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Copy of Council's Resolution
No. 2 (XIV) of ordinary
Meeting Held on 03/09/00

ITEM NO. 3 (XLIV)

CHANKYA CINEMA - REDEVELOPMENT & LICENCING AT ENHANCED RATES

Chankya Cinema was allotted on tender basis to present licensee at an annual licence fee of Rs. 5.51 lacs for a period of 10 years from 01.10.1970. The licensee executed the lease deed. In November 1991 the Administrator revived the issue of licence fee and approved renewal for ten years from 1.10.80 on licence fee of Rs. 9.18 per annum at an increase of 66% on the existing licence fee and from 01.10.90 on licence fee of Rs. 15.15 lacs per annum on increase of 65% more. The party went to the High Court challenging the quantum of increase in the rates. In 1995 the then Special Officer did not agree to the reduced licence fee of November 1991 decision of Administrator & directed that let us wait for High Court decision.

2. The licensee has been filing one or the other court cases and in Writ Petition No. 3244/92 obtained a stay order from the Delhi High Court that the licensee shall not be dispossessed during the pendency of the court case. As regards payment of licence fee the licensee was not regular in payment of licence fee. However, after the direction of cancellation of the licence, he immediately paid the difference of licence fee in June 1997 and has been making payment of the licence fee at the rates fixed by the Administrator in 1991. However, the interest liability for late payment is outstanding.

3. As the term of the licence was to expire in September 2000, in early 2000, the Standing Counsel and Legal Advisor was requested to get the stay vacated so that further action in regard to grant of licence beyond September 2000 could be initiated. Licensee also moved a proposal vide its letter dated 05.04.2000 for redevelopment of the Cinema from a single screen hall to a multiplex unit with enough space for letting for commercial proposes. It was proposed by licensee that entire cost shall be borne by him and the NDMC shall be paid a considerable higher licence fee than its present earnings from this building. The licensee's proposal was that NDMC shall earn much higher revenue from redevelopment without any investment and after the expiry of the period of licence; the property would revert to NDMC.

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4. The Department, thereafter, proceeded in the matter by requesting the Chief Engineer (Civil) and Chief Architect to give an idea of permissible covered area if the building is redeveloped and SC&LA to have the stay from the court vacated. In the meantime the

Council considered the general policy for Estate Department and in respect of hotels, cinemas and other similar complexes the Council in its Resolution dated 30.08.2000 resolved that :

"On the expiry of present term of licenses of hotels/cinemas and other similar commercial complexes, the licenses shall not be renewed. The fresh licence shall be as per provisions of Section 141 (2) of the NDMC Act, 1994. In respect of shopping/parking and other similar portions in these complexes, on an application made in this behalf, the Chairperson may, permit sub-licensing of these portions, on such terms and conditions and on payment of such additional licence fee, as he may, from time to time be decided."

5. In spite of best effort of the Department, it could not get the information from the Chief Architect nor the SC&LA could get the stay vacated from the Delhi High Court and the term of licence expired on September 2000. The licensee started remitting the monthly licence on the basis of the licence fee fixed from October 1990 as increased by 65% i.e. the percentage increase as agreed to by the Administrator in 1991. C.A. Singh advised that accepting of licence fee beyond the term of licence would mean automatic extension of the licence, the increased amount so remitted by the licensee was refused by the department and no payment has been accepted by the department after September 2000.

6. Since no decision was available, the licensee made a detailed proposal in 15th March 2001. It was proposed that pending final decision on their offer to develop the site as a Commercial and a multiplex complex, the licence be renewed on existing terms. The annual licence fee offered after redevelopment was about Rs. 180 lacs per annum against existing licence fee of Rs. 15.15 lacs from a single screen hall.

7. The Delhi High Court vide its order dated 25.5.2001 has modified their stay orders but the writ petition and other court cases are still pending. While modifying the stay order, the Court has directed to consider the licensee's proposal of April 2000 & March 2001. After vacation of the stay order, licensee was informed vide letter dated

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04.07.2001 that as per Council's resolution the Cinema shall be allotted through a fresh licence on market rent. The Chief Architect has also now vide his note dated 26.07.2001 has informed that permissible covered area for this complex can be about 8000 sq. mtr. i.e. 80,000 sq. ft. as against existing area of about 34000 sq. ft.

8. Due to delay in receipt of information from the CA's Office and delay in getting the stay vacated from the High Court, the present occupiers are in occupation of the building for about 11 months without a valid licence and as directed by the High Court, unless the licensee's offer contained in their letter of April 2000 and March 2001 is examined and rejected, no action can be taken to implement the Council's resolution of 30th August 2000 to allot it through fresh licence at market rate.

9. The licensee's proposal is that:-

- (i) they may be permitted to develop the complex at their own cost into a commercial-cum-multiplex on payment of enhanced licence fee and
- (ii) pending construction of the new complex the licence may be renewed at existing terms

10. The building had been constructed by NDMC in 1970 as a Single Screen Cinema Hall. Consideration of the proposal would involve -

- (i) a decision as to whether the building be redeveloped as a commercial cum-multiplex cinema project;
- (ii) if this is to be redeveloped, as to whether it is to be redeveloped by NDMC or given to the present licensee or developed through an open bid;
- (iii) if the site is to be redeveloped, whether to allow the present licensee to continue pending commencement of construction of the project.

