

## Building Regulation, Violation Recent Need in Chennai Metropolitan City-Status Report

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**Abstract:** Construction of residential, commercial building is increased manifold in Chennai metropolitan area due to the migration of population from various part of the country for the job opportunity, due to this shortage of land space they are forced to construct high rise building. Lot of construction companies engaged and developing housing and infrastructure development. This study highlights the regulation already in force and analysis the various violation in the development control regulations based on this study, suggestion is arrived for smooth functioning starting from the approval to completion of building and also helpful for the authorities to implement the same for efficient implementation of regulations.

**Keyword:** Regulation, violation, corruption

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### I. Introduction

Municipal council is the legitimate authority to prepare land use plan; it takes care of plan implementation, controls the development and manages the growth of town. The main aim is to ensure plan development, promoting healthy urban environment, reducing congestion and crowd, preventing development of conflicting land use and at micro level violation of building control rules during construction etc., to ensure a sustainable development of a town.

The government officials, geographers, environmentalists, architects, consultants, builders and developers generally agree that some form of control is necessary to guide the growth, in order to ensure adequate public services and to protect public health and safety. Sustainable environment is possible by an assortment of standards and regulations. These standard rules and regulations provide an important and inescapable framework from the formation of subdivision to the control of storm water runoff. Regulations for the sustainable environment are as old as Indian civilization. Instances of violation of development control rules are no doubt just as old. The subject of regulations leads to the source of how communities have been designed and built –how they can build or cannot and how these controls continue to shape the physical space in which we live and work.

One of the facets of building construction, namely, controlling and regulating buildings through municipal bye-laws and departmental handbooks received the attention of the panel and a study of these regulatory practices revealed that some of the prevailing methods of construction are outmoded; some designs are overburdened with safety factors and there are other design criteria which, in the light of newer techniques and methodologies, could be rationalized; building bye laws and regulations of municipal bodies which largely regulate the building activity in the country wherever they exist, were outdated. They did not cater to the use of new building materials and the latest development in building designs and construction techniques. It also became clear that these codes and bye-laws lacked uniformity and they were more often neither “specification oriented” nor “performance oriented”.

The problems arise when the standard rules and regulations intended for guiding the growth of town, to ensure adequate public services, health and safety measures are being violated at large scale. People need to recognize that law infringements and disregard of city’s town planning and building control regulations often lead to depletion of limited resources to provide basic services to the residential area. Any construction which happens without following proper town planning processes will have a negative impact on the provision of, sewerage, water and electricity supply to residents in the neighboring areas. The physical form of the built environment is shaped by an assortment of standards and regulations. They provide an important, and inescapable framework from the laying out of subdivisions to the control of storm water runoff.

National Building Code (NBC) is now a national instrument that will regulate the construction activity. It contains all the important aspects relevant for safety and orderly development. The building that does not comply with the Building Code and which violates the NBC will be penalized or the approval will be cancelled or the building will even be demolished. Public bodies like municipal councils are responsible to control the rapid development with limited resources which necessitates the applications of new practices and technologies like geographic information system.

Corruption starts in the planning permission stage and it finish in the construction stage. Nevertheless, corruption in issuing land use clearance and building permission by development authority in a single year can give us a picture of irregularities. Not a single planning permission application move itself without any persuasion. This process gets the momentum either by bribe or the influential person. The unnecessary harassment or time killing or missing of specific files or put objections on files are most common practice dealing the development authority. Construction activity in Chennai's suburbs as well as extended areas outside the city limits might get a boost if the government proposal to ease building norms is implemented soon.

The High Court-appointed monitoring committee, directed the Chennai Metropolitan Development Authority to study the possibility of constituting a panel of architects to check building violations. The committee expressed dissatisfaction over the enforcement action taken by CMDA and the Chennai Corporation so far and said "special teams formed for enforcement is not having an effect." "Stop work notice is not working. Violation has become the order of the day. Architects of multi-storied buildings and special buildings should be involved in monitoring the construction in every stage till the completion certificate is issued," says, monitoring committee member.

