activities.

#### **4.2.6. Factors causing death of people**

At the time of fire both the restaurants were full with about 200-300 customers. After the fire started all customers started rushing out of the restaurants towards the single escape route which was two lifts. Therefore many people were stranded in the lift lobby and passages from the restaurants leading to the lift lobby. The situation was further compounded due to obstruction in the escape routes & obstructed/blocked staircases hence the people on terrace of 1-Above were not able to escape in time. The falling of burning debris of thatched roof it appears compelled people to take shelter in the nearby toilet of 1-Above restaurant in a bid to escape from heat and smoke. Restaurant management had engaged security personnel (bouncer) and he should have guided the stranded people to the emergency escape route which could have saved their lives. From eyewitness accounts, it seems that even the security personnel were not aware of the emergency escape routes. Further corroborating this is the fact that one of the victim is a security personnel (bouncer) found dead in the toilet. As per the Fire Brigade report, it appears that all the victims have died of asphyxia.

### **4.3. Inputs on appeal by Municipal Commissioner in newspapers received from eyewitnesses, citizens or concerned persons on mail/ letter/ in person**

An appeal was made to citizens and all concerned by inserting advertisement in 7 newspapers and also through hoardings to come forward to give any relevant information.

#### **4.3.1. Statements of the persons who deposed before the Municipal Commissioner in response to the newspaper appeal.**

##### **4.3.1.1. Mr. 'A'.**

The name is not being revealed on his request. However, his name and statement is kept in a sealed packet and to be opened in case directed by competent authority.

I would like to put on record the commitment and consciousness with which Mr. 'A' come forward to give his statement.

He gave his very detailed and substantive statement in this case since he was present at the 1-Above restaurant at the time of fire incident and could explain on the plan prepared by the CFO in his report exactly how sequence of events happened. A transcription of his detailed statement without revealing his name is attached as Annexure-8.6.

From his statements the following is apparent.

-The fire started from the Mojo's Bistro restaurant as concluded by the CFO.

-Mr. A in view of his business in textile has stated that 1 Above restaurant was clad in cloth material which was very prone to fire.

-That hookah and alcohol was being served in the 1-Above structure which was constructed on the open terrace.

-The staff of 1 Above was not properly trained to handle the disaster like this, as he had to force the bouncers and staff to open the exit leading to stairs which could have been the easiest escape route and that the closest fire exit staircase nearest to lift lobby was not opened as there was glass partition wall separating it.

-That balls of fire from burning material used in the roof which were falling created further panic.

-The fire spread very rapidly in under two minutes giving little time for people to react.

#### **4.3.1.2. Mr. Nandkishor Bharatiya**

He has given his detailed statement about how the unauthorised constructions was erected since his office is opposite this terrace. He personally visited the restaurant and enquired from one Mr. Kevin at 1-Above about how liquor is being served in a temporary structure. He complained to the State Excise Commissioner and followed up consistently for taking action against this restaurant as he insisted it violated the rules and regulations of that department. He however did not complain to police or MCGM. He had expressed his fear that a disaster like fire or stampede may happen at this location if no action is taken by state excise department. He further pointed out many such illegal constructions/violations within kamala mill compound by various restaurants like Smassh, Beer Cafe and Sukhsagar. he submitted copies of his email and sms communication with Excise Department.

#### **4.3.1.3. Mr. Bharat Shah**

He gave his complaints about illegal food stalls in N ward areas. His only suggestion was that the incident of fire at kamala mill should not be used to demolish other structures without any notice.

**4.3.1.4. Ms. Shahenlal Abdul**

She complained about no action against some grills constructed in her building by the occupants and requested for action against the same.

**4.3.2. E-mail/written communications from various sources on the appeal in the newspapers.**

Following persons have sent emails about the fire incident at Kamala Mill Compound and given their views, personal account of the incident and uploaded photos and videos to substantiate their point of views. All this was shared with the CFO who studied this and used this material apart from his own study and analysis to arrive at the cause of fire in his report.

**4.3.2.1. Ms. Priyanka Sathe :**

It is seen from one of the emails sent by Ms. Priyanka Sathe who has submitted her earlier communication with one Mr. Brij of 1-Above expressing her concerns about fire safety hazard and untrained staff. She has also written about her concern as none of the staff appears aware of the fire exit staircase. The staircase was "concealed" as per her communications and dirty, stuffed with all kinds of materials which could have made it very difficult to use in case of emergency. She requested Mr. Brij to act on these lacunas, which he assured her via message.

**4.3.2.2. Mr. Kripesh Sanghavi, Mr. Jigar Sanghavi, Mr. Abhijeet Mankar the owners of 1 Above restaurant :**

They have sent emails and written communications through their advocate about their say about the causes of fire. They have stated that that the fire started from the Mojo's Bistro Restaurant. They have claimed that they have all the permissions for the restaurant in place and they are being victimised by the police to save the owners of Mojo's Bistro Restaurant. They have attached some photograph and videos to support their say.

I have taken note of the various suggestions, views and expectations of the citizens in these communication, while framing recommendations of this report.

**4.3.3. Mails received on mc.enquiry.kamala@gmail.com created for receiving inputs from citizens about this incidence and their suggestions :**

All mails received have been put in a sealed packet so as not to reveal their identity.

The copies of e-mails received on the above email id / Municipal Commissioner's email I.D. is attached separately in sealed envelope.

**4.3.4. Delegation of hoteliers Association AHAR, HRAWI, NRAI.**

A delegation of various associations of hotels and restaurants met Municipal Commissioner On 08/01/2018 and expressed their commitment to cooperate with the MCGM to ensure the fire safety compliances. They showed their consent to start their own process of independent auditing of various restaurants and hotels by experts in the field of fire safety. They assured the Municipal Commissioner that they will submit their suggestions, recommendations on the appeal of the Municipal Commissioner at the earliest. However their written submission is yet to be received.

**4.3.5. Inputs received from Public Representatives.**

I had requested the local public representatives M.P., M.L.A. and Councillor vide my letter dated 08.01.2018 to give their inputs about the incident and their suggestions if any on this issue. Mr. Kharat the local councillor has replied to the same and has forwarded a letter which he has written to M.C.G.M. departments for taking actions related to Kamala Mill Compound. The same will be examined in the F.F.D.E. being conducted.

#### **4.4. Report / statement from the State Excise Department**

Mr. Anil Chaskar, Supdt. of State Excise Department, Mumbai City has submitted his remarks vide reference No. FL3/112017/Inspection/B1 dated 15/01/2018. The details of the same are as follows :

Mr. Kripesh Mansukhlal Sanghvi, Mr. Jigar Mansukhlal Sanghvi and Mr. Abhijit Ashok Mankar for the establishment i.e. M/s. Sigrid Ospitalita And Entertainment LLP (1Above), had submitted the application on 16/12/2016 for seeking license. They had submitted the application alongwith, license of eating house form MCGM; registration under Shop & Establishment Act, 1948; Form 'C'; N.O.C. from C.F.O.; registered license agreement; partnership deed etc.

The application received is forwarded to the Inspector (Excise) for the self-explanatory report whether the restaurant, as per the Mumbai Foreign Liquor Rule 1953 falls within the free zone, also the report from the office of Police Commissioner regarding law and order and the applicant's character are sought. On receipt of the reports, the said application is to be submitted before the District Committee. The committee comprises of Collector-Chairman; Mumbai Police Commissioner or Officer of the rank of Dy. Commissioner - Member; Municipal Commissioner or Officer of the rank of Dy. Commissioner - Member and State Excise Commissioner-Member Secretary. If the report from Inspector and the report the Police Department with respect to law and order and the character of the applicant is positive then the Committee recommends the request of the applicant.

District Committee in the meeting held on 02/03/2017, sanctioned the FL3 license for M/s. Sigrid Ospitalita and Entertainment LLP (1-Above) and FL3 Sr. no. 858 is granted on 11/04/2017.

Directors, Mr. Yug Kaushal Pathak and Mr. Yug R. Tuli, for the establishment M/s. Tirupati Restaurant & Café Pvt. Ltd., had submitted the application on 14/03/2017 for FL3 license. On submission of the documents as stated above,

the Committee on 30/08/2017 sanctioned the FL3 license and granted FL3 sr. no. 869 on 01/09/2017.

In the letter it is further stated that FL3 license is a subsidiary license and is granted to the area for which the license by the Health Dept. is issued. No complaints have been received to the office of Superintendent of State Excise Department, Mumbai City. The excise license is issued for the closed areas only.

#### **4.5. Report from the Senior Inspector of Police, N.M. Joshi Marg**

The Senior Inspector of Police was requested to submit any material/document or information which might of relevance to this enquiry.

He has submitted information regarding F.I.R. registered of fire at Kamala Mill Compound vide report' Javak No 344/2018 Dated 13/01/2018. In the report the account of incidence of fire at kamala Mill Compound and the information regarding action taken report on F.I.R. is detailed.

It is reported that the report regarding fire at Kamala Mill was received at 00:15 on 29/12/2017. In the incidence of fire 11 ladies and 3 male have died and more than 30 people have injured. The report suggests the action taken by Fire Department to douse the fire, rescue operation, medical treatment at K.E.M., Hinduja Hospital, assistance and action by Police Department etc.

The F.I.R. No 291/17 is registered against 1Above on 29/12/2017 under I.P.C. 304,338,337,34. The report contain the details of investigation and action taken report thereof. The report contains details of correspondence sought regarding permissions granted and action taken on unauthorised works and report of Fire Brigade Department regarding instance of fire.

As per the report submitted, police tried to contact Mr. Sohail Shah who had done the work of 'shed net' for both the hotels.

The report also contains FIR registered against the establishment 1Above & Mojo's Bistro under no 166/2017 & 167/2017 under the provision MRTP act under section 43 read with 52 . The report contains details of statement recorded by eye witness, accused and other personnel, which came across during the course of investigation & action taken. The report contains that the Manager of 1 Above, Kevin Bawa, Lisban Lopis, Mahendra sanghavi and Aditya sanghavi relatives of Kripesh Mansukhlal Sanghavi and Jigar Mansukhlal sanghavi, Yug pathak of Mojo's, Vishal Karia, Kripesh Sanghavi, Jigar Sanghavi, Abhijit Mankar for various roles and under the various provisions of I.P.C. are arrested. The report states that they are in search of shri. Yug Tuli as per report submitted on 13/01/2018. The Sr. Police Inspector has further vide his letter dated 16/01/2018 informed that they have served the letters to the concerned for appearing for statements before the Municipal Commissioner as requested to them. However for those of the accused who have been arrested and kept in police custody he has requested to take permission of the Hon. Metropolitan Magistrate.

The report of Sr. Police Inspector is attached at Annexure 8.1.

#### **4.6. Statements of the owner of Kamala Mills Ltd./ owner of restaurants**

##### **4.6.1. Statement of Mr. Ramesh Gowani Director of Kamala Mills Ltd. and partner in Royal Traders, Mr. Ravi S. Bhandari Director of M/s.Kamala Mill Ltd.**

The written statement is given by Mr. Ramesh Govani on 11/0/2018 which is attached in Annexure 8.8. He has stated that the premises was given on leave and license basis and he stated that it was liability of the licensee to obtain all the permissions required to put the premises in operation. He has stated that the premises was put into operation in march 2017. He has also confirmed in his written statement that the terrace was being used by both the restaurants by erecting a framework etc. and that this was covered with tarpaulin. He has also stated that this was the responsibility of the licensee to verify/ obtain comply the requirement of various N.O.C.s/Licenses.

The owner is having his office just adjacent to the restaurant on 3rd floor lower level and it can be deduced that he was fully aware of the illegalities.

It may be stated here further, as per D.C.R. reg. no. 6(i) neither the grant of permission nor approval of the drawings and specification nor inspections by the commissioner during erection of the building shall in any way relieve the owner of such building from full responsibility for carrying out the works in accordance with D.C. Regulations.

**4.6.2. Statement of the Architect Mr. B. R. Gandhi - M/s B. R. Gandhi & Associates:**

The architect Mr. Bharat Ramesh Gandhi of M/s. B. R. Gandhi & Associates has recorded his written statement (in brief) as follows :

It is stated that he was appointed long time back for the project when there were 4-5 directors and he is their architect since 1983. Initially there was one group and now it is segregated and 4 groups operate. He said that the architect for design purpose for the proposal was someone else and he is only the Municipal Architect, he used to only scrutinize the plans given to him and then submit to MCGM. He visited the site (however he does not mentioned date) and checked if it was as per the approved plans. He stated that he has visited the site 1 ½ year back as he is now based in Ahmedabad and only visit, Mumbai once or twice in three months.

As regard to query regarding signature on the plans submitted in 2014, he stated that, he had visited the site in 2014 and the signature on the plans is his.

A query was raised regarding submission of the plan online in 2017 for subdivision of the restaurant, he stated that he personally did not submit online but his employee, Mr. Raju who works as draftsman in his office and who is an architect from Kerala, has submitted the proposal on his behalf. As regards to site visit, he said that he didn't visit the site in person but Mr. Raju from his office had visited the site in 2017. (once again there is no date)

He was queried regarding delegation of power being a proprietary firm, to which he replied, he has not delegated powers to anyone but Mr. Raju who works for him for past 20 years and he submits the proposal on his behalf when he is not in Mumbai. He further stated that as regard to uploading the plan by Mr. Raju, login was done by him and Mr. Raju did the submission.

As regards to ownership and assigning the job to him for approval of the plans he has stated that the plans for addition/ alteration approved on 16-2-2017 and were signed by Mr. Ravi Surajmal Bhandari, one of the directors.

**4.6.3. Statement of Owner of Mojo's Bistro Restaurant of M/s. Tirupati Restaurant and Cafe Pvt. Ltd.:**

Mr. Yug K. Pathak

Mr. Yug Tuli

Mr. Yashwant Bagde

All of the above were informed with written instruction to attend for giving statement. However the letters were returned by courier with remarks 'Company shifted'. Hence their statement in person could not be taken.

**4.6.4. Statement of owner of 1-Above of M/s. Sigrid Ospitalia And Entertainment LLP:**

Mr. Kripesh Sanghavi

Mr. Pritesh Sanghavi

Mr. Abhijeet Mankar

All of the above were informed for giving statement. However they could not attend and the cousin of Mr. Kripesh Sanghavi came personally and informed that since all of them are in police custody hence could not attend for giving statement.

#### **4.6.5. Statement of Interior Architect Mr. Sumesh Menon for 1-Above:**

From the website of M/s. Sumesh Menon Associates it is observed that the recent interior of 1-Above Restaurant was done by him. He was informed through mail and also conveyed the same to their company through telephone but he did not remain present for giving the statement.

#### **4.7. Statement of MCGM's Staff**

##### **4.7.1. Statement of Building Proposal Staff**

The statements of building proposals staff, during whose tenure the permission for Restaurants users & subsequent permissions for additions & alteration to the said building Premises, 'Trade House Building i.e. Building A' were issued.

Mr. Mallesham. R. Kunta, then Executive Engineer, Building Proposal City-I Executive Engineer (B.P.)City-I pertaining to B, D and G/South Wards from 08.06.2015 to 13.07.2017. Mr. Satish B Gite, present Executive Engineer, Building Proposal, City-1, was working as Assistant Engineer (B.P.)City-VI, G/South Ward - from November, 2014 to 03/07/2016 and as a Executive Engineer (B.P.)City-Special - from 04.07.2016 with temporary additional charge as A.E.(B.P.)City-VI and now Executive Engineer (B.P.)City I - from 14/07/2017 onwards in addition to work of Executive Engineer (B.P.)City-Spl. In addition, he was also holding charge of Executive Engineer (B.P.) City III from 16.11.2017 till date. Mr. Rajendra Anandrao Jadhav, Assistant Engineer, Building Proposal, City-VI is working as A.E.(B.P.)-VI since 14/7/2017. Mr. Mithun A. Bhise, Sub-Engineer, Building Proposal, City is working as S.E.(B.P.)City-X since 24.06.2015 and looking after proposals in G/South Ward (Lower Parel Division and Worli Division) excluding proposals in T.P.S.-IV, Mahim and N.T.C. Mills.