11. It is a fact that there is a demand for multi-screen cinema Halls. The Payal & Annupam PVR have this facility. Archana has been converted in to a Commercial Complex. Satyam is being converted into a multiplex. Plaza is going in for a mini cinema with a commercial complex. The CA has informed that this building can be converted into a 80,000 sq. ft. complex against about 34,000 sq. ft. at present. The building can thus be converted into a multiplex and this will add to municipal revenue.

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Council may approve in principle framing/examining of the proposal to convert the building into commercial-cum-multiplex. The proposal shall include relative merits of its being construction by the NDMC or getting it constructed from outside agency and giving on licence the building so constructed to the person constructing / developing it for a fixed term and reversion of the building on the expiry of the said term.

12. Pending Council's approval of the proposal to develop this building as a multiplex, and examination of all issues connected therewith which will undoubtedly take considerable time, it is suggested, the present occupier may be allowed to continue for a period of three years from 1.10.2000 to 30.09.2003 through a fresh licence deed, making it clear that whatever be the decision of the Council i.e. to opt for a multiplex alternatively a commercial complex or thirdly to retain it as it is, the licence beyond 01.10.2003 shall be a fresh licence through a competitive bid. In office complexes the Council had been granting licence for a period of five years and the fee was being increased by 50 to 60% after every 5 years. In the case of this building, it was given for 10 years at 65% increase. As per Rent Act, 1995, increases are permissible at 10% each year. The increase over 1.10.1990, at 10% compounded per year gives an increase of 159%. It is proposed that the licence fee from 1.10.2000 be increased by 160%; i.e. to Rs. 39.39 lacs per annum, from 01.10.2001 by 10% over 01.10.2000 to Rs. 43,32,900/- and from 01.10.2002 by 10% over 01.10.2001 to Rs. 47,66,190/- lacs per annum.

The above proposal would meet the requirement of direction of the High Court as well.

Chairman has seen the proposal. This may be treated as an urgent item of business for approval of the proposal contained in para 10, 11 and 12 of this preamble, as it will have to be reported back to High Court.

CHANAKYA CINEMA COMPLEX

Matter regarding the Estate Policy / Guidelines for dealing with Estate Matters was brought before the Council in its meeting held on 30th August 2000 as an item no. 3 (xxi) wherein, the Council resolved inter-alia that on expiry of present term of licenses of Hotels/Cinemas and other similar complexes, the licenses shall not be renewed. The fresh licence shall be as per the provisions of section 44 of NDMC Act, 1994. Copy of the Resolutions is enclosed at Annexure (See pages 22 - 24).

2. Chanakya Cinema Complex is located in Chanakya Puram and is a part of land parcel where other prestigious building such as Akbar Bhawan etc. are located. Licence was given for running a cinema to M/s Aggarwal and Modi Enterprises (Cinema Project) Pvt. Ltd. on tender basis being highest bidder and the licence deed was executed on 16.9.70 which was renewed time to time and finally expired on 30.9.2000 with flux of time. The licence fee last paid was Rs. 15.15 lacs per annum. NDMC could not take action immediately as stay was operating against NDMC as passed by High Court of Delhi in Writ Petition No.3244/92 which was vacated by the Hon'ble Court on 24.5.2001 only in CM No.1044/2001 in CW 3244/92. While vacating the stay, the Hon'ble Court passed the following orders:-

The Petitioner in the writ petition seeks renewal of the lease for the period 1st Oct. 1990 to 30th Sept. 2000 in respect of Chanakya Cinema. This period has come to an end. The interim order dated 21st Sept. 1992 cannot ensure beyond 30th Sept. 2000. Therefore the interim order dated 21st September 1992 is hereby vacated.

This order will not prevent the NDMC from considering the proposals of the Petitioner dated 5th April 2000 and 15th March 2001. The application is accordingly disposed off.

3. The Chairman, NDMC, considered the representation as per the above observation of the Court. Since the stay was vacated only in May 2001, and the contents of the representation were examined by the Chief Architect in view of most

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nearer to one year when the complex remained without any valid licensee. The matter was placed before the Council in its meeting held on 28th August 2001 for guidance in the matter in interest of revenue as it was in variation of resolution passed by the Council on 30th August 2000. Preamble of the proposal is attached at Annexure (See pages 25 – 28).

4. A draft minutes of the Resolution was put up before the Council in its meeting held on 25th September 2001 when the Council did not confirm the minutes and decided to defer it and case to be reviewed by the Council again. Thus, the position remained as it was, as resolution did not sail. Chairman considered the representations of Chanakya Cinema afresh in view of the observations of Hon'ble High Court of Delhi and gave personal hearing to the representatives of M/s Aggarwal and Modi Enterprises (Cinema Project) Pvt. Ltd. After hearing them, Chairman passed the orders on 13.11.2001 in view of the guidelines/policy/ resolution dated 30.8.2000 and concluded that there is no merit in the representation submitted by the Company. The status of the company since 1.10.2000 is that of unauthorized occupant. He also ordered that they would hand over the vacant possession by 28th February 2002 after removing all the belongings etc as per terms of the licence, subject to further conditions that for the intervening period, they will pay damages Rs. 15.15 lacs per annum and further they will submit an undertaking to the above effect within 15 days that they would vacate by the above said date. On the event of failure to vacate and give the undertaking, M/s Aggarwal and Modi Enterprises (Cinema Project) Pvt. Ltd. and other sub-licensees shall become liable to vacate the cinema complex forthwith and in that case NDMC will take such other action as may be permissible to them in accordance with the Law besides claiming the damages from 1.10.2000 till such time it is vacated as per market rate by approaching to the appropriate authority. Copy of the order enclosed at Annexure (See pages 29 – 32).