The recent collapse of two buildings in Chennai and New Delhi has once again highlighted the issue of structural stability and the lack of enforcement of rules and codes by municipal bodies and developmental authorities. While several buildings that have collapsed were unauthorized structures, the Chennai incident raises questions how the construction process is monitored. According to reports, the developer of the high-rise allegedly deviated from the originally sanctioned structural design and made modifications, putting the structural stability of the building at grave risk.

## **II. Regulations**

[1]The Building Regulation are minimum standards for design, construction and alteration to virtual every building. They are developed by the Government and approved by parliament.

These bye-laws and Development Control rules govern the following aspects

- ✓ Building permission
- ✓ Zoning
- ✓ Sub-division of Land
- ✓ Land use, open space, built-up area and height limitation.
- ✓ Floor space index
- ✓ Structural design
- ✓ Material and method of construction etc.

The Chennai Metropolitan Development Authority regulates developments in Chennai Metropolitan Area through issue of Planning Permission (PP) under section 49 of the Tamil Nadu Town and Country Planning Act 1971.

Chennai Metropolitan Development Authority has delegated powers to the Local Bodies within the Chennai Metropolitan Area to issue planning permission for ordinary buildings and buildings under normally permissible categories of Industrial, Residential, Institutional and Commercial use zones and also sub-divisions & small layouts. Chennai Metropolitan Development Authority issues planning permissions to major developments like Special buildings and Group Developments and other buildings under special sanction of the Authority by itself, layouts for which powers were not delegated to Local Bodies and for Multi-storeyed / IT Buildings (MSB) with Government's approval.

The 'B' Channel is in-charge of processing PP applications for Special Buildings and Group developments. The 'C' Channel is in charge of processing PP applications for major Industries and Institutional buildings for which powers were not delegated to local bodies. The Layout channel is in charge of processing PP applications for major sub-divisions and layouts for which powers were not delegated to local bodies. The MSB(Multi storeyed building) & IT MSB channel is in charge of processing PP applications for all types of Multi- storeyed buildings including IT and ITES. Non MSB IT or ITES buildings are also dealt in this channel.

The permission is valid for 3 years from the date of issue. Two categories of applications have been prescribed. Form 'A' for laying out of lands for building purposes Form 'B' & Form 'C' an undertaking from the applicant/owner. You can get an application form from the office of CMDA, Chennai Corporation, Municipalities, Town Panchayats and Panchayat Union Offices.

If you carry out any development without proper permission it will be an unauthorized development. Construction made without permission can be demolished or kept under lock and seal under the Act. In case of deviation to be made with reference to an approved plan also, permission is to be obtained. A revised plan showing the deviations should be submitted and the procedure for the approval of the original plan will apply to all such deviation plans also.

### **III. Violation**

[2]Even in the regular planned neighborhoods /colonies, a substantial number of violations of Development Control Norms and Building Byelaws have been noticed. Such violations cover one or more of the following breaches:

- ✓ Excessive Ground coverage without leaving mandatory setbacks
- ✓ Excessive Floor Area Ratio coverage FAR / FSI;
- ✓ Violation of height restriction;
- ✓ Extension of Building over public streets and other open spaces meant for public utilities;
- ✓ Shortage of parking requirements; and
- ✓ Land use violations.