The proposal for change of activity from office to restaurant along with additional/alterations on part 3<sup>rd</sup> floor (Lower Level) of the Trade House Building i.e. Building 'A' in Kamala Mill Compound was approved under No.EB/732/GS dtd.16.02.2017. The proposal contained the requisite documents such as N.O.C.

from Fire Dept., form 4A and 4B duly as per 'Ease of Doing Business' (EODB) circular certified by Architect, site photographs etc. The photograph uploaded by the Architect showing terrace as vacant is (attached with statement). The proposal was for internal additional/alterations where in the internal cabins etc. of the existing office were proposed to be removed and internal partitions to create two restaurants in place of one office was envisaged.

The proposal under reference was interalia for additions/ alterations with change of activity, in the premises where occupation certificate was already granted on 09/04/2012. The nature of the proposal was at par with the circular for fast track based approval which needed to be approved expeditiously by relying on the fact sheets/ self certification, documents/photographs submitted by Architect. However, the said proposal was processed in the current ongoing file in the same spirit of Ease Of Doing Business by relying upon said documents / photographs etc. and the approval was issued subject to certain conditions.

The amended proposal for addition/alteration and regularization of the work of addition alteration on west side portion where the work was started work at 3<sup>rd</sup> lower floor of the premises where Designated Officer, G/South Ward had issued notice under section 354A M.M.C.Act and contested by the petitioner in City Civil Court by filing a suit bearing No. 8353 of 2017. The Architect had submitted requisite documents such as amended scrutiny report as per EODB circular duly certified by Architect, site photographs etc. The Architect had requested to regularize the work by recovering penalty. There were no any changes proposed in restaurants. The proposal was received online in his console on 24/08/2017 from A.E.(B.P.)C-VI and submitted to Dy.Ch.E.(B.P.) City on 24/08/2017 which was approved by Dy.Ch.E.(B.P.) City. The online approval to the same was issued on 05.10.2017 after receipt of revised C.F.O. N.O.C., Structural Stability Certificate and after recovering of Penalty of about Rs. 30,73,400/-. The remaining proposed work as per approved plan is not yet carried out on site.

S.E.(B.P.)City-X Mr. Bhise stated that he had visited the Kamala Mill Compound on the 7<sup>th</sup> December 2016, to inspect the construction of new wing 'E' in the Kamala Mill Compound with representative of Architect / owner Mr.Shashi Jadhav, when he informed that they are going to submit a proposal of change of activity in the existing premises at 3<sup>rd</sup> floor lower level of existing building A. No work was found in progress on this site.

Since the proposal was accompanying requisite C.F.O. N.O.C., the site photographs / Video clips and as the proposal was in consonance with D.C.R./ Policy in vogue, the same was scrutinized and submitted for approval of A.E./E.E. on 15.02.2017 as per procedure of EODB policy. Since the photographs and video clips of existing site conditions were already uploaded / submitted by the Architect, the same were relied upon. Considering the nature of miscellaneous proposals, and so he did not visit the site again. It is stated that EODB circular dated 29.12.2015 specifies format for scrutiny report about various stages of processing proposals such as concession, I.O.D., C.C., Further C.C., amended plan/I.O.D. etc. The format for scrutiny report of concession, further CC requires the site visit as per pg. Nos. I.E.-16 & I.E.-53. However, the format for scrutiny report about IOD and amended plan does not require site visit as per pg. Nos. IE-34 to 36 and IE-55 to 58 respectively. As per the para X (12) of EODB circular(pg 18 of 22), the formats, requirements and checklist given in the manual shall be followed and no other documents or requirements will be asked for. The proposals under reference are amended plans for the addition/alteration and change of activity in an ongoing file and the proposals are processed accordingly without site visit

The proposal for change of activity in existing approved structure for which occupation was granted on 09.04.2012 and not approved any activity on open terrace as per approved plan dated 16.02.2017. Further it is stated that on his inspection of site after fire incident, it is found that owner has not constructed proposed lift and structure as per approved plan dated 05.10.2017. The

approved plans and entire file pertaining to the premises under reference is available in citizen search on website of M.C.G.M.

A.E.(B.P.)-VI Mr. Jadhav stated that he is working since 14/7/2017. A proposal for the additions/alterations and regularization of IT office at the premises on part 3rd floor (Lower Parel) of the Trade House Building i.e. Existing Building A and Trade Tower wing B in Kamala Mill Compound was received on line from Sub Engineer(BP) X on 16/8/2017. The proposal under reference was as per the provisions of modified D.C.R. 1991/Policies in Vogue & accompanied by the requisite N.O.C. from C.F.O. and fact sheets/self-certification of Architect, Photographs/Video Clips etc.

A.E. Mr.Gite stated that this proposal was processed the proposal approved on 16/02/2017 while holding temporary charge of A.E. as per directions, though he was working as Executive Engineer(B.P.)Spl. The subsequent proposal for addition/alteration and regularization of the work of addition alteration was received online in his console on 24/08/2017 from A.E.(B.P.)C-VI and submitted to Dy.Ch.E.(B.P.) City on 24/08/2017 which was approved by Dy.Ch.E.(B.P.) City. The online approval to the same was issued on 05.10.2017 after receipt of revised C.F.O. N.O.C., Structural Stability Certificate and after recovering of Penalty of about Rs. 30,73,400/-. The remaining proposed work as per approved plan is not yet carried out on site.

S.E.B.P/A.E.B.P./E.E.B.P. stated that the Architect has not submitted any Completion Certificate for the approvals granted till date. No permission for covering the part terrace where fire had reportedly taken place was granted and the terrace was meant to be kept open to sky. The various letters received regarding unauthorized construction in the Kamala Mills Compound were duly forwarded to D.O. G/South ward for taking necessary action.

E.E. Mr. Kunta stated that Architect has not submitted any Completion Certificate for the approvals granted in his tenure. No permission for covering the part terrace where fire had reportedly taken place was granted and the terrace was

meant to be kept open to sky. He has been transferred from building proposal department on 13.07.2017.

The staff of building proposal referred Circular for Ease Of Doing Business (EODB) Policy under No.CHE/DP/41375/GEN dt.29.12.2015 to speed up the approval process and reduce the time limits for various approvals and Circular under No.Ch.E/DP/12530/GEN dtd.11.08.2016 under Ease Of Doing Business(EODB) Policy regarding online fast track risk based approval/Regularization for miscellaneous proposal under section of 342 of M.M.C. Act, which would help to minimize the number of processes as well as help to create ease to the occupants for obtaining permission, which was taken into consideration while processing proposals.

It is stated that in the Ease of Doing Business (EODB) Policy, the declaration of the Architect/Technical person is to be relied upon for processing the proposals and Architect/L.S. should submit self-certification /fact sheet report as per the format incorporated in the Ease Of Doing Business (EODB) manual. The proposal under reference was as per the provisions of DCR/Policies in Vogue & accompanied by the requisite fact sheets 4A and 4B duly certified by Architect as per EODB policy, N.O.C. from C.F.O., Photographs/Video Clips etc.

On several occasions during the presentation/interactions with stakeholders such as MCHI, CREDAI, NAREDCO, PEATA etc. for awareness of EODB policy, it was always highlighted by the higher authorities that the proposals should be dealt expeditiously by relying upon the self-declaration of owners/technical personnel.

No permission for covering the part terrace where fire had reportedly taken place was granted and the terrace was meant to be kept open to sky.

#### **4.7.2. Statement of C.F.O. Department**

##### **4.7.2.1. Statement of Mr. Kailash Vitthalrao Hiwrale, Dy. CFO.**

He stated that 2 N.O.C.s for fire safety measures dated 26/09/2017 for addition/alteration on existing 3rd floor and installation of 2 lifts in the existing building 'A', Trade House and for addition/alteration with change of activity on 3rd floor Bldg. 'A', Trade House dated 10/02/2017 were endorsed by him.

##### **4.7.2.2. Statement of Mr. A. V. Parab, D.F.O.**

He stated particularly about the NOC issued by him dated 26-11-2016 that in this period he was working as A.D.F.O. of Dadar Fire Station and since Mr. S.S. Shinde was on leave from 25/11/2016 to 27/11/2016 he was given additional charge of A.D.F.O. so the NOC was issued on submission by the Station Officer, late D.V.Sawant, who expired on 11/06/2017. He further stated that he has followed due process to give the N.O.C.. He further clarified that this NOC was issued for use of 8 no. of L.P. Gas cylinders.

##### **4.7.2.3. Statement of Mr. Sampat Baburao Karade, DFO**

Mr. Sampat Karade stated that he has been given additional charge of Division-II (G/South & G/North Wards). He stated that earlier he had visited the subject premises for issuing NOC of fire safety measures for the addition/alteration work for Trade House bldg. on 19/09/2017. He also stated that no compliance is obtained by concerned Architect/establishments for the said work after carrying out the works.

##### **4.7.2.4. Statement of Mr. Sandip Shivaji Shinde, ADFO.**

Mr. Sandip Shinde stated that in all he has given three NOCs dtd. 23/12/2016, 10/02/2017 & 08/04/2017. Moreover, he has not inspected the subject premises.

He has submitted supplementary statement on 16/08/2017. He stated that he was appointed as Assistant station officer in Mumbai Fire Brigade on 16/09/2000

and promoted as Station Officer since then worked as incharge officer at Mulund, Dharvi. He has been Promoted as Assistant Divisional Fire Officer since 01/06/2016 and took charge of Assistant Divisional Fire officer, Subdivision 7 since then. He has elaborated list of duties.

He has offered his statement in two parts .

i) Clarification as regards to NOC issued under No. FBL/416/R-II/42/dated 10/02/2017, FBL/R-II/stn.06/DVS/146/dated 08/04/2017 & FBL/R-II/stn. 06/ RBP/ 61 / dated 23/12/2017

As regards to NOC No. FBL/R-II/stn.06/DVS/146/dated 10/02/2017, it is stated that the He had received an application of B. R.Gandhi & Associates for proposed addition / alterations with change of Activity, marked to him. On observation that the plans O.K. the NOC issued with the sanction of Dy Ch. F.O.

As regards FBL/R-II/stn.06/DVS/146/dated 08/04/2017, NOC for eating house Tirupati Restaurant & Cafe Pvt.Ltd. was issued on inspection by station officer Shri V. D. sawant ( Demise on 11/06/2017) with terms & condition as per codified fire safety requirement Ease of Doing. Business. The said NOC was sanctioned as per circular issued by Mumbai Fire Brigade No. FBH/OD/502 dated 30/10/2015 .

As regard to NOC No. FBL/R-II/stn.06/RBP/61/dated 23/12/2017, it is stated that as per demand of Medical Officer G/S ward , Station officer Shri R. B. Patil on inspection of site had submitted NOC for his signature. This NOC is granted on examination of NOC granted in past to this establishment for addition & alteration No. FBL/417/RII/181 dated 26/09/2017, NOC for eating House No. FB/L/RII/stn 06/DVS/89 dated 26/11/2017 for LPG cylinder Licence issued by health department No. 887704986, also approval for change of activity U/No EB/732/GS/A & on being told by shri R.B.Patil regarding safety of establishment & terrace being open. On being told staircase to terrace in case of emergency exit is adequate and terrace is open to sky. It is further stated that the said NOC

to the establishment is issued as per circular No 97 dated 18/11/2017 (Annexure Two of the statement of Mr. Shinde).

It is further stated that the NOC are issued subject to compliances , with the technical advice of Health Department/Building & Factory Department/Building Proposal Department subject to terms & condition Mentioned therein. The compliance of the same is to be looked after by such Establishments & various department. On reference from various department & establishment fire safety report is issued. No reference is received to his office regarding non compliance of terms & conditions of NOC and Establishment did not comply the terms & conditions of NOCs.

ii) Regarding Non Inspection of the Premises MOJO &1 Above with reference to statement dated 10/01/2010. Mumbai Fire Brigade in circular have issued the directions to check the residential & commercial buildings. As per Fire Act no guidelines are issued regarding checking of establishments like hotels, factories. The Fire Act 2006 is under implementation from 2009. As per Mumbai Fire Brigade circular No FBH/OD/1249 dated 28/10/2016 regarding fire act inspection (Annexure three), additional divisional fire officer is supposed to inspect minimum 2 two commercial or residential building having height more than 70 m per month in addition to his routine work. He stated that in his subdivision 7 there are such 570 residential & commercial building and as such simultaneous inspection is not possible. He stated that he has inspected 2 buildings per month and submitted the list of buildings inspected. He has done his duty competently.

He stated that he has done his work in respect of kamala mill as per routine work procedure and as per circulars.

He further stated that he has done his unblemished duty honestly for 17 years with integrity. He has done good work on various occasion. He stated that for the rescue of 50 lives from fire at Ahmad Umar building Dadar on 21/11/2015 his name was recommended for 'Presidential Medal' by Department in 2016.

**4.7.2.5. Statement of Mr. V. D. Mayekar, A.D.F.O.**

Mr. V.D. Mayekar stated that he has not given any NOC for the subject premises nor received any complaint regarding the subject premises. He also stated that he has been given additional charge of Worli & Shivaji Park Fire Stations from July 2017 to December 2017 in addition to his regular administrative and fire operation work of Dharavi & Dadar Fire Station.

**4.7.2.6. Statement of Mr. Rajendra Baban Patil, Station Officer.**

Mr. Rajendra Patil stated that the N.O.C. of the subject premises was issued only after receiving letter from MOH G/South deptt. and forwarded to MOH G/South to issue final NOC to the establishments. He also stated that he has issued NOC for the use of open to air terrace for serving food at 1Above situated at 3rd floor (lower level) with respect to the application received on 21/12/2017 and the premises were visited by him 22/12/2017 and accordingly NOC was forwarded to MOH G/S on 23/12/2017. He also states no action initiated/taken in the past by his department. He also stated in his statement that with respect to the reference received from MOH, G/S, he had visited the subject premises and accordingly the NOC was submitted to Mr. S.S. Shinde for his signature and to issue this NOC he has referred and checked the earlier NOCs issued by C.F.O. department. by different authorities. Moreover, in the interest of the safety of the establishment of the terrace he has checked the terrace area with respect to the adequacy of staircase with location of the establishment and the lift required for emergency exit. During his visit he has observed that the entire terrace was open to sky and taken photographs which were enclosed for the approval of A.D.F.O., Mr. Sandip Shinde.

**4.7.3. Statement of Assistant Commissioner, G/South Ward****4.7.3.1. Mr. Prashant Sapkale**

Mr. Sapkale in his statement has mentioned that he was posted in G/South Ward between 09/03/2017 to 30/12/2017. His statement is attached in Annexure-8.9,

which consists for four Annexure from A to E. The annexure A is about daily reports he obtained from the DO/AE BF, Annexure B is of reports of disposal of complaints received as MCL A,B,C/ACPG/MCPG/Lokshahi Din Complaints, Annexure C is photographs from the website of interior decorator M/s.Sumessh Menon Associates, Annexure D is photographs of demolitions at 1Above and Mojo's Bistro Restaurant.

He emphasised that he would personally examine all communications received by the building and factories department. He had also instructed to take all the complaints about unauthorised construction in the RETMS system so as to ensure that no complaint goes unattended and is taken to its logical end. He used to personally take reviews of the AE, B&F staff on daily basis and to support his argument has submitted Annexure A of 307 pages having daily reports of activities done by B&F department under him.

On the query whether he approved the eating house license of M/s. Mojo's Bistro Restaurant he submitted that the same was done by him after the site was inspected by Sanitary Inspector, M.O.H. 'G/South ward and Deputy E.H.O. and they certifying and recommending that this premises fulfils the five conditions as expected in E.O.D.B. circular.

He has mentioned that he has taken very stringent action against unauthorised constructions by personally taking reviews of complaints and provided all logistic support of man and machinery to the DO (Designated Officer) for demolitions of such structures. He mentioned that he has taken report about progress of demolition done at kamala mill compound at third floor of restaurant 1-Above and Mojo's Bistro from the DO's staff on the day of demolition and the staff sent him on whatsapp the photographs of the ongoing demolitions at this site. The DO submitted report about the said demolition to him which he has seen and returned. He argued that the DO has submitted report after completing the demolition and should have uploaded the photographs of the same in the RETMS system to close the complaint which he has not done yet. He mentioned that though MOH has sent a letter about unauthorised construction on the open

terrace to DO he was not aware of the same as copy of the same was not submitted to him.