5. However, the occupant company though responded to the order of the Chairman but did not agree to the above orders. Thereafter, a notice was issued by the Estate Department on 22.1.2002 giving 10 days time to give vacant possession to all concerned, including the sub-licensee. Sub-licensee though responded but the

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unauthorized occupant M/s Aggarwal and Modi Enterprises (Cinema Project) Pvt. Ltd., however, filed the writ petition in High Court of Delhi against the orders of Chairman dated 13.11.2001. The case came-up for hearing on 12 February 2002, which was adjourned, to 18th February 2002 for filing the affidavit on behalf of NDMC. Now, it is listed on 27th February 2002.

The Chairman has seen the case.

In view of decision taken by the Council in its meeting held on 25th September 2001, the action was taken by the Chairman as stated in para 4 above which is in conformity with the guidelines issued by Council vide its Resolution dated 30th August 2000 and it is for information and approval of the Council.

COUNCIL'S DECISION

Resolved by the Council that information as given in para 4 is approved.

Manoj Kumar
For Secretary
New Delhi Municipal Council
New Delhi.

Copy of Council's Resolution
No. 3 (XIV) of ordinary
Meeting Held on 21.11.2001

Dir (Estate) ITEM NO. 3 (xvii)

Legal Advisor

CHANAKYA CINEMA COMPLEX CASE.

WHEREAS by reason of the wordings contained in Resolution dated 28-08-2001 – which was neither confirmed nor communicated to the ex-licencee of Chanakya Cinema Complex – certain doubts had been created and contentions spun up which did not reflect the intentions of the Committee;

AND WHEREAS by Resolution dated 26-02-2002, a clarification in this regard was given;

AND WHEREAS despite the aforesaid, certain contentions are still being spun up by the ex-licencee, delays in the adjudication whereof are causing huge and recurring losses to the Council and therefore to the public;

✓ AND WHEREAS keeping in view two major factors: firstly, the redevelopment of this complex (as many other complexes in New Delhi are presently in the process of) will ensure huge returns to the Municipal Body which could exceed Rs. 25 lakhs per month and also generate extensive other revenues to the State in the form of taxes etc., and secondly, the factor being that so long possession is not resumed by the NDMC, neither proper redevelopment can be carried out nor will any bidder / collaborator / outside party look at the project with any seriousness and more so in view of past history of litigation. In any case to ensure normal and fair competition and a large number of and higher bids, resumption of possession is, but imperative.

AND WHEREAS the continued loss to the State in general and the citizens of Delhi in particular, in the manner aforesaid, is perturbing;

AND WHEREAS it is advisable to both reiterate and clearly express the intention of the New Delhi Municipal Council as a statutory body and to also make clear the

position / stand of the Council in respect of Chanakya Cinema Complex generally and the renewal of the old licence particularly;

NOW THEREFORE the NDMC resolves that it has neither approved nor communicated the Minutes of Resolution dated 28-08-2001, and that without prejudice to the clarification contained in the Resolution of 26-02-2002, it is resolved and reiterated that it will not be in the interest of NDMC to grant any extension / renewal of licence to M/s Aggarwal and Modi (Cinema Projects) Pvt. Ltd.

It is further resolved again clarified and declared that the NDMC does not wish to renew the licence, and instead wishes to continue with the proceedings already initiated and also take all other proceedings as it may be advised so that the possession of Chanakya Cinema complex is resumed at the earliest whereafter redevelopment work can be commenced.

The Council also ratifies all actions taken by its officers with regard to resuming of possession of Chanakya Cinema Complex and further hereby authorizes the Chairperson, NDMC to take all further steps as may be necessary to resume possession of the property at the earliest.

Lastly, keeping in view the circumstances of the case and in order to obviate the possibility of any action / omission of any of its officials from being misconstrued or taken wrongfully advantage of, the Council hereby records its intention that there is no question of any extension, renewal or grant of licence / lease of the Chanakya Cinema complex until possession has been first fully resumed by the NDMC is with the NDMC for a reasonable period of time, and redevelopment has also commenced. Even thereafter, it (any grant of lease / licence) shall be only by an express resolution of the council which will be a prerequisite for any grant of a lease / licence of the Chanakya Complex or any part thereof.

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Resolution is put up for consideration of Council.

COUNCIL'S DECISION

Resolved by the Council, that the proposal as made in the preamble, is approved.