The large number of violations involving unauthorized construction and misuse of premises can be attributed to five distinct causes:

- ✓ Failure of the planning and implementation process to take account of ground realities and recast the planning guidelines;
- ✓ Supply-Side shortages in terms of legitimate spaces for residential, commercial and institutional use;
- ✓ Unrealistic and cumbersome regulations including complex Development Control Norms and Building Bye-laws and long drawn approval procedures;
- ✓ Absence of proper standing institutional mechanism for seeking justifiable modifications / relaxations vis-à-vis the existing Building Code and land-use regulations;
- ✓ Need of the day is to understand the people and draft the rule and not to draft rules for dream- come true neighborhoods;
- ✓ New neighborhoods, find no place for common-man markets. They are commercialized, planned to make profit and on service-minded blueprints. Special fast track Courts should be established for setting cases of Building Code violations and stringent punishments should be accorded;

The Chennai Corporation has stopped work on more than 3,500 construction sites in 2014. Following improved enforcement by the civic body under the new administrative system, most of the zones have started screening unauthorized constructions. "The administrative revamp at the Corporation has improved enforcement of rules pertaining to building violations. More unauthorized buildings will be brought under the scanner shortly," said an official. The civic body has issued notice to stop work on 434 sites in Thiru-Vi-Ka Nagar, 433 in Adyar, 415 in Royapuram, 413 in Tondiarpet, 401 in Ambattur and 318 in Anna Nagar this year, so far. As many as 139 sites in Royapuram and 85 in Adyar have been identified for demolition because of unauthorized constructions.

Perungudi has seen the least number of unauthorized constructions this year. The civic body has locked and sealed 156 buildings and demolished 64 structures that are unauthorized, so far. Some of these constructions are now under litigation, with Anna Nagar and Kodambakkam reporting the highest number of these cases. In addition to the 11 lakh authorized properties in the 15 zones of the city, at least six lakh residential and commercial properties in the city have violated building norms, said sources. The civic body has also directed officials to speed up the processing of building approval applications to prevent violations.

Unauthorized construction activity is on the rise in the city owing to the shortage of civic staff, so experts have suggested that the corporation follow a model introduced in Hyderabad to curb building violations. Greater Hyderabad Municipal Corporation (GHMC) recently decided to give copies of sanctioned building plans to the applicant's neighbors to stop violations. The sanctioned plan will be posted to three neighbors in the vicinity of the building. They can alert us to any deviations from the sanctioned plan during construction. This help to get information about violations only after the building was completed. It becomes difficult for us to demolish such buildings because of the legal problem action would be taken against violators based on complaints from neighbors. Experts said this was a good idea that Chennai Corporation could consider adopting. M G Devasahayam, a member of the court's monitoring committee for building violations, said politicians and civic staff in Chennai turn a blind eye to the mushrooming of illegal structures. "Every other building in Chennai breaks rules. The Hyderabad model of sharing sanctioned building plans with neighbors could tackle the rising number of building violations to an extent," he said. A few residents are worried about possible misuse. "The corporation should address security concerns before sharing building plans with neighbors.

This was revealed by a recent drive by the Chennai Metropolitan Development Authority (CMDA), the city's principal planning agency, against deviations from the permits. In total of 194 violation mentioned in CMDA during 2014-2015 report is taken up for analysis under four category of violation.

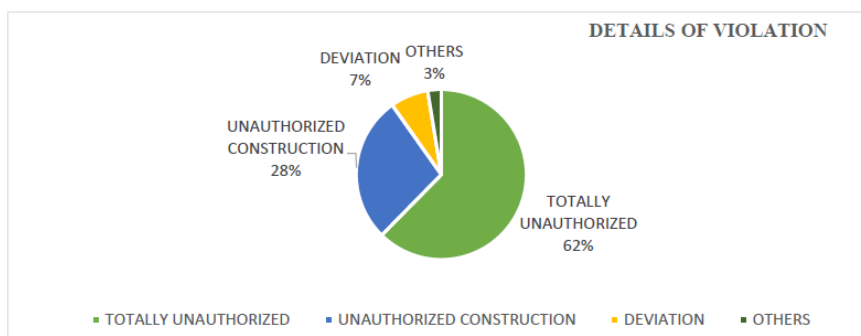
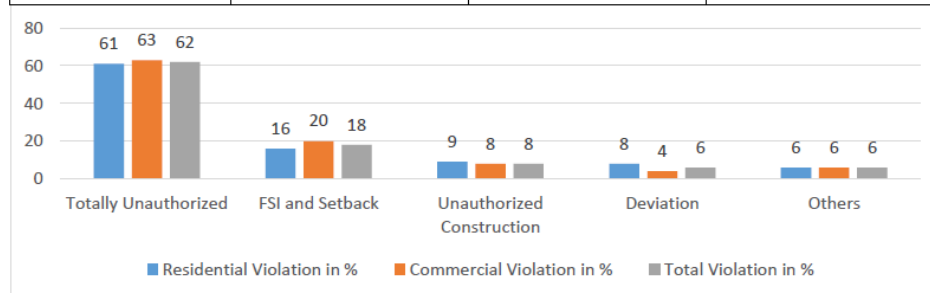