He vehemently denies that he has asked the SE B&F/ DO or his staff to stop demolition or to not take any further action of demolition at this restaurant. To support his argument he submitted that he has in fact given approval to the MOH to take seizure actions at both restaurants after the date of demolition at said restaurants. He further mentioned that the DO has in fact submitted a demolition report to him which has no mention that the demolition was done only to the extent of 70/80 %. He argued that he has always instructed DO and his staff to keep the sites under active observations after demolitions at the said site. The DO and his staff seem to have not done so and hence the restaurant owners reconstructed the structure on the open terrace where the fire took place. The allegations made by the SE B&F and DO are therefore to save them from the disciplinary actions. He felt that the DO and his staff should be able to handle the workload of the complaint received with the given staff strength.

He submitted that the structure of 1-Above was constructed prior to January 2017 based the photographs he submitted which were downloaded from the website of M/s. Sumesh Menon Associates who have undertaken the work of interior decoration of the 1Above restaurant who has uploaded the photographs of the work he undertook at the open terrace by unauthorisedly covering it. He has mentioned on his website that they have completed 8000 square feet of 1Above Rooftop Lounge in January 2017. The interior decorator has stated the selection of various materials used in the making of this structure which was totally unauthorisedly constructed.

Mr. Sapkale has also submitted a YouTube Video of launch party of 1Above which was uploaded on 16th January 2017 which he said proves that the said unauthorised structure was constructed prior to his taking over in G South ward as Assistant Commissioner.

He has thus submitted that he has been very particular and sincere in his approach towards the actions unauthorised construction and illegal use and has issued orders from time to time to ensure curbing such activities.

#### **4.7.3.2. Dr. Bhagyashri T. Kapse**

She has stated that she was Assistant Commissioner, G/South in the period from 30/10/2017 to 08/03/2017.

She stated that she has approved the eating house license for 1Above Restaurant as per the circular no. HO/44380/C Dated 01/03/2016 regarding Govt. of Maharashtra's policy of "Ease of doing business" and policy circular from EHO u/no. HO/33455 dated 16/12/2016.

She has explained that she has given her approval after the M.O.H. examined the proposal and submitted the same to Deputy E.H.O. who in turn after verifying recommended it to her as all conditions as required under the above mentioned policies were complied with. On the query whether the unauthorised work in the terrace of Trade House building was erected during her tenure she replied in negative. She mentions she was busy in election works and she has not visited the site of this trade before or after issuance of license. She stated that there were no complaints during her tenure about this unauthorised construction.

She submitted various memos she had issued to the staff of Building and Factory department for their in-actions against unauthorised constructions and suspended one Junior Engineer Mr. Warude. On the query that from the photographs submitted by Dr.Kapse, Assistant Commissioner, G/South shows that the unauthorised covering of the terrace was done before January 2017. She has given various reasons which she felt shows that the same was not true. She felt that these photographs and Youtube video does not prove unauthorised work done for covering. Apart from other reasons she has mentioned the email correspondence between the Times Network and the two restaurants about damage to their roof due to possibility of flooding due to rain water draining towards their roof which means that there was no construction present till

13/06/2016. She also mentioned about the inspection reports of MOH department not mentioning anything about the unauthorised shed.

She has submitted a report of her site visit in kamala mill compound on 04/07/2016 along with the staff of Building and Factory, MOH, A.E.Maint, A.D.F.O. Mr. Shinde and staff of Building Proposal department and her instructions to initiate actions against violations observed during her site visit.

In view of the above she submitted that she has been vigilant about her work and not neglected any complaint.

#### **4.7.4. Statement of staff Medical Officer of Health Dept. G/South**

##### **4.7.4.1. Statement of Dr. Satish Baburao Badgire, MOH(G/S)**

Dr. Badgire stated that during his tenure he has received the applications for the subject premises i.e. Mojo's Bistro and 1Above and the licence was issued with a validity upto 13/04/2017 to 11/04/2018 for Mojo's Bistro and 22/12/2016 up to 18/12/2018 to 1-Above.

He stated that he has visited the said premises with respect to the applications received for the subject premises for inspection before issuing licence required u/Sec. 394 of MMC Act. The details of the visit are stated in the statement.

On the query whether he had observed any work carried out as per approval/without approval at these premises he stated that as per Ease of Doing Business policy Public Health Deptt. has no role regarding addition/alteration/authorisation of the structure. However, in response to the complaint received, the concerned Sanitary Inspector has visited the site and accordingly the number of I.R.'s were served for different violations. The details are given in his statement.

On query whether any action was initiated in past/recently, the details have been provided by him in his statement vide point no. 13 which are elaborated at Annexure 8.9 in this report.

He has shared additional information such as actions taken on violation of licence condition and the details of CFO NOCs for the subject premises vide Annexures 8.6.

In addition to his statement submitted on 10/01/2018, he has submitted the addendum to his statement providing the details of the seizure action and details of his routine personal visit to the area on 07/11/2017. During his visit on 07/11/2017 he states that the trade activity beyond licence area was discontinued which was earlier noticed during the seizure action and the visit on 26/10/2017 followed by next visit on 27/10/2017 at 7.45 p.m. with his team members and the seizure action was successfully undertaken at Mojo's Bistro & 1-Above Restaurants.

**4.7.4.2. Statement of Dr. Devendra Adinath Golhar, MOH(G/S) addl. Charge.**

Dr. Golhar stated that he has been given additional charge as MOH G/South in addition to his original assignment as MOH F/South .

In his statement he has provided the typical procedure of Ease of Doing Business which is being followed in granting licences to the Eating Houses and also regular work of Sanitary Inspector, his duties and the procedure of cancellation of licence.

This information is provided just to brief the Committee as how the deptt. functions while granting licences to Eating Houses.

**4.7.4.3. Statement of Mr. Pradip Maruti Shirke, Sanitary Inspector, (G/S)**

He stated that for last four years he is incharge of the same area where the subject premises Mojo's Bistro and 1-Above are located.

He has provided all the details and proceedings with respect to the applications received by the applicants of the subject premises.

He further stated that on 17/05/2017 he has visited the subject premises and he has noticed that the terrace is being used for the commercial purpose.

Again on 25/05/2017 when the same premises was inspected, he observed that conditions in the license were not complied by the establishments and accordingly prosecution was initiated.

Similarly, on 13/07/2017 and 23/08/2017 he had visited the site and it has been observed that the terrace is being used for commercial purpose and even in restaurant the smoking activity was observed. Accordingly, he had initiated prosecution against the establishment and a reference was made to that effect to A.E. (B&F) dtd. 24/08/2017 about unauthorised construction on the terrace.

In his statement he has provided the information on seizure action notice which was served on 21/09/2017 followed by the seizure action on 27/10/2017

#### **4.7.5. Statement of staff of Building & Factory G/ South Department**

##### **4.7.5.1. Statement of Mr. Milind Vhatkar, A.E.(B&F) G/South**

A.E. has stated that he has rejected the application received from the applicants for Hotel Mojo's Bistro & 1Above seeking permission for the monsoon shed on the terrace and the same was rejected u/No. ACGS/10539/BF dtd. 23-6-2017

He has stated that the action u/Sec. 351 of MMC Act and u/Sec. 55 of M.R. & T.P. Act was taken by serving 2 nos. of notices on 31-5-2017 & 04-7-2017 respectively.

He further submitted that demolition action of all four notice structures was taken after issuance of notices and, following due process of law.

He also stated that the complaint under Sec. 52/43 of M.R. & T.P. Act has been lodged with N.M. Joshi Marg Police Station and FIR is registered against Hotel Mojo's Bistro & 1Above on 30/12/2017.

**4.7.5.2. Statement of Mr. Madhukar Gopichand Shelar, A.E.(B&F), G/south.**

Mr. Madhukar Shelar has worked as A.E.(B&F)G/south during the period 21/08/2012 to 02/07/2016

In his statement he stated that on 02/07/2016 he was transferred as A.E. (B&F) 'S' Ward

He further stated that during his tenure he used to forward all the references in respect of illegal constructions and the directions from the superiors to the concerned S.E. & J.E. and he used to obtain the Inspection Reports from the concerned S.E. & J.E. to initiate the lawful actions against the illegal constructions by giving proper directions.

He also stated that no information or complaints were received in the office of Bldg. & Factory of G/South Ward during his tenure and no such reports were received by his subordinates incharge of the respective beats.

He also stated that during his tenure, proper instructions used to be given to all concerned to take lawful action against the illegal construction and the proper disposal

Finally, he concluded his statement stating that he is no way related to the Kamala Mill fire incident.

**4.7.5.3. Statement of Mr. Manohar Vasudev Kulkarni, A.E.(B&F)G/south.**

Mr. Manohar Kulkarni has worked as A.E. (B & F) during period 13/07/2016 to 26/05/2017.

He stated that during his tenure he used to forward all the references in respect of illegal constructions and the directions from the superiors to the concerned S.E. & J.E. and he used to obtain the Inspection Reports from the concerned S.E. & J.E. to initiate the lawful actions against the illegal constructions by giving proper directions

He stated that no information or complaints were received in the office of Bldg. & Factory of G/South Ward during his tenure and no such reports were received by his subordinates incharge of the respective beats.

He stated that during his tenure, proper instructions used to be given to all concerned to take lawful action against the illegal construction and the proper disposal

#### **4.7.5.4. Statement of Mr. Dinesh Yashwant Mahale, S.E.(B&F)G/south.**

Mr.Dinesh Mahale has worked as S.E. (B & F) during period 01/10/2015 till the date of suspension i.e. 29/12/2017.

He has stated that the subject premises were visited by him for the purpose of inspection so as to issue notices to initiate action against the illegal constructions u/Sec. 351 of MMC Act and u/Sec. 55 of M.R. & T.P. Act respectively. The said notices were served by his office on 31/05/2017 and 01/07/2017 respectively and finally on 02/08/2017 the demolition action was taken.

He stated that he has observed unauthorized shed for covering open terrace and other unauthorized works and accordingly the notices were served.

On the day of demolition i.e. 02/08/2017, they could complete the demolition action to the extent of 70-80% and thereafter it was stopped on telephonic orders of Asstt. Commissioner, G/South.

On the query whether any action was initiated in past/recently at fire incident site and to provide dates and details. He stated that the demolition was carried out of Mojo's Bistro & 1Above on 02/08/2017. However, the past record of the said beat from his predecessor was not handed over and so he is not aware of the demolition action or other matter.

On the query as to why demolition was not done 100% , he stated that Asstt. Comm. G/South had ordered him to stop the demolition when the demolition had reached upto 70-80% only.

**4.7.5.5. Statement of Mr. Dharmaraj Shinde, J.E.(B&F)G/south.**

Mr. Dharmaraj Shinde stated that he was relieved on 20/03/2017 from G south ward.

He stated that no complaints were received during his tenure regarding 1Above Restaurant.

He stated that he did not inspect the premises under reference as no specific orders were given by his superiors for inspection

He states that during his tenure all the complaints received by him regarding Kamala Mill Compound were attended by him as per lawful action.

He stated that he had inspected all the establishments in the premises of Kamala Mill Compound on 04/07/2016 as per the directions received from his superiors and lawful action was initiated against the illegal constructions.

**4.7.6. Statement of Shop & Establishment Department**

As per statement of Senior Inspector ( Shops & Establishment), it is compulsory for employer to register the establishment which are in business as per provision of Maharashtra Shop & Establishment Act 1948. The said registration is registration certificate and not a license. The registration has nothing to do with ownership but related to the labour law. As per online registration procedure since 01/01/ 2018 on submission of document online as per Proforma-A are scrutinised by Zonal Inspector and accordingly recommended or rejected & accordingly registration certificate is granted.

The Proforma-A alongwith undertaking submitted by employer Mr. Kripesh Sanghvi of Sigrid Ospatalita & Entertainment LLP (1-Above), with requisite documents on 4<sup>th</sup> November, 2016 and accordingly registration certificate is issued (GS/IV/762258945) after verification & site inspection.

The Proforma-A alongwith undertaking submitted by employer Mr. Yug Pathak and Mr. Yug Tuli for establishment Tirupati Restaurant & Cafe Pvt Ltd (Mojo's ) ,with requisite documents is submitted online on 14<sup>th</sup> April.2017 and the registration certificate is issued (GS/IV/762196098) is issued as per circular LI/5107/SE dated 26/12/2016.

#### **4.7.7. Statement of Assessor & Collector**

As per record of Assistant Assessor & Collectors, rateable value for the building under reference is as per record of 2007-2008.

As per statement of Assessor & Collector the account No of the said property is GS0602410000000 and last inspection is dated 15/12/2015. So also it is stated that as per order of the then Assistant Commissioner 'G/South' Ward dated 13.11.2017, it is directed to inspect the premises of each Mill along with one engineer to find out unauthorised work in each mill, if any. Accordingly, the work from Raghuvanshi Mill has been started. They have not yet started inspection of the Kamala Mill Compound.

#### **4.7.8. Statement of Assistant Engineer, Water Works**

As per statement of S.E.(W.W) G/South & J.E. (W.W.) G/South from the office of Assistant Engineer (W.W.) G/South, it is stated that as per available records, 100mm x 100mm dia water connection to common suction tank is given and charged at commercial rate. No application for separate water connection is allowed to the said 1-Above Restaurant & Mojo's Bistro Restaurant. There is no specific deviations with respect to this premises.

#### **4.7.9. Statement of staff of Vigilance Department**

Mr. Shankar Jaising Bhosale, working as AE (Vig) from June 2015 to 11/09/2017, Mr. Kamalaxa Ramanana Shetty, working as AE(Vig)G/S since 12/09/2017 & Mr. Manoj Kamat working as EE(Vig) since Sept 2015, have recorded their statement which as follows:

As per circular u/no. ChE(Vig)/1372/B dtd. 23/08/2007, regarding various complaints against unauthorised work/construction office of Chief Engineer can initiate scrutiny of specific case as per orders by Hon'ble M.C./ A.M.C. only.

On going through the office record, it is gathered that Vigilance department has received three complaints against alleged unauthorised construction/works in the kamala mill compound layout. As per the guidelines of circular stated above, all the three original complaint papers received were forwarded to the concerned authorities for taking further necessary action at their end. However, no specific complaint about alleged unauthorised works against restaurant Mojo's Bistro & 1-Above was received.

#### **4.8. Permissions issued by MCGM departments and action taken.**

##### **4.8.1. Permissions issued by Building Proposals Department**

###### **A. Occupation Certificate**

This is one of the buildings in kamala mill layout namely 'Trade House building A' having Existing Basement + Ground + 2 upper floor + 3<sup>rd</sup> part (lower & upper level), where the fire broke out on lower 3<sup>rd</sup> floor on 29.12.2017. As far as structure under reference is concerned occupation certificate to extension to Building A at 3<sup>rd</sup> floor in Tower 'A' wing was granted on 31<sup>st</sup> March 2012.

The architect had submitted amended plans on 01/10/2014 for addition alteration and change of user in existing building 'A' (i.e. Trade house building under reference). Earlier basement of the building 'A' was approved for storage purpose and architect proposed change of user in part portion of the basement from storage to IT./ITES. This was approved on the plan for addition & alterations to the extensions to the existing building "A" was approved on 14/11/2017. The architect did not propose any amendment to the part 3<sup>rd</sup> floor of building 'A' in the area where the license for these establishment was granted.

**B. Amendment for Plans for change of activity from existing office to restaurants on 3<sup>rd</sup> floor.**

The M/S B.R. Gandhi & Associates, Architect had submitted amended plans proposing change of activity and addition/alteration on part 3rd floor (lower level) of building 'A' from office activity to restaurant activity as per letter dated 13/02/2017. The architect had shown two restaurant units in part 3rd lower level. The architect had submitted NOC from CFO u/no. FBL/416/R II/422 dtd.10/02/2017. As per CFO NOC, the open to sky terraces were shown accessible by emergency exits and fire escape doors and from terrace the staircase was shown accessible. The premises were also shown to be accessible by two lifts which directly opened at ground floor. The third floor is shown accessible by another staircase through fire escape balcony. Accordingly the approval to the proposed change of activity was granted vide approval dated No EB/732/GS/A 16/02/2017 within existing approved structure, subject to conditions mentioned in the approval letter dtd. 16/02/2017. As per approved plan dtd. 16/02/2017, no permission is granted by building proposal department to the open to sky terrace where fire incident took place.