Man Singh
For Secretary
New Delhi Municipal Council
New Delhi

ITEM NO. 15 (Q-5)**RE-DEVELOPMENT OF CHANAKYA CINEMA BUILDING - INVITING 'EXPRESSION OF INTEREST'.**

The Council considered in its meeting held on 7.7.2002, an item on Chanakya Cinema Complex case as item No.3(viii) and inter-alia approved the following :-

"AND WHEREAS keeping in view two major factors : firstly, the re-development of this Complex (as many other Complexes in New Delhi are presently in the process of) will ensure huge returns to the Municipal Body which could exceed Rs.25 lacs per month and also generate other revenues to the State in the form of taxes etc., and secondly, the fact being that so long possession is not resumed by the NDMC, neither proper re-development can be carried out nor will any bidder/collaborator/outside party look at the project with any seriousness and more so in view of past history of litigation. In any case, to ensure normal and fair competition and large number of and higher bids, resumption of possession is, but imperative.

AND WHEREAS the continued loss to the State in general and the citizens of Delhi in particular, in the manner aforesaid, is perturbing;

AND WHEREAS it is advisable to both reiterate and clearly express the intention of the New Delhi Municipal Council as a statutory body and to also make clear the position/stand of the Council in respect of Chanakya Cinema Complex generally and the renewal of the old licence particularly;

NOW THEREFORE the NDMC resolves that it has neither approved Nor communicated the Minutes of Resolution dated 28.8.2001, and that without prejudice to the clarification contained in the Resolution of 26.2.2002, it is resolved and reiterated that it will not be in the interest of NDMC to grant any extension/renewal of licence to M/s. Aggarwal & Anshu (Pvt) Projects Pvt. Ltd.

It is further resolved again clarified and declared that the NDMC does not wish to renew the licence, and instead wishes to continue with the proceedings already initiated and also take all other proceedings as it may be advised so that the possession of Chanakya Cinema complex is resumed at the earliest where after redevelopment work can be commenced.

The Council also ratifies all actions taken by its officers with regard to resuming of possession of Chanakya Cinema Complex and further hereby authorizes the Chairperson, NDMC to take all further steps as may be necessary to resume possession of the property at the earliest.

Lastly, keeping in view the circumstances of the case and in order to obviate the possibility of any action/omission of any of its officials from being misconstrued or taken wrongfully advantage of the Council hereby records its intention that there is no question of any extension, renewal or grant of

licence/lease of the Chanakya Cinema complex until possession has been first fully resumed by the NDMC is with the NDMC for a reasonable period of time, and redevelopment has also commenced. Even thereafter, it (any grant of lease/licence) shall be only by an express resolution of the Council which will be a prerequisite for any grant of a lease/licence of the Chanakya Complex or any part thereof."

2. On the representation submitted by M/s. Aggarwal & Modi Enterprises (P) Ltd., the then Chairman passed an order on 17.11.2001. The same is summed up as under :-

"Thus, I find that there is no merit in the representation submitted by the Company and I hereby reject the same.

Since the status of the Company since 1st October, 2000 that is an unauthorized occupant but they have continued to remain in possession on account of a delay on part of NDMC in disposing of representation made by them, I find it appropriate to permit M/s. Aggarwal & Modi Enterprises (Cinema Project) (P) Ltd. to handover the premises vacant the Cinema Complex to NDMC by 28th February, 2002, after removing all the belongings etc., which are removable as per the terms of the licence, subject to a further conditions that for the intervening period, they shall pay damages @ Rs.15.15 lacs per annum and further that they will submit an undertaking to vacate the premises by 28th February, 2002 within 15 days from the receipt of this order.

I wish to make it very clear that, in the event of non-compliance of either of the two conditions as stated above, M/s. Aggarwal & Modi Enterprises (Cinema Project) (P) Ltd. and other sub-licensees shall become liable to vacate the Cinema Complex forthwith and in that case, NDMC will take such other action as may be permissible to them in accordance with law besides claiming damages for the use and occupation of buildings w.e.f. 1st of October, 2000 till such time, it is vacated as per the market rate by approaching appropriate authority. Copy of this order may be sent to the Company by registered post and a copy to Director (Estate) for further necessary action."

3. In the writ petition filed by M/s. Aggarwal & Modi Enterprises (P) Ltd. being CWP No.773/2002 decided on 8.8.2003 reported as 106(2003) 111, the Court through a detailed order rejected the writ petition. Extracts from the order are under :-

"In my view applying the principles of law laid down in R.D. Shetty's case (supra), it is evident that the petitioner has not been able to establish that the impugned action of public tender is irrational and discriminatory. In the present case, the NDMC has chosen not to renew its lease/licence with the petitioner and the ground for such refusal cannot be termed to be irrational, discriminatory or arbitrary so as to bring it within the scope of the prohibition set out in the above judgement."

"When the Indian economic climate is being liberalized for the benefit of the citizens and the private sector, then the State 'letting' also cannot be denied benefit thereof and consequently it cannot be found with the impugned action of NDMC in inviting public tenders for the Cinema Complex for generating higher public revenue. An effort towards generation of larger public revenues from the Cinema Complex owned by NDMC is inherently in the public interest. There is no bar against the petitioner from participating in the public tender. On the contrary, the petitioner is certainly better placed than the other bidders to accurately gauge the potential of the site as it has worked in the Complex for decades."