Table 1. Nature of violation in Institutional areas

Type of Violation	Residential Violation in %	Commercial Violation in %	Total Violation in %
Totally unauthorized	61	63	62
FSI and Setback	16	20	18
Unauthorized Construction	9	8	8
Deviation	8	4	6
Others	6	6	6



#### IV. Current Status

##### 4.1 Inspection

The city's apex urban regulatory authority has set up 19 teams to inspect violations in close to 700 buildings that are under construction or were completed in the last one year. The move comes four days after the collapse of a 12-storey building under construction at Moulivakkam on Saturday resulting in the death of 48 construction workers. 65 buildings with construction violations and another 60 with minor deviations. About 50% of the buildings identified for screening are multi-storey buildings. CMDA is only a planning authority. It does not have the technical expertise to assess the structural strength of buildings.

##### 4.2 Surveyors

The city corporation is studying options to control building violations by increasing accountability of its 700 registered license surveyors and introducing incentives for builders who follow guidelines. It plans to hold the surveyors responsible for the building plans they upload on the corporation website for approval. Currently, a surveyor's role is restricted to uploading the plan using Autocad software. The software approves or rejects it automatically. The surveyor then informs the zonal assistant executive engineer. The surveyor should ensure that he uploads a design, which adheres to our guidelines. They intend to make a license surveyor visit a building thrice during construction—when he draws a building design on Autocad, during construction, and after completion before property tax assessment. He/she will have to visit the site after work begins to ensure that the builder sticks to the approved plan. If a license surveyor notices deviations during construction, he can inform the engineers in the zonal office. If a building is completed with violations, the surveyor who uploaded the initial drawing will lose his license. The corporation is considering improving an existing initiative based on one followed by the Ahmedabad corporation for four years. Currently, when an engineer comes for site inspection for a new building approval, an inspection fee cum security deposit is collected from the owner. Officials are skeptical about the idea working because raising deposits and costs of inspection require government approval.

### 4.3 Monitoring

The monitoring committee expressed dissatisfaction over the enforcement action taken by CMDA and the Chennai Corporation so far and said “special teams formed for enforcement is not having an effect and Stop work notice is not working”. Architects of multi-storied buildings and special buildings should be involved in monitoring the construction in every stage till the completion certificate is issued,” said a monitoring committee member. The committee also suggested that architects who fail to report building violations should be penalized. It pointed to the Madras High Court’s decision in 2006 to strike down schemes introduced by the government to regularize unauthorized construction. The court upheld only the scheme announced in 1999. This meant that unauthorized buildings completed before February 28, 1999 alone qualified for regularization. As a result, about 25,000 applications of the 65,529 submitted for regularization were rejected at that time.