**C. New IT Office along with lift proposed and approved but work not executed.**

Further, it was observed that Architect M/S B.R. Gandhi & Associates, had submitted the amended plan on 08/08/2017 thereby proposing new IT Office and 2 NOS of lifts and regularisation of the work on 3<sup>rd</sup> floor which was approved online under No EB/732/GS/A dt 05/10/2017. No addition /alteration was proposed in the approved area of restaurant area. The CFO NOC for the same is issued u/n FBL/417/181 dtd 26/09/2017. However, the work of I.T. Offices along with the erection of the lift is not seen carried out on site.

No completion certificate was seen submitted by owner or Architect M/s. B.R. Gandhi & Associates.

**D. Site visit by Building Proposal staff at Kamala Mill Compound on 06/01/2018.**

In this case it is also important not to limit the enquiry only upto the concerned building. It is imperative that the whole Kamala Mill Complex is examined for violations and possible deviations from the law. In order to this, the B.P. staff was directed to make a primary assessment of Kamala Mill Compound.

Regarding Kamala Mill layout, the building under reference was inspected on 06/01/2018 along with other buildings in this compound. It is observed that there are gross violation of FSI and or additions and alterations without approvals , as well as it needs to be checked whether the various activities/uses which are running in this compound are as per the I.T. policy of Government of Maharashtra for which the Department of Industries is the Competent Authority/Nodal Agency for such verification. There is strong prima facie evidence to indicate that there are gross violations and misuse of permitted activities. There is thus need to completely check DCR violations, together with user violations in the complete mill compound. This is required to be checked and with the limited time period this is not possible. Hence it is required to be thoroughly checked and analysed which will be done in next 4-5 months.

**4.8.2. Permissions from Fire Department**

**4.8.2.1. Role of Assistant Divisional Fire Officer and his staff**

In the process of Enquiry, the officers in the capacity of A.D.F.O., Station Officer, D.F.O. & Dy.C.F.O. were considered and the statements of the respective officers have been taken.

It appears that as per the procedures laid down in the office of CFO, the deptt. of CFO deals with NOCs required for the Bldg. Proposal Dept. before granting Development Permission, Occupation Certificate, at the time of addition/alteration and when the premises are to be given license u/Sec. 390, 394 of MMC Act.

Moreover, the deptt. used to issue NOCs for the events, change of activities and rooftop eating houses which has been recently introduced in MCGM. Referring to the statements, it appears that for fire safety NOC for the works related to additions/alterations, have been dealt with by the A.D.F.O. & Asstt. A.D.F.O. and finally they submit the NOCs for the approval of Dy.C.F.O. The other NOCs that they issue u/Sec. 390 & 394 of MMC Act for events, rooftop eating houses, are dealt with by Station Officers, A.D.F.O. & Divisional Fire Officer. All these NOCs are dealt by respective officers by inspecting the premises and then only the proposal is processed for NOC and approval of the Competent Authority.

Moreover, it also appears that after the NOC to the applicant is given, the deptt. has to ensure the compliances.

- From the statement of A.D.F.O., Shri Sandip Shinde, he states that he has not inspected the site or the subject premises but dealt with the subject of granting NOC based on the report submitted by Station Officer, Shri Rajendra Baban Patil, who has processed the matter for addition/alteration, eating house, L.P. Gas, change of activity on the proposal submitted by the applicant. After verification of the documents and after inspecting the terrace all the documents including the photos of the terrace were submitted to A.D.F.O., Shri Sandip Shinde for reference.
- From the statement of Station Officer, Shri Rajendra Baban Patil, it appears that the application for the use of open to air terrace for serving food at 1Above situated at 3<sup>rd</sup> floor (lower level), was received on 21/12/2017 and the premises were inspected by him on 22/12/2017 and accordingly the NOC was processed further.
- It also appears from the statement of Addl. Fire Officer, Shri A.V. Parab, that before issuing NOC, the site was inspected and based on the same, the provisional NOC was prepared by Station Officer for further approval.

From the above elaboration, it seems that before dealing with this kind of NOCs, the premises are inspected by the Station Officer.

#### 4.8.2.2. Permissions from Fire Department

The permissions granted by Fire Deptt. have been procured from the office of C.F.O. and from M.O.H. G/South. The following permissions by Fire Deptt.& conditions in the form of NOCs are given below chronologically.

Sr. No.	Date of Issue	Subject	Issuing Authority	To whom issued
1	26/11/2016	To use 8 nos. of L.P. Gas cylinder (4 + 4) for 1Above with 44 no. of condition  FBL/RII/Stn.no. 06/DVS/89	Station Officer, Mr. D.V. Sawant & A.D.F.O., Mr. A.V. Parab	M.O.H. G/South
2	10/02/2017	For proposed addition/ alteration i.e. interior work, wooden/ glass partition with change of activity from existing office to restaurant on 3rd floor level on existing bldg. A, Trade House with 33 nos. of conditions  FBL/416/RII/422	Dy.C.F.O.	E.E.B.P. City
3	08/04/2017	For the proposed trade of Eating House in the kitchen of M/s. Tirupati Restaurant & Café Pvt. Ltd., 2nd floor with 43 nos. of conditions FBL/RII/Stn. no. 06/DVS/146	Station Officer, Mr. D.V. Sawant & A.D.F.O., Mr. S.S. Shinde	M.O.H. G/South

4	26/09/2017	For proposed addition/ alteration i.e. interior work, wooden/ glass partition on 3rd floor level on existing bldg. A, Trade House and installation of 2 nos. of lifts with 10 nos. of conditions  FBL/417/RII/181	Dy.C.F.O.	E.E.B.P. City
5	23/11/2017	Fire safety measures for the use of open to air terrace for serving food to 1Above with 10 nos. of conditions FBL/RII/Strn.06/RBP/61	Station Officer, Mr. R.B. Patil & A.D.F.O., Mr. S.S. Shinde	M.O.H. G/South

With reference to the different terms and conditions specified in the NOCs issued by C.F.O. Department, the prominent conditions which were violated by the owners of the premises and the restaurant owners are submitted by the Chief Fire Officer vide his report under No. FBH/OD/1711 dated 12/01/2018, which is tabulated below for the clarity on violations.

**Chart showing the violations of Fire Safety requirements of issued NOCs.**

Sr. No.	Date of Issue	Subject	Conditions Number as in N.O.C.
1	26/11/2016	To use 8 nos. of L.P. Gas cylinder (4 + 4) for 1Above with 44 no. of condition  FBL/RII/Strn.no. 06/DVS/ 89 dtd. 26/11/2016	3) Rear side exit of the premise shall be kept open during all the working hours.  7) Good housekeeping shall be maintained on the premises. All inflammable packing and other material should be removed time to time.  20) No other fuel such as kerosene, diesel oil, coal, coke, firewood, C.N.G. etc. shall be permitted in the storage area.

		<p>21) Premise shall be kept well ventilated.</p> <p>23) Dwellings, smoking, use of naked light / flame (other than permitted) shall be prohibited on the premises.</p> <p>24) Storage of any other inflammable substances shall be strictly prohibited on the premises.</p> <p>34) All the above said requirements shall be fulfilled before the use of L.P.Gas.</p> <p>35) The compliance of the Fire safety measures / requirements which is mandatory from fire safety point of view, shall indemnify and in case of default, the user is liable for prosecution.</p> <p>36) These remarks are offered from the fire risk point of view only and necessary permission / clearance under section 394 of MMC Act and other permission / rules applicable shall be obtained from other concerned departments / authorities to make the activity legalized and regularised.</p> <p>39) Internal layout and construction, addition and alteration shall be strictly in accordance with the details shown on the plan and shall be got approved from A.E.(B.&amp; F.) 'G/South' Ward</p> <p>40) Authenticity of the area, premises, structure, trade activity and other approvals shall be verified and confirmed by the concerned M.C.G.M. authorities.</p> <p>41) The fire safety measures / requirements if fulfilled, the MOH shall confirm the compliance before renewing Trade licence.</p> <p>43) Above mentioned fire safety measures have been stipulated irrespective of ascertaining area authenticity of the premises. However, same shall be</p>
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			checked and verified by the concerned authority of MCGM from 'G/South' Ward.
2	10/02/2017	<p>For proposed addition/ alteration i.e. interior work, wooden/ glass partition with change of activity from existing office to restaurant on 3rd floor level on existing bldg. A, Trade House with 33 nos. of conditions</p> <p>FBL/416/RII/422dtd. 10/02/2017</p>	<p>2) The doors of the cabins shall be having one hour fire resistance with self closing device.</p> <p>3) The common corridors of at least 1.5 mtrs. Width shall be maintained free from any obstructions, encroachments from front to rear side.</p> <p>4) Common Corridor, entrance lobby and the rear exit shall be maintained free from any obstructions and encroachments and storages so as to afford easy means of egress/ingress in case of emergency.</p> <p>5) The openable windows shall be provided at each office cabin on premises.</p> <p>6) Doors to the common corridors connecting to the means of escape shall be of two hours fire resistance and self closing type.</p> <p>11) All the timber partitions shall be painted with fire retardant paints.</p> <p>14) The entire premises shall be provided with automatic smoke detection along with control panel, hooters etc. as per relevant standard and its panel shall be installed in the reception/security cabin.</p> <p>17) False ceiling suspenders/runners shall be of non combustible materials.</p> <p>18) Escape routes shall be indicated with fluorescent paint signages.</p> <p>19) Fir Axe for the purpose of breaking the glasses shall be provided in glass fronted box on the premises.</p> <p>21) Wherever duct or electric wiring passes through the walls, the opening around the</p>

			<p>duct or electrical work shall be sealed with fire resistance material such as vermiculite cement.</p> <p>22) The material uses for insulating the duct (inside or outside) shall be non combustible material such as glass wool, spun glass with neoprene facing etc.</p> <p>24) Round the clock well trained security staff shall also be provided to monitor fire alarm panel, use of fire extinguishers and to communicate in emergency to concerned authority i.e. Police, Fire Brigade.</p> <p>25) Evacuation drill shall be planned in consultation/cooperation with management and shall be conducted at least after every six months.</p> <p>26) Dwelling, cooking, heating and use of any naked flame shall be strictly prohibited on the premises.</p> <p>28) Dry Chemical Power 'ABC' type fire extinguishers of 06 kgs. capacity each having B.I.S. mark along with sand buckets filled with clean sand shall be kept near the electric cabin, electric installation.</p>
3	08/04/2017	<p>For the proposed trade of Eating House in the kitchen of M/s. Tirupati Restaurant &amp; Café Pvt. Ltd., 2nd floor with 43 nos. of conditions</p> <p>FBL/RII/Stn. no. 06/DVS/146 date 08-4-2017</p>	<p>1) The entrance, exit, passage shall be kept free from any obstruction.</p> <p>2) A Clear passage of at least one meter width shall be kept from entrance to the rear side.</p> <p>3) Rear side exit of the premise shall be kept open during all the working hours.</p> <p>6) No storage of any kind shall be done within the radius of one meter from any electric wiring and/or electric installations.</p>

		<p>7) Good housekeeping shall be maintained on the premises. All inflammable packing and other material should be removed time to time.</p> <p>8) The total area of the kitchen room should not be less than 150 sq.ft.</p> <p>9) Stationery installations above 40 kgs. but not exceeding 1000 kgs. Shall be installed outdoors on the ground level only. A minimum distance of 03 mtrs. Shall be maintained between an installation and any building, public place, road ways and other surroundings. The installation shall be protected from excessive weathering by sun, rain etc. and from tampering by unauthorised persons. A lean to roof with expanded metal on angle iron framework on the sides is considered suitable for expanded metal on angle iron framework on the sides is considered suitable for this purpose. In any case, adequate ventilation at ground level to outside air shall be provided.</p> <p>11) The cooking burners and shall be restricted to ten in numbers shall be kept on the raised non combustible platform at least one meter apart.</p> <p>16) All the parts of the installations including piping, manifold and other accessories shall be as per relevant I.S. Standards. (IS 6044-1 {2000} )</p> <p>17) Empty cylinders shall be replaced by an experienced delivery person / worker from the authorized gas distributing company and no naked light shall be kept "ON" when the L.P.G. cylinder is replaced.</p> <p>20) Premise shall be kept well ventilated.</p> <p>23) Storage of any other inflammable substances shall be strictly prohibited on</p>
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			<p>the premises.</p> <p>30) The flooring shall be kept free oil deposits and spillages.</p> <p>32) Exhaust Fans of suitable size and capacities shall be provided on external wall.</p> <p>34) The compliance of the fire safety measures / requirements which is mandatory from fire safety point of view, shall indemnify and in case of default, the user if liable for prosecution.</p>
4	26/09/2017	<p>For proposed addition/ alteration i.e. interior work, wooden/ glass partition on 3rd floor level on existing bldg. A, Trade House and installation of 2 nos. of lifts with 10 nos. of conditions</p> <p>FBL/417/RII/181 dtd. 26-9-2017</p>	<p>2) The doors of the cabins shall be having one hour fire resistance with self closing device.</p> <p>3) The common corridors of at least 1.5 mtrs. Width shall be maintained free from any obstructions, encroachments from front to rear side.</p> <p>5) The openable windows shall be provided at each office cabin on premises.</p> <p>6) Doors to the common corridors connecting to the means of escape shall be of two hours fire resistance and self closing type.</p> <p>11) All the timber partitions shall be painted with fire retardant paints.</p> <p>14) The entire premises shall be provided with automatic smoke detection along with control panel, hooters etc as per relevant standard and its panel shall be installed in the reception/security cabin.</p> <p>18) Escape routes shall be indicated with fluorescent paint signages.</p> <p>19) Fire Axe for the purpose of breaking the glasses shall be provided in glass fronted box on the premises.</p>

		<p>22) The material uses for insulating the duct (inside or outside) shall be non combustible material such as glass wool, spun glass with neoprene facing etc.</p> <p>28) Lift shaft walls on 3 sides shall be constructed of fire resistant not less than two hours.</p> <p>33) Lift shall be converted in to fire lift as per specifications laid down under the regulations, a toggles switch shall be provided to this lift for the use of firemen.</p> <p>38) Round the clock well trained security staff shall also be provided to monitor fire alarm panel, use of fire extinguishers and to communicate in emergency to concerned authority i.e. Police, Fire Brigade.</p> <p>39) Evacuation drill shall be planned in consultation / cooperation with management and shall be conducted at least after every six months.</p> <p>40) Dwelling, cooking, heating and use of any naked flame shall be strictly prohibited on the premises.</p> <p>42) Dry Chemical Powder 'ABC' type fire extinguishers of 06 kgs. Capacity each with B.I.S. certification mark shall be kept for every 100 sq. Mtrs at easily accessible places.</p> <p>43) The party shall obtained Structural Stability Certificate from Structural Engineer or N.D. tests and same shall be submitted to EEBP City and AEBF G/South ward before commencing and after completion of proposed addition alteration work till then work shall not be started.</p> <p>44) Stipulated fire safety measures compliance report of this department shall</p>
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			be obtained after completion of above proposed addition alteration works.
5	23/12/2017	<p>Fire safety measures for the use of open to air terrace for serving food to 1Above with 10 nos. of conditions</p> <p>FBL/RII/Stn.06/RBP/6 1 dtd. 23-11-2017</p>	<p>1) Circular No.HO/25201/C dated 10.11.2017 of Public Health Department shall be strictly followed with the additional following requirements.</p> <p>2) The terrace shall be kept open at entrance/exit &amp; it shall not be kept under lock &amp; key.</p> <p>3) The entrance / exit to the terrace shall be kept unobstructed all the time.</p> <p>4) Flooring of the terrace shall be non-combustible i.e. without provision of any synthetic flooring, wooden flooring, carpet etc.</p> <p>5) Furniture used shall be of non-inflammable material.</p> <p>6) Fixed fire fighting installations hydrant outlet with first aid hose reel shall be provided at the terrace level or at mid-landing level of top floor and terrace. self-certification regarding the same shall be obtained from the applicant by MOH before issuing permission.</p> <p>7) One dry chemical powder (Class ABC) type fire extinguisher having 09 kg capacity and ISI mark shall be kept for every 100 sq.mt. area.</p> <p>8) The parapet wall / railing of the terrace shall be as per sound engineering practice and the same shall be verified by A.E.(B.&amp; F.) from 'G/South' Ward before issuing the permission.</p> <p>9) Occupant load in respect to number of staircases / lifts shall be verified by A.E.(B.&amp; F.) as per N.B.C. / D.C.R.</p>

			<p>10) Electrical safety :</p> <ol style="list-style-type: none"> <li>a. The entire electric wiring shall be laid in metal conduit or in PVC.</li> <li>b. Nothing shall be done within the radius of one meter from any electric wiring electric installations including lamps and switches.</li> <li>c. The electric mains shall be switched off daily before closing the activity.</li> <li>d. All electric heating appliances shall be provided with a thermostatic control valve and ELCB / MCB shall be incorporated in the circuit.</li> </ol>
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Referring all these permissions granted by C.F.O. Department, the compliance of all the conditions were expected to be observed by the owners and submitted to the concerned department.