"In so far as renewal of the lease/licence beyond September, 2000 is concerned, there is no substance whatever in the petitioner's plea that the last lease/licence executed between the parties on 23rd September, 1980 conferred on the petitioner any right of renewal. The relevant clause in the said letter dated 23rd September, 1980 reads as follows :-

"That in consideration of the licence money and the licensees agreeing to the covenants hereto referred and contained, the said licensor has agreed to grant the licence to sue the said building with all the fittings, fixtures for a term of ten years. The licensees shall, however, have an option to get their licence renewed for another ten years on the terms and conditions to be mutually agreed between the licensor and the licensee at the time of the renewal."

"It is petitioner's own case that the renewal due in 2000 was to be effective from 1st October, 2000 on mutually agreed terms. It is not in dispute that mutually agreed terms have not been arrived at as both the parties have not agreed to renewal in 2000. It is indisputable that the petitioner's case is a case of lease for fixed term. The earlier two renewals are, therefore, of no consequence. Since it has been established that licence granted to the petitioner was from time to time and without premium, it cannot operate in perpetuity. This is also clear from the terms of the licence itself which indicate that it was for a specific period of 10 years. Therefore, I am satisfied that the Counsel for the petitioner has not been able to prove that there is right to renewal inherent or otherwise beyond the year 2000 so far as the petitioner is concerned. There being admittedly no mutual agreement between the parties, the question of renewal beyond 30th September, 2000 does not arise. The petitioner has thereafter continued in possession only on the basis of interim orders."

"The last prayer in the writ petition for the renewal of the lease in the petitioner's favour cannot, therefore, be granted in view of the aforesaid findings."

"However considering the long tenure of the petitioner in the Complex since 1967, the petitioner is granted time to vacate the Cinema Complex on or before 30th September, 2003 subject to the filing of an undertaking to vacate the complex on or before 30th September, 2003."

The said undertaking, containing the usual terms be filed on affidavit within three weeks from today. In case the undertaking as directed above is filed, the interim protection granted by the Order dated 31st March, 2003 will continue upto 30th September, 2003."

4. The LPA filed by M/s. Aggarwal & Modi Enterprises (P) Ltd. is presently under consideration of a Special Bench of the High Court.

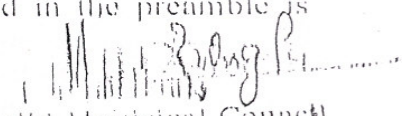
5. Preparation of feasibility report and taking a decision as to whether the NDMC should go in on re-development as a Commercial Complex or a Cinema-Cum-Commercial Complex or Cinema-Cum-Multiplex and as to whether it should be developed by NDMC or be given to other Institutions for its development, it appears necessary that an Expression of Interest be invited from the interested parties with their offers and suggestions so that the matter could be put-up to the Council for a final decision in the matter. The Council may approve inviting Expression of Interest for re-development of the Cinema Complex.

6. Council's Resolution of 26.2.2002 and 7.7.2002 and Chairman's order dated 13.11.2001 are at Annexure-I, II & III {Pages 89 - 98 }.

Chairperson has seen the preamble for being placed before the Council.

COUNCIL'S DECISION

Resolved by the Council that the proposal as mentioned in the preamble is approved.


New Delhi Municipal Council
Palika Kendra, New Delhi

ITEM NO. 24 (W-4)**1. Name of the subject/Project**

Status reports of the project for Re-development of Yashwant Place Cinema Complex

2. Name of the Department

Projects department.

3. Brief History of the subject/project:

The Cinema Building was constructed in the 1960s and it was licensed out to M/s Agarwal & Modi Enterprises Pvt. Ltd. from 1.10.1970. The licensee continued to be in possession beyond the stipulated license period. The licensee filed a number of court cases and after prolonged litigation the High Court of Delhi ordered (LPA No 596 of 2003) that the premises should be vacated within three months from the date of order i.e. August 30, 2005. M/s Agarwal & Modi Enterprises Pvt Ltd filed an LPA with the Supreme Court and the matter is likely to be decided soon.

During the pendency of various court cases the Council resolved that an expression of interest should be invited from interested parties for their offers and suggestions regarding redevelopment of Chanakya Cinema Complex as a

- i. Commercial Complex or
- ii. Cinema -cum-Commercial Complex or
- iii. Cinema -cum Multiplex and
- iv. whether it should be developed by NDMC or
- v. it should be given to other institutions for redevelopment (Resolution No. 15(Q-5) dated 26.8.2004.

It was further resolved that based on a feasibility report so received, the matter would be put-up to the council for a final decision in the matter.

The expression of interest was, however, kept pending as the legal opinion was against inviting expression of Interest before possession of the property is recovered because it was felt that only then would any serious offer/proposal come.

However subsequently during the course of hearings in the LPA the Hon'ble Supreme Court desired to see the feasibility report and it was decided that expression of interest for consultancy services should be invited immediately. Accordingly an expression of interest document for consultancy services was prepared by the projects department keeping in view the earlier council decisions and that NDMC aims to develop the complex as a leisure cum commercial centre with a view to maximize revenues for the council and to provide world class Multiplex Complex which should be one of the land marks of Delhi for the 2010 Commonwealth Games.

4. Detailed proposal on the subject/project

In response to the advertisement, three concerns submitted their proposals on the due date i.e. 27-04-06. These are:-

- a) M/s. Ernst & Young Pvt. Ltd.,
- b) M/s Ramky Infra Consulting Pvt. Ltd. and

c) M/s. IL&FS Infrastructure Development Corporations Ltd.