The monitoring committee is a creation of the High Court. How can you liberalize norms without the sanction of the High Court, Members also questioned the relevance of the monitoring committee, after the State government has decided to condone unauthorized buildings constructed before July 1, 2007, for a fee. CMDA officials said the monitoring committee will continue to play a key role as the guidelines under Section 113-C of Tamil Nadu Town and Country Planning Act, 1971 offered only a “limited solution to the problem of violation. “They clarified that the guidelines will cover only provisions of FSI, setback requirements and road width of the Tamil Nadu Town and Country Planning Act, 1971. Applications for exemption will be rejected if violations in respect of minimum required road width exceeds 20 per cent. Violation in respect of minimum setback spaces around such unauthorized building shall not exceed 50 per cent. FSI shall not exceed 50 per cent of the allowable limit. It is learnt that despite numerous suggestions by the monitoring panel, only one recommendation on completion certificate was implemented while the rest never saw the light of the day.

### 4.4 Bribes

When architects or contractors take up projects, they usually advise clients to keep about Rs 1 lakh handy just to pay bribes. A person building an independent single-storied house starts with getting planning permission and building plan approval. Though the corporation has introduced online applications, it is finding it hard to cut red tape and bribes. The following showcases the bribe commonly involved in each step of the construction, let’s say the total bribe amount is Rs 1 lakh.

#### Step 1 Planning Permission & Building Approval

- A) **Before:** you’d have to invite the engineer to visit the site. Engineer would suggest changes, visit, issue permit which Required a bribe
- B) **Now:** Ask licensed surveyor to certify drawing and upload it on corporation website. Software approves plan in a week and sends you an email.

C) Engineer studies all documents; licensed surveyor and executive engineer visit site and give approval. **Bribe:** 10% to 20% of Total bribe

#### Step 2 Property Tax Assessments

A) Ask tax assessor to inspect plot and neighborhood **bribe:** 1% to 2% of Total bribe

B) Revenue officer issues property tax certificate with tax amount **bribe:** 10% to 20% of Total bribe

#### Step 3 Electricity Connection

- A) Get an application form free of cost from TNEB
- B) Submit form with building plan approval, other documents
- C) Engineer visits house to decide where to fix the electricity meter. **Bribe:** 2% to 3%
- D) Authorized engineer does wiring and issues completion certificate **Bribe:** 10%
- E) Assistant executive engineer inspects connections, gives final nod **Bribe:** 10% to 20%

#### **Step 4 Water Connection**

- A) Get application form free of cost from local depot or submit online application with all documents
- B) Get drawings showing plumbing work and connections certified by licensed plumber or qualified technician  
*Bribe: 5%*
- D) Pay water taxes and charges for the building and obtain a challan
- E) If property tax assessment is not done, Metrowater executive engineer will visit site and give order *Bribe: 5%*
- F) Metrowater officials and plumber connect pipelines to main sewers and water lines *Bribe: 10% to 20%*

### **V. CMDA**

An analysis, made by the Chennai Metropolitan Development authority (CMDA) in March 2009, shows that out of a sample of 97 building applications for completion certificate, 78 were rejected for 'set-back' violation, 52 for building more than what was permissible (FSI violation), 22 for parking violation and 25 for unauthorized floor addition.

The Madras High court in its 2006 order made completion certificate mandatory in order to obtain water and electricity connection. While it upheld the 1999 regularization scheme that condoned unauthorized buildings completed before February 28, 1999, the other regularization schemes introduced in 2000, 2001 and 2002 were rejected.

The CMDA and local bodies were expected to put in place a better enforcing mechanism and work out measures that would curb building violations. However, in the meanwhile, the State government through an ordinance passed in 2007 and subsequently re-promulgated in 2008 and 2009, extended the cut-off line for condoning unauthorized constructions to July 27 2007.

The argument in defense of this ordinance was that the buildings completed after this date would strictly comply with norms and the authorities would ensure that. In 2008, almost a year after the ordinance was passed, a report submitted by the CMDA showed that of the 3,808 buildings inspected, 2,006 were found violating building norms.