#### **4.8.3. Permissions issued and action taken by MOH G/South ward**

##### **4.8.3.1. Permissions/Actions against Mojo's Bistro Restaurant.**

###### **A.1. Issue of eating house licence :**

The application for issuance of eating house license was submitted by Tirupati Hospitality Pvt Ltd u/n 50797 on 14/03/2017 and letter stating that name of the company has been changed from Tirupati Hospitality Pvt Ltd to 'Tirupati Restaurants & Cafe Private Limited' u/n 51622 on 20/03/2017.

The C.F.O. N.O.C. referred for issuance of license was issued by Fire Department Under No.FB/L/416/R II/422 dated 10/02/2017 and the reference plan was sanctioned from the Building Proposal department under No.Eb/732/GS/A dated 16/02/2017.

From the records of MOH(G/S) the application for the grant of trade license u/sec. 394 of M.M.C.. Act was submitted by MOH(G/S) on 10/04/2017, and endorsed by DEHO(Zone-II) and was approved by Asstt.comm.(G/S) on 11/04/2017.

The C.F.O. N.O.C. which was issued by the station officer, Mr.D. V. Sawant, Mumbai fire brigade on 08/04/2017 to MOH(G/S) for use of LPG pipe gas fuel in the kitchen (6 in use + 6 in spare, each having 19.5 kg capacity) for the premises under reference.

The MOH issued a letter under no ac GS/50797/MOH dated 12/04/2017 to Mr. Yug K Pathak directing them to comply the conditions in the NOC of fire department dated 08/04/2017. Mr. Yug K Pathak vide his letter dated 12/04/2017 submitted that they have received the letter and complied with the CFO conditions and requested to grant the license. As per the records collected from MOH(G/south), the initial license u/sec. 394 was granted to the premises known as M/s. Tirupati restaurant and cafe Pvt.Ltd. U/no. 887721300. The said license was granted in the name of Mr. Yug K. Pathak whose address as mentioned on the license is 3rd floor, Lower Parel, Trade House, Kamala Mill, S. B. Marg, Lower Parel, Mumbai 400013 for the area admeasuring 296.90 sq.mt. The period for the said license is from 12/04/2017 to 11/04/2018.

#### **A.2. Inspection reports issued:**

It is observed from the records that from 12/04/2017 upto 23/08/2017, three inspection reports were issued to the said establishment. the first inspection report on 17/05/2017 was issued for violations of using the terrace for trade activity. The second inspection report was issued on 13/07/2017 for infringement of licence condition. The third inspection report was issued on 23/08/2017 for violation of license i.e. using terrace for trade activity as well as allowing smoking in the eating house premises. For all the three inspection reports the M.O.H. has filed offence sheets and prosecution is filed in the Hon'ble Court on 27/05/2017, 04/08/2017 & 22/09/2017 respectively.

**A.3. Seizure action taken:**

It is also seen that the seizure action notice was issued 11/09/2017, 18/09/2017 for violations observed i.e. Using terrace for trade activity/smoking in eating house. Seizure action is also taken on 27/10/2017. During the seizure action on 27/10/2017, the articles were seized i.e. 9 nos. of chairs, 3 nos. of tables and 6 nos. of hookah bottles.

**A.4. Intimation to A.E.(B&F)G/South Ward about unauthorised construction:**

It is also mentioned in the report that A.E.(B&F) was informed about the illegal construction on terrace vide no. AC/GS/MOH/364/SR dtd. 24.08.2017 regarding illegal construction on terrace of M/s.Tirupati Restaurant and Café Pvt .situated at 3rd floor, Lower Parel, Trade House, Kamala Mill, S.B. Marg, Lower Parel, Mumbai 400013.

**4.8.3.2. Permissions/Actions against 1-Above restaurant****B.1. Issue of eating house licence :**

The application for issuance of eating house license was submitted in the name of Sigrid Ospitalia And Entertainment LLP (1Above) on 11/11/2016..

The MOH issued a letter under no AC/GS/033050/MOH dated 19/12/2016 to Mr. Kripesh Mansukhlal Sanghavi directing them to submit and comply the conditions in the N.O.C. of fire department dated 26/11/2016. Mr. Abhijeet Mankar designated partner of M/s. Sigrid vide his undated letter submitted that they have received the letter and complied with the CFO conditions and requested to grant the license.

As per the documents available with medical officer of health for the premises under reference, it is seen that M/s. Sigrid Ospitalita and Entertainment LLP i.e. 1above has eating house license u/no. 8877048960 issued on 22.12.2016 with a validity upto 18.12.2017 in the name of the firm M/s. Sigrid Ospitalita and Entertainment LLP (sync with IR. Issued by MOH) and the name of the licensee

is Mr. Kripesh Mansukhlal Sanghavi and the address of the licensee as mentioned in the licence is 3rd floor, Lower Parel, Trade House, Kamala Mill, S.B. Marg, Lower Parel, Mumbai 400013.

The note below the license is “the said license does not in any manner certify the legality of the structure or various building premises” written since the same was issued under EODB ( ease of doing business ) circular which clearly mentions that the MOH is not supposed to check the authenticity of the building plans.

### **B.2. Identification and earmarking of Smoking Zone :**

Further the license in the name of M/s. Sigrid Ospitalita and Entertainment LLP is observed to be renewed under the same no. (i.e. 887704986) for the period 19.12.2017 to 18.12.2018 and the smoking zone for the area about 200 Sqft.

Further as per record the application for smoking zone was submitted by M/s. Sigrid Ospitalita and Entertainment LLP on 20.11.2017 and as per approval vide/no. AC/GS/38029/MOH signed on 2.12.2017 informed to Mr. Kripesh Mansukhlal Sanghavi of M/s. Sigrid Ospitalita and Entertainment LLP regarding grant a permission for smoking zone of area about 200 sq ft.

### **B.3. Inspection reports issued :**

It is observed from the records that, three inspection reports were issued to the said establishment. the first inspection report was issued on 17.05.2017 for violation of using terrace for trade activity. the second inspection report was issued on 13.07.2017 for violations of using terrace for trade activity. The third inspection report was issued on 23.08.2017 for violation of using terrace for as serving area as well as allowing smoking in the eating house premises. For all the three inspection reports the MOH has filed offence sheets and prosecution is filed in the Hon’ble court on 27.05.2017, 04.08.2017 & 22.09.2017, respectively.

**B.4. Seizure action taken :**

It is also seen that the seizure action notice was issued on 11.09.2017, 18.09.2017 for violations observed i.e. Using terrace for trade activity/smoking in eating house. Seizure action is also taken on 27.10.2017. During the seizure action on 27.10.2017, the articles were also seized i.e. 5 nos. Of chairs, 5 nos. Of tables and 5 nos. of hookah bottles.

**B.5. Intimation to A.E.(B&F)G/South Ward about unauthorised construction:**

It is also mentioned in the report that A.C.(B&F) was informed about the illegal construction on terrace vide no. AC/GS/MOH/365/SR dtd. 24.08.2017 regarding illegal construction on terrace of M/s. Sigrid ospitalita & Entertainment LLP situated at 3rd floor, Lower Parel, Trade House, Kamala Mill, S.B. Marg, Lower Parel, Mumbai 400013.

**B.6. Discrepancy in the location of kitchen and dining place in the building proposal plan and MOH's eating house license:**

The license u/sec. 394 of MMC ACT for the eating house 1-Above was seen approved by A.C. 'G/South' Ward on 16.12.2016. The applicant has submitted the plan approved by E.E.(B.P.) City u/no. EB/732/GS/A dtd.17.11.2014 while seeking the license from MOH for eating house. The premises under reference is part of the I.T. Building. It was expected that the owner should have first got approved the plan for change of activity from office to restaurant. Instead he submitted the plan of the office for requirement of eating house without bothering to seek the approval from the building proposal. The kitchen and dining area is shown in the lower level I.T. Premises as approved in the plan dated 17/11/2014 as mentioned above, is not at all connected with premises where the premises of '1-Above Restaurant' was existing.

However, the plan which is referred by MOH while granting the license u/sec. 394 does not show the approval of eating house. However the MOH in his submission has stated that the license is granted as per the policy of granting

license under EODB circular dated ho/44380/c dated 01/03/2016 wherein it is specifically mentioned that the licenses under health department will be issued from health and hygiene point of view without ascertaining the structural authorisation of the premises. As per the said circular it is stated that as part of licence granting procedure, the applicant is required to submit the document in favour of ownership/tenancy/legal occupation or commercial user of trade premises.

However, as per the M.O.H. approval note, the reference approved drawing is given as EB/732/GS/A dated 17/11/2014 and the C.F.O. N.O.C. was issued on 26.11.2016 is for fire safety measures for the use of L.P.G. gas as a fuel in the kitchen of M/s. Sigrid Ospitalita and Entertainment LLP having area admeasuring approximately 1688.94 square feet.

The eating house is subsequently approved by EE(B.P.)City u/no. EB/732/GS/A dtd. 16.02.2017. The C.F.O. N.O.C. for change of activity from existing office to restaurant etc. On 3rd floor level of existing building; a trade house is issued u/no. Fbl/ 416/Rll/422 dtd.10.02.2017.

From the above it can be seen that in case of 1above, the plans were approved by building proposal deptt. For change of activity on 16.02.2017 u/no.Eb/732/GS/A wherein restaurant was approved. Since the building proposal file for the premises under reference is under process it was the responsibility of the owner to seek approval for change of activity first and then he should have availed the license for the eating house.

#### **4.8.3.3. Role of Medical Officer of Health and his staff**

The Dept. of Medical Officer of Health deals with the permissions issued u/Sec. 394 of MMC Act where permissions are granted for the eating houses for trade activity purpose.

From the statement of M.O.H. it appears that for issuing permissions u/Sec. 394 of MMC Act, it is mandatory to visit the premises and examine by M.O.H. Dept.

and accordingly they have inspected the site also. Moreover, Sanitary Inspector working in the office of M.O.H. takes periodical round in the area for ensuring that the premises are properly maintained from health & hygiene point of view. It appears from their statement that M.O.H. & Sanitary Inspector have visited the premises at various times however they appear to have failed to take adequate action.

#### **4.8.4. Action taken by B&F(G/S) Department.**

##### **4.8.4.1. The Notices issued to Mojo's & 1-Above & Demolition Action**

A complaint of illegal construction on terrace and operation of bar & hukka parlour named as Mojo's Cafe & 1-Above cafe with illegal office on terrace was received on 15.05.2017 from councillor Mr. Samadhan Sada Sarvankar. The notice u/s. 354 A of M.M.C. Act No GS/DO2GS/191/354A-MMC ACT/GS165N01/31-05-2017 was issued by designated officer on 31/05/2017 regarding unauthorised partition & unauthorised structures Speaking Order was issued to remove the same within 7 days & the owner/occupier Mr. Ramesh Govani - owner, Mr. Kripesh Sanghvi & Mr. Abhijeet Mankar - occupier served on 20/06/2017.

Another notice u/s 354 A of M.M.C. Act No GS/DO2GS/191/354A-MMC ACT/GS166N01/31-05-2017 issued by Designated Officer on 31/05/2017 regarding unauthorised partition & unauthorised structures Speaking Order was issued to remove the same within 7 days & the owner/occupier Mr. Ramesh Govani - owner & Mr. Duke Tuli - occupier ,Hotel Mojo's, served on 20/06/2017.

As per file papers, a complaint to the Inspector (License) regarding major damage to the premises due to temporary shed was received from Mr. Prakash Aniruddha Phadte, on behalf of Times Global Broadcasting Company Ltd. Also a mail on 07.06.2017 from Mr. Subhash Patil of Times Network, addressed to one Mr. Mayur Thakur stating that two restaurant i.e. Mojo's & 1-ABOVE are providing temporary rainwater shed was on area approximately 11700 sq.ft. will carry additional rainwater gutter of their zoom roof north light gutter and will lead

to damage of critical are. Also there is another mail from one Mr. Zaid Khan, General Manager, Mojo's on 02/06/2017@ 13:23 to Mr. Subhash Patil stating that he and his company take responsibility for anything that may happen during work of sheds and the same was acknowledged by Mr. Subhash Patil on 02/06/2017 @14:03. The complaint regarding the same is observed to be forwarded to Senior police Inspector on 13/06/2016.

As per inspection report dated 01/07/2017, unauthorised construction of shed is observed. Designated officer vide Notice No. GS/DO2GS/191/55- MRTP ACT/GS293N01/01-057-2017 dated 04/07/2017 have issued the notice to the owner / occupier Mr. Abhijeet Mankar, Mr. Kripesh Sanghavi, Hotel 1-Above. The Designated Officer passed the order speaking order on 31/07/2017 to remove unauthorised shed on 31/07/2017.

As per inspection report dated 01/07/2017, unauthorised construction of shed is observed. Designated officer vide Notice No.GS/DO2GS/191/55- MRTP ACT/GS292N01/01-07-2017 dated 04/07/2017 have issued the notice to the owner / occupier Mr. Abhijeet Mankar, Mr. Kripesh Sanghavi, Hotel 1-Above. The Designated Officer passed the Speaking Order on 31/07/2017 to remove unauthorised shed on 31/07/2017.

The Designated Officer vide note dated 2/08/2017 obtained orders to demolish the unauthorised work for which notices u/s 354A of MMC Act & 55 of MR & TP Act was issued, from Assistant Commissioner 'G/South' Ward. As per the note, submitted to Assistant Commissioner (R.E.) city submitted for information to Assistant Commissioner 'G/South' ward under No. AEGS/335/SR/B&F dated 07/08/2017 having copies of photograph prior to demolition & after demolition are submitted and the same is seen by Assistant Commissioner 'G/South' Ward.

#### **4.8.4.2. The complaint u/s. 52 read with 43 of M.R.T.P. Act & F.I.R.**

The complaint u/s. 52 read with 43 of M.R.T.P. Act is registered with the Inspector of Police , N.M. Joshi Marg Police Station, Lower Parel, against Hotel

Mojo's Bistro u/no. ACGS/714/SF/BF dtd. 30/12/2017 and accordingly F.I.R. No.167 of 2017 dated 30/12/2017 is registered .

The complaint u/s 52 read with 43 of MR & TP Act is registered with The inspector of police , N.M. Joshi Marg Police Station, Lower Parel, against Hotel 1-Above u/no.ACGS/715/SF/BF dtd 30/12/2017 and accordingly F.I.R. No 166 of 2017 dated 30/12/2017 is registered .

#### **4.8.4.3. Role of Assistant Engineer ( B.& F.) and his staff**

With reference to the change in the designation of A.E. (B.& F.) to Designated Officer, all unauthorized constructions are dealt by D.Os and accordingly they ensure action either under M.M.C. or M.R.& T.P. Act. While issuing notices under the appropriate act of M.M.C. or MR&TP, proper inspections, plans of enclosed area and other details are placed on the record, after carrying out the inspection of the premises and accordingly action is initiated. Moreover, they do keep the premises under observation where the premises are habitually encroached time and again and accordingly they initiate action. In the instant case, the action of demolition was taken on 02-8-2017 and thereafter it appears that the subject premises which were needed to be kept under observation have been ignored by the department.

#### **Examination of other Sources :-**

The photographs of the establishment on part 3<sup>rd</sup> floor of building under reference were collected from the social media, website, eyewitnesses and Assistant Commissioner 'G/South' Ward.