The proposals have been received in two covers:

1. Technical proposal and
2. Financial proposals.

The technical covers have been opened and are being evaluated by the bid evaluation committee comprising

1. Sh. G.P. Sharma, Chief Engineer (Civil),
2. Sh. Hira Ballabh Director (Finance) and
3. Sh. Anurag Goyal Director (Project)

5. **Financial implications of the proposed project/subject :**

NA

6. **Implementation schedule with timeliness for each stage including internal proceeding:**

The contract for consultancy services is likely to be awarded this month. There are two specific parts of the consultancy assignment – the first part is to advise NDMC on the suitable product mix and the development options. Twelve weeks have been allowed to the consultant to submit their report on the above. The second part involves the preparation of bid documents and bid process management for the actual redevelopment of the complex. Twenty five weeks have been assigned for this part.

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

Finance department has observed as under :-

"we return the case with the observation that no comments for the finance department on these status reports. Further necessary action be taken by Director (Projects) at his own end. Also ensure that advised/observations of the Finance Department given in the past are incorporated in these status reports."

8. **Comments of the deptt. on comments of Finance Deptt.**

Nil

9. **Legal implications of the subject/project**

NA

10. **Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject**

Resolution No 15(Q-5) dated 26/8/2004 as discussed above

11. **Comments of the Law Deptt. on the subject/project**

Law department has observed as under :

"law deptt has no comments to offer"

12. Comments of the deptt. on the comments of Law Deptt.

Nil

13. Recommendation

The status report is placed before the council for information only

COUNCIL'S DECISION

Information noted

For Secretary
New Delhi Municipal Council
Palika Mandra, New Delhi.

ITEM NO.1 (W-7)

Copy of Reso. No. I (W-7)

Council's Ordinary Meeting
Dated 13-10-2006**1. Name of the subject/Project**

Project for Re-development of Yashwant Place Cinema Complex – "Appointment of consultant thereof".

2. Name of the Department

Projects department.

3. Brief History of the subject/project:

A status report containing a brief history of the Subject was noted for information of the council in its ordinary meeting held on 19/05/06 vide resolution no. 24(W-4) (Annexure A). (See pages 8-10).

4. Detailed proposal on the subject/project

In its order dated 30/8/2005, in LPA No. 596/2003, the Hon'ble High Court, Delhi dismissed the appeal filed by M/s Aggarwal & Modi Enterprises (Cinema Projects) Pvt Ltd, being devoid of any merit. The appellants were directed by the court to hand over the premises to NDMC and pay all arrears of the fee within three months from the date of the order. Thereafter, a Special Leave Petition (No 21183 of 2005) was filed by M/s Aggarwal & Modi Enterprises (Cinema Projects) Pvt Ltd and in its order dated 28/11/2005, the Hon'ble Supreme Court continued the interim protection given by the High Court.

During the course of the proceedings before the Hon'ble Supreme Court, NDMC filed an affidavit stating that "NDMC has proposed to build a multiplex complex which shall be one of the most modern complexes all over the world. During the 2010 Commonwealth Games, in order to attract the best of tourism and in order to cater to all the diplomats and officials of Commonwealth countries, the said multiplex-cum-commercial complex has been proposed and contemplated. The NDMC had earlier proposed modern multiplex complex. In the process of revising the same to update it and put up an international standard multiplex-cum-commercial complex, the NDMC now proposes to float a global tender of expression of interest so as to have the proposed multiplex/commercial complex of international standards. In rough estimate NDMC is proposing to have 80,000 sq. feet plus basement of built-up area in the said multiplex complex. At a rough estimate of ongoing market rates of approximately Rs.150 sq.ft. NDMC is likely to fetch a yearly revenue of above Rs.14.40 crore. Looking from any angle, one cannot find any fault with the proposals of the NDMC to act in public interest and fetch maximum possible revenue out of its resources"

The Hon'ble Supreme Court desired to see the Consultant's scheme and it was decided to invite Expressions of Interest in order to engage consultants for this purpose.

The advertisement inviting Expression of Interest was released in the following newspapers on 27-2-06:

- Hindustan Times of India (Delhi, Mumbai Edition),
- The Hindu (All editions),
- Financial Express; and
- Economic Times

1750/PAT/Dir (Proj)

29/10/06

4/11/06

Dir (Project)

Ato (Project) 1/11/06

The EOI was also put up on the NDMC website. The last date for submission of bids was kept as 27/3/06. A pre bid meeting was held on 10-03-06. Three concerns sent their representatives to attend the prebid meeting namely:

- i. M/s. Negolice India Ltd.,
- ii. M/s. Ramky Infra Consulting Pvt.. Ltd.
- iii. M/s. Infrastructure Professionals Enterprises (P) Ltd.

Queries were also received separately via e-mail from M/s Pandey Dua and Mathur, Chartered accountants.

It was felt that the response to the advertisement for the EOI was not satisfactory considering the importance of the project. Therefore, with the approval of Chairperson, a decision was taken to:

- Extend the last date for submission of bids one month i.e. till 27-4-06
- Release the advertisement again in the business newspapers. The advertisement was released again on 27-3-06 in the following business newspapers.
 - Business Standard
 - Financial Express
 - Hindu Business Line

It was specified in the advertisement that the last date had been extended till 27/4/06.