There are less than 50 staff members in the Enforcement Cell, including deputy and assistant planners. It is difficult to even visit sites of special buildings (ground plus four floors) and multi-storey buildings (more than four floors) within a stipulated time, let alone carry out inspections to check if builders are sticking to the sanctioned plan,

To ensure that every building under construction in the city is subject to thorough inspections and that they comply with norms, the Chennai Metropolitan Development Authority is reviving an earlier proposal to increase staff strength in the agency's Enforcement Cell by more than 10 times. Every year, on an average, the CMDA issues completion certificates to 300 special and multi-storey buildings, and, at any given time, several applications are kept pending.

### **VI. Consequences**

The consequences of unauthorized developments are borne by the individuals and the city alike. It impairs organized development and subverts the benefits of city planning and the gullible buyers of illegally developed properties face various hardships.

Just before the apartment was to be handed over, a client was informed by her apartment promoters that the completion certificate application was rejected since it violated the approved plan. This meant that she would not receive water and electricity connection. Though the developer was responsible and benefited from the violation, it was the client who had to face the consequence. She had to pay additional sum of Rs. 2 lakh to the developer, for which receipts were not issued, to secure water and electricity connection.

An advocate specializing in property related issues, explains that when notice for demolition is served or penalty is levied on unauthorized construction, the owners will be held responsible and have to pay for it. The developer or promoter can be implicated and costs can be recovered through civil or other legal proceedings if it is established that the information regarding violation was withheld from the buyer or he or she was kept in ignorance.

Those who have bought plots in unapproved residential layouts face a different kind of problem. Many are often promised that houses can be constructed in these layouts, but what is less known is that such properties cannot be registered. As a result, no proper sale can be affected.

It is a common complaint that large commercial buildings have come in primary residential areas in violation of land use rules. As a result and due to insufficient provision of car parking traffic snarls prevail.

Safety of users is another issue that confront the city. By not providing mandated open spaces around the multistoreyed commercial buildings rescue efforts during fire accidents have been difficult.

Susan Mathew, Vice-chairperson, CMDA, thinks that “the local bodies have the infrastructure to supervise the city better and in future they could take up enforcement and monitor the city closely while the CMDA would focus more on city planning issues. However, the engineer in-charge, despite the violation on ground, replied that the building is

well within the norms and the complaint was closed. Subsequent enquiries and follow-up complaints have not yielded any reply or results.

## **VII. Tamil Nadu Town Planning Amendments**

In Tamil Nadu nearly half of its population is urban. Tamil Nadu became one of the earliest state to implement, with World Bank assistance, integrated urban development projects Town planning is just not a policy .It is a collection of various facets including land use, housing, heritage, slum improvement, transport, environmental protection, solid waste management ,and urban design.

### **7.1. Planned Evolution**

- 1971: Tamil Nadu town and country planning act passed
- 1974: Chennai metropolitan development authority constituted
- 1975: The first master plan notified in government gazette
- 1976: FMP approved after suggestion
- 1995: draft of second master plan 2011 submitted to government
- 1997: high court puts interim injunction against finalization of the master plan
- 2001: writ petition dismissed and plan returned to CMDA with suggestions
- 2005: Second draft of MP submitted with an expanded horizon till 2026
- 2006: Government returns draft asking for a fresher plan
- 2007: Government gives consent
- 2008: 2nd MP approved by Tamil Nadu government

### **7.2. Amendments**

The State government is actively recommending to amend the Tamil Nadu Town and Country Planning Act, including regularization of unauthorized buildings completed before July 1, 2007. Some of the recommendations such as the one on locking and sealing of unauthorized buildings have already been implemented. Others are under government consideration, Government sources says that consultations were at an advanced stage and currently with the Law Department. One of the important proposals relates to Section 113, which empowers the government to exempt any building from the provisions of the Act. A new subsection (Sec 113-C) has been proposed. It will allow the government to “exempt any building developed on or before July 1, 2007, from any provisions of this Act or any rule or regulation made there under.” Detailed guidelines for implementing the exemptions and the penalty charges to be collected have also been suggested.