#### **Inference :-**

The photographs show that the terrace adjacent to the restaurants Mojo's Bistro & 1-Above were having unauthorized work of erection of platform, shed, coverings, cubicles, counters, M.S. frame structures, storage, serving area with tables/chairs, hookah material, liquor storage etc. which is good enough to prove

that the terrace was fully covered with unauthorized structure with various furniture as mentioned above.

The terrace which is a refuge area should have been kept open to sky without any construction, temporary or permanent. Even monsoon shed is not permissible on terrace. The unauthorized erection had blocked the entry to the staircase. If there would not have been enclosures/unauthorized erection on the terrace by both the restaurant owners, lives could have been saved as this staircase could have been used during the massive fire on 29-12- 2017. The cause of fire and its rapid spread was precisely due to the unauthorised construction on the terrace.

The photographs submitted by Designated Officer G/South & Asstt. Comm. G/South for demolition action carried out on 02/08/2017 (Annexure D ) are seen. It is observed that the demolition is not carried out fully and the erection of M.S. frames, structures, storage structure or toilet is not seen removed. D.O. G/South has submitted the demolition report Annexure-8.7, which says that the demolition is carried out which is also seen and endorsed by Assistant Commissioner 'G/South' Ward. It is felt that the demolition is not carried out fully on site as the frames/erections etc. are clearly visible in the photographs taken and submitted by Designated Officer G-South / Assistant Commissioner 'G/South' Ward. The staff of Building and Factory Department has thus not taken actions in time and followed it up after the demolitions were carried out.

## 5. Analysis of Information gathered during the Enquiry

### 5.1. Sequence of events in this case

Date	Description of Activity	Department
09/04/2012	OC granted by EE(BP) City to the 3 <sup>rd</sup> floor upper and lower part in building A.(Trade House)	Building Proposal
17/11/2014	Approval for addition and alteration to the existing building (i.e. Trade House) granted by EE(BP)City u/no. EEBPC/732/GS/A dtd 17/11/2014 to B. R. Gandhi	Building Proposal
23/08/2016	Partnership Agreement between Mr. Kripesh Sanghavi, Mr. Jigar Sanghavi & Mr. Abhijeet Mankar in the name of M/s. Sigrid Ospitalita and Entertainment LLP (1-Above)	Owner
26/11/2016	NOC for Use of 4+4 cylinders in kitchen of M/s. Sigrid Ospitalita & Entertainment PPL (1-Above)	CFO
22/12/2016	Health department license for total area 156.97 Sqm for period 19.12.2016 to 18.12.2017 in the name of M/s. Sigrid Ospitalita and Entertainment LLP (1-Above)	MOH(G/S)
10/02/2017	NOC for Addition/Alteration i.e. interior work with change of activity from existing office to restaurant on 3 <sup>rd</sup> floor level of existing building A (Trade House).	CFO
16/02/2017	Approval of EE BP City in regard change of Activity that is Building A (Trade House). IT office Restaurant	Building Proposal

08/04/2017	Fresh Fire safety NOC for 6+6 LPG Cylinders to M/s. Tirupati Restaurant & Café Pvt. Ltd (Mojo's Bistro)	CFO
12/04/2017	Informing Yug K Pathak (Mojo's Bistro) by MOH(G/s) to comply the condition given by CFO u/n FB/L/RII/Stn no 06/DVS/146 dtd 08/04/2017 and Health dept. condition. Same is Received by Yug Pathak on 12/04/2017.	MOH(G/S)
13/04/2017	Health department license for total area 296.9 Sqm for period 12.04.2017 to 11.04.2018 in the name of M/s. Tirupati Restaurant & Café Pvt. Ltd ( Mojo's Bistro).	MOH(G/S)
17/05/2017	IR to M/s. Sigrid Ospitalita & Entertainment LLP (1-Above) - Using terrace for trade activity.	MOH(G/S)
17/05/2017	IR to M/s. Tirupati Restaurant & Café PVT. Ltd (Mojo's Bistro) – using terrace for as serving area.	MOH(G/S)
31/05/2017	Show Cause Notice under Section 351 MMC act 1888 to owner Mr. Ramesh Gowani & Occupier Hotel Mojo's Bistro	B&F(G/S)
31/05/2017	Show Cause Notice under Section 351 MMC act 1888 to owner Mr. Ramesh Gowani & Occupier Hotel 1-Above	B&F(G/S)
23/06/2017	Denial the permission of temporary monsoon shed at Hotel Mojo's Bistro by Building factory Dept.	B&F(G/S)
01/07/2017	Notice under Section no 55 of M.R.T.P. Act 1966 to Hotel Mojo's Bistro	B&F(G/S)
01/07/2017	Notice under Section no 55 of M.R.T.P. Act 1966 to Hotel 1-Above	B&F(G/S)

13/07/2017	IR to M/s. Sigrid Ospitalita & Entertainment LLP (1-Above) - Using terrace for trade activity.	MOH(G/S)
13/07/2017	IR to M/s. Tirupati Restaurant & Cafe pvt. Ltd ( Mojo's Bistro) - Using terrace for trade activity	MOH(G/S)
02/08/2017	Demolition of Monsoon Shed, walls of room admeasuring the area of 114 sqm at 1-Above by Building and Factory Dept.	B&F(G/S)
02/08/2017	Demolition of Monsoon Shed, room of area 15 sqm at Mojo's Bistro by Building and Factory Dept.	B&F(G/S)
22/08/2017	Renewal of Registration Certificate of Establishment to M/s. Sigrid Ospitalita and Entertainment LLP (1-Above) for period of 04.11.2017 to 03.11.2018.	MOH(G/S)
23/08/2017	IR to M/s. Sigrid Ospitalita & Entertainment LLP (1-Above) – using terrace for as serving area as well as allowing smoking in the eating house premises.	MOH(G/S)
23/08/2017	IR to M/s. Tirupati Restaurant & Café pvt. Ltd ( Mojo's Bistro)– using terrace for as serving area as well as allowing smoking in the eating house premises and on terrace	MOH(G/S)
24/08/2017	Complaint from MOH(G/S) to A.E.(BF)G/S about illegal construction at M/s. Sigrid Ospitalita and Entertainment LLP (1Above)	MOH(G/S)
24/08/2017	Complaint from MOH(G/S) to A.E.(BF)G/S about illegal construction at M/s. Tirupati Restaurant & Café pvt. Ltd ( Mojo's Bistro)	MOH(G/S)

11/09/2017	Notice under 394(4) by MOH (G/s) to M/s. Tirupati Restaurant & café pvt. Ltd. (Mojo's Bistro) on infringement of license condition- 1. Using terrace for trade activity. 2. Allowing smoking in the eating house premises.	MOH(G/S)
11/09/2017	Notice under 394(4) by MOH (G/s) to M/s. Sigrid Ospitalita and Entertainment LLP( 1above) on infringement of license condition- 1. Using terrace for trade activity. 2. Allowing smoking in the eating house premises.	MOH(G/S)
18/09/2017	Notice from Asst. Comm.(G/S) to M/s. Tirupati Restaurant & Café pvt. Ltd ( Mojo's Bistro) for using front terrace for trade activity and allowing smoking in eating house	Asstt. Comm.(G/S)
18/09/2017	Notice from Asst. Comm.(G/S) to M/s. Sigrid Ospitalita and Entertainment LLP( 1above) for using front terrace for trade activity and allowing smoking in eating house	Asstt. Comm.(G/S)
26/09/2017	NOC of fire safety for addition alteration for interior work on 3 <sup>rd</sup> floor level & installation of 2 lifts to existing building A(Trade House).	CFO
05/10/2017	Approval of EE(BP)City in regards, proposed addition and alteration, proposing new IT office & 2nos. of lift on third floor, at Building A (Trade House).	Building Proposal
27/10/2017	Seizure action on M/s. Sigrid Ospitalita and Entertainment LLP( 1-Above)	MOH(G/S)
27/10/2017	Seizure action on M/s. Tirupati Restaurant & Café pvt. Ltd ( Mojo's Bistro)	MOH(G/S)
11/11/2017	Registration Certificate of Establishment to M/s. Sigrid Ospitalita and Entertainment LLP (1above) for period of 11.11.2017 to 03.11.2018	Shop & Establishment

20/11/2017	Application for new license for smoking zone by M/s. Sigrid Ospitalita & Entertainment LLP.	Owner
29/11/2017	Renewal of Health Department license for total area 156.97 Sqm for period 19.12.2017 to 18.12.2018 in the name of M/s. Sigrid Ospitalita and Entertainment LLP (1-Above)	MOH(G/S)
02/12/2017	Approval for smoking zone in the service area of M/s. Sigrid Ospitalita and Entertainment LLP (1-Above)	MOH(G/S)
23/12/2017	NOC stipulating fire safety measures u/s. 394 of MMC Act, for the use of open to air terrace for serving food at M/s. Sigrid Ospitality & Entertainment LLP (1-Above)  It appears that letter signed in December 2017 and date of dispatched is put November 2017.	CFO
30/12/2017	FIR against Hotel Mojo's Bistro under section 52 with section 43 of M.R.T.P. Act 1966	B&F(G/S)
30/12/2017	FIR against Hotel 1-Above under section 52 with section 43 of M.R.T.P. Act 1966	B&F(G/S)
---	<b>Letter of Sigrid informing MOH of compliance of condition without any date or reference date. There is also no date, stamp of office. Hence this letter is suspect.</b>	Owner

## 5.2. Observations about the incident site.

The site was visited on 02/01/2018 and subsequently with police officers and fire department on 06/01/2018 by me and the assisting officers. The building 'A' is inspected and the building consists of basement + ground + 2 upper floors + 3rd

part (lower level + upper level). The plan as per last approved is annexed at annexure- 8.4. The premises gutted in fire i.e. Lower 3<sup>rd</sup> floor level was thoroughly inspected with respect to the approved plan where the fire incident happened, i.e. M/s. Mojo's Bistro and m/s. Sigrid Ospitalita and Entertainment LLP (1-Above).

As per the approval nothing is approved on the terrace. This area was to be open to sky as per DCR wherein covering of the terrace is not allowed. As per approved plan two establishments having separate access and fire/emergency access as shown in the approved plan should have been maintained. However, as per the observation on site, the terrace was subdivided by temporary partition formed by steel framing blocking the free thoroughfare (fire) access from these establishments.

The terrace in possession of M/s. Mojo's Bistro was having raised platform with staircase erected on both the sides and at the upper level part portion was seen encroached and extended beyond the building line with some kind of lighting arrangement viz. Focus etc. Further as per site inspection rest of the area was having central bar counter and the other area was subdivided into compartments of steel frames with curtains. The remains of the bar counter; few chairs and M S metal frames with architectural shapes were found in damaged condition. At the south east side corner of the terrace and under use by M/s. Mojo's Bistro, it is observed that the AC units are in substantially burnt/damaged conditions. Partition of Steel frame were also found erected.

As regards the other premises i.e. 1-Above, regular access as per approved plan to the premises was observed blocked and only entry through the kitchen is seen available to the premises for which, approval was granted. On inspection of the premises, it can be concluded that the entire terrace was covered. The terrace was accessible through small passage near lift which was covered by arch made of steel frame, which might have been used for the entry to the terrace portion which was in the possession of 1-Above. Also the same entry seems to be used as entry for the patrons for the area as per approval, accessible from the covered

terrace. Unauthorised toilets were also found erected on the terrace, which are shown on the plan annexed as annexure-8.3. The entire part terrace in possession of 1-Above was found to be fully covered with compartments made with M.S. Frames. These compartments and the entire terrace of 1-Above was made soundproof by providing soundproof material sandwiched between the asbestos sheets from both the sides. The material which was sandwiched and used for making the terrace area and compartments soundproof was made of some kind of foam which is clearly visible from the remains at the site, as can be seen from the photographs annexed as annexure- 8.3. So also the arrangement for storing the materials for bar, restaurants and other material was made on the terrace.

### **5.3. Probable Cause of fire.**

The chief fire officer in his report dated 05/01/2018 has given detailed account of the fire incident, reasons for spread of fire very quickly in the open terrace unauthorisedly covered by the two restaurant owners and probable cause of the beginning of the fire based on the study of statements of the eye-witnesses, site inspection done immediately after the fire incident, photographs and videos made available from eye witnesses and by other citizens. The analysis of statements of persons who were present in both the restaurant corroborate the findings of the Chief Fire Officer's analysis of the cause of fire. The owners of two restaurants seem to have violated all the rules, regulations of constructions and fire safety norms. In spite of the notices and prosecutions launched against them by the ward staff, they continued to do it with impunity. The materials used for construction of terrace covering was extremely flammable which caused very rapid spread of fire in the entire terrace portion within matter of minutes giving no chance to the customers to vacate the premises safely. The owners of two restaurants have been negligent about fire safety issues and have shown disregard to the rules and regulations.

It can be safely concluded that the fire started from the Mojo's Bistro restaurant due to fire embers emanating from fanning of charcoal for use in the hookah.

They had partially covered the open terrace under their possession however, the uncovered part made it easy for their customers to go out safely to the lift lobby before fire spread all over the place. Their premises had a very high level of fire hazard due to the fire tricks played by the bartenders videos of which have gone viral. This activity was dangerous and posed a threat to life and property. The rampart unauthorised use of hookah on the terrace covered illegally was another contributing factor.

The role of 1-Above restaurant in this disaster is no less than the Mojo's Bistro restaurant. They had constructed a full scale restaurant illegally in the open terrace under their possession. The mode of construction was use of square steel pipes welded together to form a skeleton which was covered with all types of cloth and other decorative flammable material. The layout of this structure in the open terrace was such that it formed a very narrow and long passage leading to the lift lobby. The closest staircase was made inaccessible for the customers by creating a gate which was locked. The space between the passage and the outer wall of the terrace structure was used for storage of restaurant material. The layout was intact a death trap for users and there appears to be no thought given to safety aspects.

#### **5.4. Obstacles in carrying out rescue operation**

The fire escapes of the building at all levels were either under illegal use, closed or locked which prevented use of the same by the customers at time of fire.

There were no signages provided in the restaurants and the building about fire exits which could have guided the people for safe and easy exit.

The long fire exit which was used by many people was also encroached with pipe fittings along the parapet wall and covering of the same with the aluminium sheets thus reducing the effective width of the fire escape passage to the extent of almost 60%.

The staircase exits were closed due to glass partition at lift lobby and the staircase at the open terrace was made inaccessible and not visible due to unauthorised construction on the terrace fully covering it on 1 above restaurant side.

The restaurant owners have not taken any safety precautions at all, no training seems to have been given to the staff about disaster preparedness and no fire safety equipments were installed and used by them before or during the fire.

The restaurant owners did not intimate the fire brigade in time and first call was received almost ten twelve minutes after the fire broke out.

The fixed fire safety equipments of the trade house building was not operational which means it was not maintained properly and no fire audit was done by the building owner.

## **5.5. Violation by Restaurant Mojo's Bistro**

### **5.5.1. Violations of Building Proposal's permissions by Mojo's Bistro Restaurant**

The owners have apparently in collusion with the owner Mr. Ramesh Gowani have carried out massive unauthorised construction within the building and the open terrace which was shown as fire exit for both the restaurant.

The owner/architect further submitted plans to the building permission department for changing the use of I.T. Offices to the restaurant user and got it approved as mentioned earlier in the report. However after this approval also they have made some changes while doing construction and did not get completion certificate for the same. However they again misrepresented to the medical officer of health G South ward with this approved plans and obtained permission of eating house.

**5.5.2. Violations by Mojo's Bistro Restaurant of NOCs of Fire Brigade requirements:**

They erected unauthorised structure which was not part of the NOC. The construction material which was used for erecting this unauthorised structure was prone to fire. This was further compounded as they started full fledged restaurant both in licensed and illegally covered open terrace area where hookah was served all over the place. The combination of all these factors made the whole premises dangerous and prone to fire. They have reconstructed the demolished structure on the terrace in spite of knowing fully well that it is illegal and started carrying out business in the same. They have not trained their staff in handling any eventuality like fire which is evident from the reaction from their staff in this incident as recorded by the eyewitnesses in the restaurants.