- In addition, e-mails were sent to the consultants empanelled by Ministry of Urban Development about 29) for preparation of the City Development Plans under the Jawahar Lal Nehru National Urban Renewal Mission (JNNURM), drawing their attention to the newspaper advertisement.
- Responses to queries raised during the prebid meeting and those received by mail were placed on the NDMC website
The eligibility conditions as per the EOI were :

S No	Eligibility criteria laid down in EOI
1	The entity should be an established & reputed company having a minimum experience of 5 years in providing consultancy services for development of large Institutional, Commercial, Residential and Recreational facilities.
2	The company should have an annual turnover of not less than Rs. 10(Ten)crores from consultancy services on a average during the last three financial years.
3	The company should have been making profits in the last three financial years.
4	Company must have successfully completed consultancy work for at least two such projects, the value of which is over Rs. 100(one hundred) crores , during the last three years ending 31.03.2005 OR Completed consultancy work for one such project costing over Rs. 200 (two hundred) crores , during the last three years ending 31.03.2005

By the closing time of receiving the bids, three bids were received in the office of Director (Projects) from the following:

- i. M/s. Ernst & Young Pvt. Ltd.,
- ii. M/s Ramky Infra Consulting Pvt. Ltd. and
- iii. M/s. IL&FS Ltd.

As both the concerns received the minimum qualifying marks, the committee recommended the two companies qualify in the technical evaluation.

Thereafter, financial bids were opened in the presence of the bidders and evaluated by a committee in its meeting held on 12/6/2006, comprising the following members:-

1. S.M. Ali, Director (Tax)
2. Sh. Hira Ballabh, Director (Finance)
3. Sh. G.P. Sharma, CE(C-I)

The rate quoted by the two companies are given as under:-

- a) M/s. Ernst & Young Pvt. Ltd. :- **Rs.30,00,000/- (Rupees Thirty lac)**. The fee was quoted exclusive of the following: Applicable Service taxes, Cost of releasing advertisements and conducting road shows for attracting bidders in phase two. Any expenditure on legal counsel sought by NDMC
- b) M/s. IL&FS Infrastructure Development Corporations Ltd.:- **Rs.25,00,000/- (Rupees Twenty five lac)**. The fee was quoted exclusive of any advertisement cost, which shall be borne by the client. In case NDMC requires IL&FS to bear the cost of press advertisements, then same shall be done at an extra cost of Rs. Eight Lacs only (Rs. 8,00,000/-) which will be over and above the professional fee quoted above. All the above charges are exclusive of the taxes as and when applicable, which shall be attributable to the client.

As per the terms of the EOI, the financial bid was to be exclusive of any taxes attributable to NDMC (such as service tax). After scrutiny of the financial bids it was recommended by the financial bid evaluation committee that the work may be award to M/s. IL&FS Ltd. (Infrastructure Development Corporations Ltd.) at their lowest quoted rate of Rs. 25,00,000 (Rs. Twenty Five Lacs), press advertisements shall be released/published in the desired papers etc by the NDMC at its own cost.

In pursuance of this process, a Notice of award for the consultancy service was issued to M/s. IL&FS Ltd. by the project department vide letter no. 1182/PA/Dir(Project)/06 at 2/8/2006. The consultant services contract has been vetted by the Law Department and has been signed on 9th August 2006.

5. Financial implications of the proposed project/subject :

As above

6. Implementation schedule with timeliness for each stage including internal proceeding:

There are two specific parts of the consultancy assignment – the first part is to advise NDMC on the suitable product mix and the development options. Twelve weeks have been allowed to the consultant to submit their report on the above. The second part involves the preparation of bid documents and bid process management for the actual redevelopment of the Chanakya Complex. Twenty five weeks have been assigned for this part.


7. Comments of the Finance Deptt. on the subject

"Draft agendum as now modified appears to be in order."

8. **Comments of the deptt. on comments of Finance Deptt.**
NIL
9. **Legal implications of the subject/project**
NA
10. **Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject**
Discussed the matter in Council vide resolution No 15(Q-5) dated 26/8/2004 and thereafter resolution no. 24(W-4) dated 19/5/2006.
11. **Comments of the Law Deptt. on the subject/project**
"This have our concurrence"
12. **Comments of the deptt. on the comments of Law Deptt.**
NIL
13. **Recommendation**
This intimation is placed before the council for information only.

COUNCIL'S DECISION

Information Noted.


For Secretary
New Delhi Municipal Council
Palika Kashi, N.

ITEM NO. 01 (W-8)

Copy of Reso. No. **01 (W-8)**
 of
 Councils Order Meeting
 Dated **28-03-2007**

1. Name of the subject/Project

Project for Re-development of Yashwant Place Cinema Complex

2. Name of the Department

Projects department.