In 2006, the Madras High Court struck down all regularization schemes except the one announced in 1999. As a result, buildings completed before February 28, 1999 alone were considered for regularization by the monitoring committee constituted by the High Court to look into regularization applications. However, the government introduced an ordinance in 2007 which provided reprieve for all unauthorized buildings completed before July 27, 2007 from demolition or any other punitive action for a year. For residential buildings not exceeding 300 square meters, the committee has recommended that the penalty charges should not exceed 50 per cent of what is levied for other categories of building.

Suggestions have also been made that the extent of violation that can be regularized with respect to Floor Space Index should not exceed 50 per cent of the permissible limit and fire safety. Structural conditions should be considered before buildings are regularized. The proposed amendments, when implemented, will be applicable to all buildings in the State, unlike the ordinance that is limited to the Chennai Metropolitan Area.

## **VIII. Recommendation**

1. Setting up housing regulatory authority
  - ✓ It can be a one stop shop to examine documentation efficiently and provide swift approval
  - ✓ It can monitor and track developers for noncompliance with authority to take legal action
  - ✓ It can be transparent plan carrying all housing projects and track records of developers
  - ✓ It can act on delay even transferring the property to another competent authority if the developers is deemed incompetent and It can quickly and actively enforce the regulation that are already in place

2. As long as wasteland remain under the urban planning category, we can't plan category, we can't control illegal growth. All marshes, mangrove and wasteland must be re-designated as eco-sensitive area, non-development zones or partial development based on location
3. We need to go beyond mere repair of drainage systems and focus on large-scale hydrology management.
4. The CMDA can utilize the Institute of Town Planners of India (ITPI) and Indian Institute of Architects (IIA) and empower them as building plan approving agencies. Kerala has already taken this seriously and has empowered architects as approving agents
5. Developing residential and commercial projects in low lying areas must be avoided. If developments do come up, storm water and sewage provisions should be designed to withstand double the normal capacity.
6. There are two ways to construct either to build vertical and increase the FSI in a responsible and safe manner as has been done in other cities like Mumbai, Bangalore and Delhi.
7. Developers need to strictly adhere to regulations such as land use plan, setbacks, CRZ (costal regulation zone), height of building, F.S.I.
8. Even if a developer is penalized several times for faulty constructions, he is free to continue building and seek approvals, as there is no formal record maintained to track his work. Solution is to create a regulatory authority to supervise proceedings more efficiently.
9. CMDA need to be equipped with necessary human resource to conduct periodic quality check, clearances and inspection.
10. Global position system can be used to keep an eye to avoid further unauthorized building.

### **IX. Conclusion**

Population explosion, high demand of urban infrastructure and limited availability of land resources is a global concern. When the inner part of a town becomes more and more congested, it expands towards municipal limits. Effective development control rules in such situation is imperative to tackle the important issues such as slum formation, overcrowding, congestion due to buildings in contravention to development control rules, narrow streets having no further scope for widening, buildings devoid of proper light and ventilation due to violation of setback rules and tendency to utilize FSI fully by covering entire plot area. Such situations affect the systematic development. The reason may be either the legal structures under which existing development control rules enforced are too weak and inappropriate in addressing the problems of physical development or they are outdated and not suit to the present socio-economic context.

In this study various regulation and the violation in Chennai metropolitan city was analyzed and we identify various development control rules which are being violated and assesses their impact in controlling and regulating unauthorized constructions and misuse of premises. The corporation has decided to computerize some procedures to eliminate interactions and reduce bribe-taking. The software generates a registration number and the date and time when an engineer will visit the site. Focus should be on application of new technology in its every day works such as remote sensing for up to date mapping of the whole city charting of digitalized maps, a computerized model of land use planning and real time processing of planning permission application. Besides technology and urgent need for qualified planners in local bodies, the monitoring team is also to be strengthened according to the major development in the metropolitan area.

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