**5.5.3. Violations by Mojo's Bistro Restaurant of the Medical Officer of Health's license :**

As mentioned in preceding paragraph they obtained permission for eating house for an area of 3194.64 square feet area. however they have opened a restaurant which was serving liquor, hookah on the licensed area and unauthorisedly on the open terrace by illegally covering it , for which no permission was granted to them. This is proved from the fact that they were issued inspection report notices, offence sheet was issued and prosecution was launched against them. The MOH had taken seizure action against them for this illegal activities. However they have not stopped their illegal activities and continued doing the same activities.

They have opened a restaurant in an area that was not permitted. Hookah was in rampant use even with smoking areas not being delineated. They were issued notices, prosecuted and seizure action taken against them for this illegal activities however they continued doing the same activities.

**5.5.4. Violations by Mojo's Bistro Restaurant by carrying out unauthorised construction :**

They have indulged in construction of unauthorised structure over the part of the open terrace much larger than their licensed area of 296.90 Sqm with

construction material which was prone to fire and started restaurant which was serving hookah which made the premises fire prone.

#### **5.5.5. State Excise department rules and regulations at Mojo's Bistro:**

As per the statement given by Superintendent of State Excise Department, Mumbai City and as per the documents submitted by him, M/s.Tirupati Restaurant and Cafe has obtained FL-3 licence on 01.09.2017 for permit room area 800 sq.ft., bar counter area 24 sq.ft. and storage of liquor area 127.50 sq.ft. and these all areas are within the built up premises.

#### **5.5.6. The culpability of owners of Mojo's Bistro Restaurant in view of multiple violations stated above**

In view of the multiple violations of multiple government departments by owners of Mojo's Bistro Restaurant as mentioned above at 5.5.1. to 5.5.5., it is abundantly clear that the restaurant owners have indulged in misrepresentation to the government authorities, obtained license based on such documentation which was not correct, carried out massive unauthorised construction which was dangerously prone to fire and used flammable materials in very close proximity from where hookah was served, closed the exit passage which was to be used for evacuating people in case of fire, did not provide any signages which could have guided the customers to safe exit places and did not train staff. All of this lead to the fire incidence in which 14 people lost their life. The owner of the building and the restaurant owners are therefore responsible for all the above illegal acts and its consequence also and must be held responsible on all counts.

They were aware of the illegalities being carried out in their unauthorisedly constructed restaurants as repeated notices in the form of inspection reports were issued to them, prosecutions were launched against them and even seizure action was taken at their premises. However they have chosen to reconstruct the demolished structures again, started the hookah parlour in unauthorised areas and use of terrace for restaurant when no permission whatsoever was issued to them.

The acts and behavior of all the above named owners of the restaurants shows their utter disregard, even contempt to the rules, regulations and the law.

They appear to have willfully and deliberately violated various rules, regulations, license conditions, NOCs, acted in contraventions of the safety of their customers which resulted in deaths of 14 people.

The restaurant owners whose names are mentioned above are therefore responsible for all the above illegal commissions and omissions and its consequence also. Hence they must be held responsible on all counts as elaborated above.

## **5.6. Violation by Restaurant 1-Above**

### **5.6.1. Violations of Building Proposals department's permissions**

The owner/architect have taken approval from building proposal department for a kitchen and dining area for the staff of the IT Offices and fraudulently used them for getting eating house license from medical officer health g south ward. It is amply clear from a look at this plan that the location of kitchen and dining area in the approved plan of building proposal department and the location where the eating house license was got issued are not the same. They have clearly misrepresented in this documents and obtained the license by fraudulent means.

The owner/architect further submitted plans to the building permission department for changing the use of IT Offices to the restaurant user and got it approved as mentioned in title named Permissions by BP dept. However after this approval also they have made some changes while doing construction and did not get completion certificate for the same. However they again misrepresented to the medical officer of health g south ward with approved plans and obtained permission of eating house.

### **5.6.2. Violations of NOC of Fire Brigade done by 1 Above Restaurant**

They erected unauthorised structure which was not at all part of the NOC. The construction material which was used for erecting this unauthorised structure was prone to fire hazard. this was further compounded as they started full fledged restaurant in licensed and illegally covered open terrace area where hookah was served all over the place. A combination of all these factors made the whole premises a lethal complex waiting for such disaster to happen. They have reconstructed the demolished structure on the terrace in spite of knowing fully well that it is illegal and started carrying out business in the same. They have not trained their staff is handling any eventuality like fire which is evident from the reaction from their staff in this incident as recorded by the eyewitnesses in the restaurants. They have violated many conditions of the NOC issued by the fire brigade department as per report submitted by Deputy Chief Fire Officer vide FB/L/R11/stn no. 06/DVS/89 Dated 26/11/2016 attached as Annexure 8.5.

### **5.6.3. Violations of the Medical Officer of Health's License by 1-Above Restaurant :**

As mentioned in preceding paragraph they obtained permission for eating house for an area of 1730 square feet area. however they have opened a restaurant which was serving liquor, hookah on the licensed area and unauthorisedly on the open terrace by illegally covering it , for which no permission was ever granted to them. This is proved from the fact that they were issued inspection report notices, offense sheet was issued and prosecution was launched against them. The MOH had taken seizure action against them for this illegal activities. However they have not stopped their illegal activities and continued doing the same activities. Though they have applied for the permission for the using the open terrace as per the Rooftop Policy and obtained the NOC of Fire Brigade for the same on 23/12/2017 six days prior to the incident of fire This NOC lays down the various conditions. The MOH never issued them the permission for roof top till date of incident.

#### **5.6.4. Violations done by 1-Above Restaurant by carrying out unauthorised construction :**

The owners of above two restaurants have apparently in collusion with the owner Mr. Ramesh Gowani carried out massive unauthorised construction within the building and the open terrace which was shown as fire exit for both the restaurant.

They have carried out unauthorised construction of a structure over the complete open terrace admeasuring 6762 Sqft much larger than their licensed area of 1730 Square feet. They were issued notices by the Designated Officer as mentioned above for terrace covering as illegal monsoon shed on 02/08/2017. The Designated Officer demolished their structure which was again rebuilt by them knowing fully well that it is unauthorised.

#### **5.6.5. State Excise Department rules and regulations at 1 Above Restaurant**

As per the statement given by Superintendent of State Excise Department, Mumbai City and as per the documents submitted by him, M/s.Sigrid Ospitalita and Entertainment LLP has obtained FL-3 licence on 11.04.2017 for permit room area 331 sq.ft., bar counter area 53.90 sq.ft. and storage of liquor area 24.70 sq.ft. and these all areas are within the built up premises, however, the licence was never issued for serving the liquor on terrace.

#### **5.6.6. The culpability of 1-Above Restaurant owners in view of multiple violations stated above**

In view of the multiple violations of multiple government departments by owners of Mojo's Bistro Restaurant as mentioned above at 5.6.1. to 5.6.5, it is abundantly clear that the restaurant owners have indulged in misrepresentation to the government authorities, obtained license based on such documentation which was not correct, They have carried out massive unauthorised construction which was prone to fire and used flammable materials in very close proximity to where hookah was served, closed the exit passage which was to be used for evacuating people in case of fire, did not provide any signages which could have

guided the customers to safe exit places, did not train staff. This led to the fire incident in which 14 people lost their life by creating a death trap.

The acts and behavior of all the above named owners of the restaurants shows their utter disregard, even contempt for rules, regulations and law.

In short they appear to have broken every law governing operation of a restaurant. To compound matters, even after action they have resumed business with impunity. Their profit seeking behaviour bordering on criminality is further indicated from the fact that they wanted to use every inch of space with complete disregard to safety. The construction material used is once again an indication of their attitude to safety and complete disregard to human lives.

The restaurant owners whose names are mentioned above are therefore responsible for all the above illegal commissions and omissions and its consequence also. Hence they must be held responsible on all counts as elaborated above.

#### **5.7. Role of Owner/ Director/ Partner/ Allottee of M/s. Kamala Mills Ltd. and M/s. Royal Traders**

As per the record from M.O.H. 'G/South', it is seen that vide letter dtd. 14.01.2008 the kamala mills ltd. Issued a letter of allotment of the premises being entire 3<sup>rd</sup> floor (upper and lower) in building named a 'Trade House' wherein the aggregate carpet area of 1475.10 sqm along with exclusive entrance lobby of about 1938 sqm and 20 car parking was allotted to Royal Traders.

A letter of intent was issued by Royal Traders (licensors) vide letter dtd. 07.03.2017 to M/s. Tirupati Hospitality pvt.Ltd. (licensee), where in a covered area of 3035.22 sq.ft and adjoining open area 11000 sq ft. is mentioned.

Further as per the copy of leave licence agreement between M/s. Kamala Mill Ltd and M/s. Sigrid ospitalita and entertainment llp the area mentioned in the license agreement is 1730 sqft carpet area and adjoining open area of 6762 sqft carpet area. There are two agreements including open area was given.

The leave and licence agreement further mentions in clause No.12(a) that-

*“a) The Licensor shall provide the Licensee with a No Objection Certificate permitting renovation of non-structural nature in the said Licensed Premises subject to providing Renovation Plan to the Licensor. All major repairs or structural changes in respect of the Licensed Premises shall be carried out by the Licensor alone only.”*

*“b) The Licensee shall not carry out / commence any Renovation work in the said Licensed Premises or any part thereof without the prior written consent of the Licensor, which the Licensor shall not hold without reason and if any statutory permission is required the same shall be obtained by the Licensee before carrying out any repair/renovation and shall not knowingly or wilfully cause any damage to the Licensed Premises. PROVIDED HOWEVER, at no point of time the Licensee shall remove and/or demolish and/or chisel any beams, columns within the said Licensed Premises and indemnifies the Licensor against the same.”*

The plan attached as annexure 'A' to leave and license agreement clearly shows the area of terrace admeasuring (open area) 6762 sq.ft. carpet situated on 3<sup>rd</sup> floor is also included in the agreement, confirming the boundaries for the licensee's exclusive use termed as licensed premises for the purpose of Restaurant & Bar as mentioned in Leave & Licence agreement page No.2.

From the above it can be concluded that Kamala Mills Ltd. have allotted area to Royal Traders & subsequently licensed including the open area to M/s. Sigrid Ospitalita and entertainment LLP & M/s. Tirupati Hospitality Pvt.Ltd. The owner of Kamala Mill Ltd. / Royal Traders though aware that the open terrace area can't be used for such activity but, have allotted/entered into the agreement for use of open area. The said open terrace area was later on unauthorisedly allowed to be covered by the restaurant owners.

As per D.C.R. 6(i) neither the grant of permission nor approval of the drawings and specification nor inspection by the Commissioner during erection of the building shall in any way relieve the owner of such building from full responsibility for carrying out the works in accordance with D.C.Regulations.

The owner of the premises where the fire incident happened namely Trade House building is responsible for various illegalities being carried out in his building. He is party in the unauthorised construction carried out on the third floor where proposal for approval of additions and alterations of the building plan were submitted, permission obtained but construction was done at variance with the approval and premises was put to use without obtaining the completion certificate from the building proposal department. He was also aware of the illegalities being carried out at the open terrace which was shown as exit for the restaurants on the third floor. He had not kept the fire safety equipments of the building in the working conditions. He has not taken measures to ensure that the fire exits at various floors are kept encroachment free to be used during such disasters and allowed misuse of these passages to his tenants/lessees. He has not made any complaint against the illegalities being carried out at his building by his tenants/lessees with MCGM which shows that he was party to this.

#### **5.8. Role of the Architect M/s B. R. Gandhi & Associates:**

As per DCR 1991 Rg No. 5(4)ii in appendix XII the duties and responsibilities of architects are clearly specified. As per various provisions in DCR under relevant regulations to submit & obtain completion is job of architect and the statement made by architect Mr. B. R. Gandhi is caused & definitely he has not done his job as a professional. There are discrepancies in his statement which shows his lagsidal attitude towards his job and responsibilities. It seems that his employee who he claims to be a draftsman and also an architect from Kerala raise serious doubts about his technical staff whom he entrusted the job of site visits and uploading the plans etc. He is not supposed to delegate his powers of site inspections to any other person.

**5.9. Role of Shri. Sumessh Menon, Interior Designer/Architect of 1-Above.**

It is found that he has on his website mentioned about launching of 1 Above Restaurant in January 2017. He has mentioned that he has completed the work of about 8000 square meters which was illegally constructed on the open terrace for 1 Above. He has mentioned about the passage which was constructed on the terrace which was too narrow and proved to be the most dangerous portion for people to get out from the fire site. He has used such materials for construction of this illegal open terrace covering which was very flammable and proved to be the major cause for very rapid spread of fire. He has thus acted against the DCR provisions, law and regulations and hence should be made responsible for the same.

## **6. Administrative recommendations for disciplinary and other proposed action**

The enquiry report has focussed on the larger role and responsibilities of the staff in light of the various policies, circulars, procedures and practises followed by each of these departments. The detailed enquiry already being conducted by Additional Municipal Commissioner (Eastern Suburbs) will fix exact responsibilities and quantum of deviations and the precise complicity. Based on above administrative punishment will be given by following due process of law. In the statements given by some officers of various departments have quoted various circulars and policies of EODB (Ease Of Doing Business ) under which a lot of emphasis is given on reducing considerably the time taken by each of the MCGM departments for issuing their permissions, NOCs to the applicants. The Policies of EODB also have much larger emphasis on the self certification by the applicants and their undertaking the authenticity and truthfulness of the statements given by them. There has been a consistent emphasis by Government to simplify approval process. It is observed that though the government machinery is gearing up to this paradigm shift the private players are lagging behind to take over the responsibility of truthful compliance which they will have to shoulder while getting permissions/approvals based on fast track methods. While the emphasis is to simplify approval process, on the other hand there is however no dilution in the inspection and compliance process. So while approvals are given as per rules, the implementing machinery must ensure that permissions given must adhere to the conditions on the ground. One cannot take shelter behind the curtain of EODB to justify laxity in rule implementation and compliance.

I have gone through the sequence of events in this case, also gone through the permissions issued by various MCGM departments, actions taken by them in view of the violations observed by them or pointed out to them by some internal or outside source, their in-action in some instances or partial actions taken, have also seen the statements of various witnesses in this enquiry, the statements of

all the concerned staff and have come to following conclusion for each of the departments.

#### **6.1. Action against the staff of Building Proposal Department.**

It is found that the staff of Building proposal Department have given the various permissions to the owners of Kamala Mills Ltd based on the practices, procedures generally followed by this department and I have not found any major deviation in their approvals. However there are certain loose ends like not visiting the site in cases of proposal for additions and alterations given by this department. If this concerned staff of Building Proposal Department had visited the site they could have observed certain deviations which are now found by them compared to their approved plans. The Additional Municipal Commissioner (ES) must hold FFDE against all relevant staff in the B.P. Department including Executive Engineer since the first plans of this establishment namely in year 2014 was approved.

#### **6.2. Action against staff of Fire Brigade.**

A) It is observed that Mr. Patil Station Officer issued NOC to the 1Above Restaurant on 23/12/2017 after his site visit on 22/12/2017 and attached photographs of the terrace where the covering of the same is not seen. It is practically impossible to construct such a large terrace covering within such short time as it was totally refurbished on the date of incident 28-29/12/2017. It appears very clearly that either the photos were backdated and taken when this structure was not constructed or he did not visit the site and trusted the photographs submitted by the owner of restaurant. In both cases he has failed to perform his duty as expected.

Hence full fledged departmental enquiry will be held against Shri. Patil Station Officer including the FFDE of suspended ADFO Shri. Shinde.

### **6.3. Action against the staff of G/South ward.**

It is observed that some complaints specific about Kamala Mill Compound were received since RETMS system was introduced and detailed enquiry will be needed to be done about action taken on them. I have already issued orders for suspension and FFDE against the then Designated Officer Shri. Shelar, Junior Engineer Shri. Shinde and Sub Engineer Shri. Mahale which will continue apart from actions as proposed below..

The role of ward staff in all these complaints will have to be examined and cross checked. in view of that following action is proposed.

**6.3.1.** The Assistant Commissioners Mr. Sapkale and Dr. Kapse have given a detailed report of their tenure and submitted that they have consistently followed up on the complaints received by them, however their claims need to be examined in details. Shri. Sapkale has denied the allegations against him by the staff of B&F which seems to be correct in view of the documentation submitted by him. Their roles in this matter also needs to be examined through a detailed enquiry against them , both to scrutinise lapses in supervision and permission giving.

Hence it is proposed to hold FFDE against both the Assistant Commissioner.

**6.3.2.** It is found that the action against unauthorised construction at 1 Above and Mojo's Bistro was not taken in time. The site was not kept under observations by staff of B&F department. The owners were therefore able to erect the structure again, which was refurbished much more than partially demolished one. The explanation given by the concerned staff is not satisfactory.

Hence, full-fledged departmental enquiry should be held against Shri. Vhatkar, A.E. (B.& F.) and his predecessor A.E. (B.& F.) Shri Kulkarni.

It is observed that many unauthorised constructions were carried out during last two/three years in this compound and surrounding areas and the then staff of

B&F has not acted on the same in time or taken the actions to logical conclusion. Hence one AE B&F and JE B&F were suspended as per my earlier order. The FFDE will examine their roles in details.

**6.3.3.** The MOH & his staff have taken actions which was supposed to be taken in this case however they have not put up the proposal of cancellation of the license of the two restaurants whom they have observed consistently violating the rules, regulations and conditions laid down in the licenses issued to them. There is some delay in taking actions on their part and discrepancy in their statements also.

Hence, full fledged departmental enquiry will be held against Shri. Shirke, Sanitary Inspector, G South ward and suspended MOH Shri. Badgire including Deputy EHO Dr. Madan who has played role while issuing eating house license.

#### **6.4. Action against the owner of the premises**

This report has given detailed account of the role and culpability of the owners of the premises in the chapter no. 5.7.

The owner of the premises is Kamala Mills Ltd of which Shri. Ramesh Gowani and Shri. Ravi Bhandari are directors who have allotted the premises to M/s Royal Traders of which Shri. Ramesh Gowani is a partner. They have given their premises on leave and license to the two restaurant owners. The role and culpability of the owners has been described in details in this report in Paragraph no. 5.7 shows their complicity in the permission process , the violations carried out by them or their licensee and the consequent fire incident causing death of 14 people. They are therefore liable for criminal liability for the incident.

The police authorities will take appropriate legal actions against these owners.

#### **6.5. Action against Facility Manager**

The contents of Leave and License agreement between the parties executed on 25/10/2016, it is revealed that the facility agents were appointed by the Licensors

for the purpose of maintenance of common areas. From the incident, it is apparent that these facility agents are also responsible and accountable for the gross violations and misuse of permitted activities in view of the leave and license conditions. They were apparently in collisions with the owner as well as the licensees who refurbished the premises ignoring and violating the conditions laid down in fire N.O.C. and have not informed M.C.G.M. about incomplete compliances of condition which unfortunately become cause of major Fire mishap.

#### **6.6. Action against the owner of the Restaurant Mojo's Bistro :**

The violations done by the owners of the Mojo's Bistro restaurants are described in details in this report in Paragraph 5.5 and their culpability for the fire incident in view of that in paragraph 5.5.6.

As described in details in these paragraphs these owners have repeatedly broken various department's rules, regulations and laws. They have acted unlawfully and have become cause for the death of 14 people due to their commissions and omissions. In view of the violations mentioned in paragraph no. 5.5.1 to 5.5.5 and their culpability as mentioned in paragraph no. 5.5.6 they are liable for criminal liability for the said fire incident and consequent death of 14 people.

The police authorities will take appropriate legal actions against all of these owners.

#### **6.7. Action against the owner of the Restaurant 1-Above**

The violations done by the owners of the 1-Above restaurants are described in details in this report in Paragraph 5.6 and their culpability for the fire incident in view of that in paragraph 5.6.6.

As described in details in these paragraphs these owners have repeatedly broken various department's rules, regulations and laws. They have acted

unlawfully and have become cause for the death of 14 people due to their commissions and omissions. In view of the violations mentioned in paragraph no. 5.6.1 to 5.6.5 and their culpability as mentioned in paragraph no. 5.6.6 they are liable for criminal liability for the said fire incident and consequent death of 14 people.

The police authorities will take appropriate legal actions against all of these owners.

#### **6.8. Action against Interior Designer/ Decorator**

The interior decorator involved in the design of these two restaurants do not come out clean. From the report of Fire Brigade, the videos of the fire and eyewitnesses accounts, it is clear that it was a furious, raging fire that created devastation in a matter of minutes. This is a clear indication that no thought was paid to the material used in the illegal roof covering. It is unfortunate that not only was an illegal extension done, but to make matters worse material that is dangerous and inflammable like foam and cloth was used in abundance. Under the garb of creating an ambience that would be attractive, narrow passages were created and covered with material that was combustible. One of the interior decorator/architect Shri. Sumessh Menon Associates did not respond to the request for his statement in spite of repeated requests.

There is need to now have a law to register interior decorators and also make them liable for inherent design faults that prove dangerous. The law would also put the onus of recommending fire retardant and other safe construction material on the interior decorator. Today the interior decorator is answerable only to the employer. The law has to now make the Interior decorator liable for damages that may occur due to negligence and oversight in not recommending safe material. There is also a case for fixing criminal liability on the interior decorator.

The police authorities will take appropriate legal actions against the concerned interior decorator.

### **6.9. Action against the Architects**

Architect is the professional who conceptualises the plan, and ensures its execution as per the prevailing development control regulations. The report mentions in paragraph no. 5.8 about the role and failures/un\_professional attitude of the architect in this case working on behalf of the owner.

Thus the architect is an equal partner to ensure correct implementation and compliance. The following changes are recommended in law to make architects accountable. (a) Performas need to be prescribed to record the inspections made by architects. The architects on inspection during construction should not only record the date of inspection, but must also record the deviations and violations seen and submit the same to the approving authority. Further in case of his failure to inform, the architect should be made liable. The liability should include civil, cancellation of licence and in case of accident criminal liability should be fixed. The police authorities will take appropriate legal actions against the architect.

### **6.10. Action against some unscrupulous elements**

These appears to be a group outside the system, which was actively operating to both enable grant of permissions and at the same time actively camouflage violations by using various means. This needs to be investigated in depth.

## **7. Recommendations on measures to be taken to prevent such incidents in future.**

### **7.1 Department of Industries**

Initially the proposal of addition and alteration of Kamala Mill was approved as per the then prevailing regulations under the provision of DCR 58 as per modernisation scheme approved by BIFR (Board for Industrial & Financial Reconstruction). Subsequently Kamala Mill came for development under modified DC Regulations 58. Since the area of the built up structure was more than the plot potential, the sharing of the balance land with MCGM / MHADA was not applicable.

Subsequently, the owner chose to go for additional FSI as per provision of DCR 33(16), i.e. as per IT policy and notification of GoM. Accordingly the approvals for additional FSI with the permissible users were granted. Thus kamala Mills Ltd have received incentive FSI of 1.33 in addition to zonal FSI. This incentive is given when the entire built up area is to be used for IT and ITES users. There is provision for use of 20% of the incentive area as commercial use area. There is a possibility that the Kamala Mills Ltd have used commercial areas beyond this permissible upper limit. This needs to be verified in detail jointly by MCGM & Department of IT.

It is observed that there may be further violations of F.S.I. and/or addition / alteration without approvals as well as it needs to be checked whether the various activities / uses which are running in the compound are as per I.T. policy of Government of Maharashtra.

Hence, Govt. is requested to grant 3 (Three) months time to thoroughly verify this. The help of .I.T department (Government of Maharashtra) will be taken for this purpose.

Hence, Secretary Department of Industries will direct his officials to verify this aspect, report any deviations/violations and take action as expected under the I.T. Policy notification no. TPB 4316/CR-167/2016/(3)/UD-11 Dated 15/07/2016.

## **7.2 Amendment in MMC Act and the procedure of licensing.**

7.2.1. Amendment in M.M.C. Act, section 394 and section 471, section 472 for eating house/restaurant licences with stringent provisions of punishment like heavy penalties for running business without license and violations in the licensed premises.

The law should be amended to incentivise honest self declaration and punish dishonest compliance. This would ensure that entities who want to conduct honest business by ensuring compliances are not harassed and on the other hand those who violate are suitably penalised. The core philosophy of ease of doing business is to encourage those who intend doing a regulatory compliant business.

7.2.2. The A.E.(B.&F.) and Fire Compliance Officer should visit the premises and check the premises from structural and fire safety compliance point of view within one month of issuance of license. If found non-compliant licence should be summarily cancelled and payment received forfeited. Essentially post licensing compliance needs to be rigorous.

7.2.3. Completion Certificate will be made compulsory for all miscellaneous proposals submitted to Building Proposal Department. Review of all such proposal for last 3 years will be done and proposals recorded if not complied with in stipulated time.

7.2.4. There is need to I.T. enable the monitoring mechanism, in order to do this, there is a need to develop a software for compulsory online submission of self-declaration by licensee that fire safety equipment and machinery is in working condition and common area/fire passage/fire exit/staircase, terrace are encroachment free every year on 1<sup>st</sup> January and 1st June. A citizen feedback page should also be created with a questionnaire on “safe restaurant” assessment. The M.C.G.M. has now started giving Unique Identity Number (U.I.D.) to each of the premises. It is proposed to connect this U.I.D. with all the licences and permissions now issued by the licensing departments so that it will

be easy to track the compliances. The software to be developed for this will be including this aspect also.

7.2.5. The rules and regulations for issuance of licenses should include a condition that the license will be cancelled automatically if three Inspection reports for violations are issued or a seizure action is taken twice in one year against any establishment by license issuing authority. This should act as deterrent for repetitive offenders.

7.2.6. Monsoon shed should be allowed only upto a height of around 1.0 m. and not beyond. The monsoon shed policy should be revamped to prevent misuse. This will completely prevent misuse of area below monsoon shed.

### **7.3. Fire prevention:**

7.3.1. From the report, it is amply clear that the time has now come to look at approvals and compliances as two different processes. Each of these processes need to be separately defined not only for the MCGM but also for other Govt. depts.

As business grows and speed of commerce accelerates there will be a pressing need to ease regulations and hasten approval processes. While an effort is made by approval agencies to simplify and speed up approvals, the responsibility of compliances would have to shift to the shoulders of the approval seekers. However, there will always be a small percentage of businesses who would enjoy the privilege of early approvals but continue to flout implementation of conditions. It is for this very category that we now need to put in place strong compliance procedures and a robust machinery to implement it. This will have to be backed by laws which not only punish non-compliance but also help identify those who actively support non-compliance overtly or covertly.

7.3.2. To begin with the procedure of licensing restaurants, hotels and other places where large public presence is seen needs to be revamped. It is recommended that the licensing process in the MCGM be reengineered so that it

moves from one approval level to another only after the earlier level is complied. There is need to redefine process so that all DCR requirements are first met before the licence approval process moves to the next level. This needs to be done in the next two months.

7.3.3. Compliances appears to be the weakest link. While approvals are given in most cases as per law and also conditions as stipulated are imposed there is no effective check on compliances. Hence a separate compliance wing needs to be created in MFB. The fire fighting wing and compliance wings need to be separated. SOP and staffing pattern together with inspection norms need to be defined for the compliance wing of the Mumbai Fire Brigade.

7.3.4. The owner/occupier must appoint one fire safety officer from amongst his employees who is trained in matters related to fire safety for buildings and commercial complexes of large size. His name and contact details must be submitted to the office of the chief fire officer. He should have a designated uniform easily identifiable by the citizens/users. There is need that a fire prevention consciousness is created in the larger public. The owners of large commercial/ office compliances and societies of large residential complexes must be involved through appointment of compliance officers. This employee must wear a different uniform than other employees and also have easily identifiable armband. This employee should be well aware of exit passages to guide people out during crisis and shall also act as the first responder.

#### 7.3.5. Role of Trade Organisations:

Most trades have an umbrella organisation which acts as a platform to exchange views and take up common cause on behalf of their members. These organisations should now go beyond being an idea exchange platform to actively regulating their members. The restaurant trade organisation like AHAR, should set up independent audit wings manned by experts and funded from their membership fees / corpus. These auditors should carry out independent audit of their members and issue audit notes for corrective action. In case of a member

failing to comply, his membership of the trade organisation should be cancelled. This would enable self-discipline and regulation compliance in a more effective manner. The regulatory organisations should derecognise all trade organisations who fail to set up an audit cell. There should be no discussion held with trade organisations who do not have audit cells. The message has to be clear that while effort will be made to simplify laws, the trade and business would have step up vigilance to be self compliant.

#### **7.4. Conclusions:**

From the detailed report above it can be concluded that the cause of fire was fire starting from the flying embers from the hookah being illegally served in the Mojo's Bistro Restaurant which had partially unauthorisedly covered their terrace and used all kinds of combustible materials for construction of the same.

The unauthorised covering of total open terrace by 1-Above restaurant with very flammable materials caught fire immediately from the Mojo's Bistro Restaurant common wall side and spread very rapidly all over the terrace due to reasons mentioned in the report causing death of 14 people. The owner of this premises who had given permissions for unauthorised use of the terrace areas to these restaurants owners and their not taking any fire safety precautions are equally responsible for the fire and death of people.

The Architect and the interior decorators who gave their services to the owner and the restaurant owners have acted unprofessionally and have not shown any diligence in construction of such dangerous unauthorised structure and the materials used for the same. It was having all ingredients for the occurrence of such disaster. It is therefore proposed to initiate criminal actions against the owners of the premises, owners of the two restaurants, the architect and the interior decorator who carried out, aided and abetted these unauthorised works and illegal activities. Similarly the role of facility manager as mention in leave and license agreement of mill owner with restaurant owner needs to be investigated.

It is observed that departments of M.C.G.M. have given some permissions, licenses and taken actions against the illegal use of terrace areas, unauthorised construction under M.M.C. and M.R.T.P. Act. The M.C.G.M. has already suspended five officers from the Ward office and fire brigade and FFDE has already started. I am further ordering Full fledged departmental enquiries of 10 officials from the Building Proposal Department, G/South ward and Fire Brigade, including two Assistant Commissioner & Deputy Executive Health Officer.

There appears to be gross misuse of user as stipulated in DCR & IT policy. There also appears to be violations of various DC regulations i.e. change in activity and construction beyond approval. This needs a detailed survey and analysis. This would be completed within next three months and report will be submitted to Government.

There is further need to strengthen the implementing machinery without compromising on the speed of delivery as expected under ease of doing business. For that I have recommended changes in MMC Act. for eating house/ restaurant with stringent provision of punishment, to incentive-wise honest self declaration and punish dishonest compliance. Further it is propose to change existing eating house licensing procedure and monsoon shed permission procedure.

This tragedy took place at the intersection of greed fuelled by impunity and utter contempt for rules and failure of various agencies to ensure compliance.

It appears that the biggest contributor to cost of setting up a restaurant is the rental. Hence, there is a propensity to bring in more and more area under business operations even though it would mean encroaching on areas not permitted. The first casualty in this is the mandatory open spaces and passages leading to escape routes and staircases. It is thus imperative that these are regulated through a combination of self policing and a robust compliance agency. While there is a great deal of focus and attention paid to the approval process the mechanism to ensure that ground reality is in keeping with approvals can at best

be described as weak. This is further complicated by the fact that action against violations even where noticed are blunted by various factors.

Compliance machinery both in the MCGM and other organisations need to be strengthened. This would also ensure that law abiding businesses get their approvals on fast track and at the same time violators do not indulge in delinquent behaviour.

While regulatory agencies strengthen their compliance machinery there is also need to put in place legally mandated formats wherein business premises put out in public domain information relating to safety measures.

**MUNICIPAL COMMISSIONER**

## **8. Annexure**

- 8.1. Copy of FIR and Report from police department.
- 8.2. Mails and Letter received after incident.
- 8.3. Investigation report of Chief Fire Officer.
- 8.4. Permission granted by B.P. Department
- 8.5. N.O.C. granted by C.F.O. Department
- 8.6. Permission / action by M.O.H. 'G/South' Ward.
- 8.7. Action taken by B&F staff
- 8.8. Statement of External personals.
- 8.9. Statement of M.C.G.M. staff.
- 8.10. Complaints Received by 'G/South' Ward & BP Department
- 8.11. Information from State Excise Department