3. Brief History of the subject/project:

The Cinema Building was constructed in the 1960s and it was licensed out to M/s Agarwal & Modi Enterprises Pvt. Ltd. from 1.10.1970. The licence was extended by one block of ten years i.e till 1990 however, M/s Agarwal & Modi Enterprises Pvt Ltd continued to be in possession beyond the stipulated license period. The occupier filed a number of court cases and after prolonged litigation the division bench of the High Court of Delhi in its order dated 30/8/2005, in LPA No. 596/2003, dismissed the appeal filed by M/s Aggarwal & Modi Enterprises (Cinema Projects) Pvt Ltd, being devoid of any merit. The appellants were directed by the court to hand over the premises to NDMC and pay all arrears of the licence fee being paid by them at present within three months from the date of the order. The court clarified that its order was without any prejudice to the rights of NDMC for mesne profits. Thereafter, a Special Leave Petition (No 21183 of 2005) was filed by M/s Aggarwal & Modi Enterprises (Cinema Projects) Pvt Ltd and in its order dated 28/11/2005, the Hon'ble Supreme Court continued the interim protection given by the High Court. The last hearing took place on 21/3/2007.

During the pendency of various court cases the Council resolved that an expression of interest should be invited from interested parties for their offers and suggestions regarding redevelopment of chanakya cinema complex as a

- i. Commercial Complex or
- ii. Cinema –cum-Commercial Complex or
- iii. Cinema –cum Multiplex and
- iv. whether it should be developed by NDMC or
- v. it should be given to other institutions for redevelopment

(Resolution No. 15(Q-5) dated 26.8.2004.)

It was further resolved that based on a feasibility report so received, the matter would be put-up to the council for a final decision in the matter.

1145/PAT Dir (Cinema)
 4/5/07
 78

(1025) DM
 4/5/07

The expression of interest was, however, kept pending as the legal opinion was against inviting expression of Interest before possession of the property is recovered because it was felt that only then would any serious offers or proposals were expected to come.

During the course of the proceedings before the Hon'ble Supreme Court, NDMC filed an affidavit stating that *"NDMC has proposed to build a multiplex complex which shall be one of the most modern complexes all over the world. During the 2010 Commonwealth Games, in order to attract the best of tourism and in order to cater to all the diplomats and officials of Commonwealth countries, the said multiplex-cum-commercial complex has been proposed and contemplated. The NDMC had earlier proposed modern multiplex complex. In the process of revising the same to update it and put up an international standard multiplex-cum-commercial complex, the NDMC now proposes to float a global tender of expression of interest so as to have the proposed multiplex/commercial complex of international standards. In rough estimate NDMC is proposing to have 80,000 sq. feet plus basement of built-up area in the said multiplex complex. At a rough estimate of ongoing market rates of approximately Rs.150 sq.ft. NDMC is likely to fetch a yearly revenue of above Rs.14.40 crore. Looking from any angle, one cannot find any fault with the proposals of the NDMC to act in public interest and fetch maximum possible revenue out of its resources"*

The Hon'ble Supreme Court vide order dated 23/1/2006 directed that the outline of a consultants scheme in any be filed before it. Accordingly, it was decided to invite Expressions of Interest in order to engage consultants for this purpose. Accordingly M/s Infrastructure Development Finance Company Ltd was selected through a competitive bid process. The scope of work outlined was:-

1. To advise on suitable product mix for the development of complex with maximum revenue to NDMC and better facility to public.
2. Preparation of conceptual drawings and details for redevelopment.
3. To advise for possible model, marketing & maintenance of the development, may be on BOT basis, keeping it as high revenue earning & state of the art project.
4. Preparation of Bid documents & Bid process management.

The report prepared by ILFS in consultation with NDMC was submitted to the Hon'ble Supreme Court of India in sealed cover and came up for hearing on 21/3/2007.

4. Detailed proposal on the subject/project

4.1 In its report, the consultant has evaluated several options for the product mix for redevelopment of the cinema complex. The analysis has been made primarily on the basis of the demand for a particular development and the revenues likely to accrue to NDMC as a result. To sum up, the following options were initially proposed:

- (a) Mall-cum-multiplex with high end retail.
- (b) Multiplex, leisure, entertainment and related office tower.
- (c) Boutique/Five Star Hotel.
- (d) Aquarium.
- (e) Opera.

Option (c) was not evaluated because of the presence of Akbar Bhawan which can be developed as a star hotel after it is vacated by MEA. Furthermore, the option was not as per the mandate to projects department to explore development of a Multiplex and leisure destination.

The Technical and financial analysis of the option (d) and (e) carried out is summarized below:

Evaluation of Technical Feasibility of Aquarium and Opera:

Evaluation Criteria	Aquarium		Opera	
	Issues	Evaluation	Issues	Evaluation
Location	i) Delhi being land locked, is not ideal for locating an aquarium ii) Issues with transporting salty water/animals, recycling waste water etc.	Not suitable	i) Delhi is a culturally active city with high demand for space for art display/performance ii) Suitable surroundings with high end clientele	Suitable
Area of site	i) Available BUA not sufficient for large world class aquarium	Not suitable	i) Technically suitable for opera aquarium	Suitable
Rival facilities	i) Proposed Rs.500 crore world class marine aquarium at Calcutta	Not suitable	i) Popular options like Siri Fort, Kamani and other indoor/outdoor performing auditoria	Not Suitable

Evaluation of Financial Feasibility of Aquarium and Opera:

Based on secondary literature key assumptions with regards to construction, design and revenue returns were made for both Aquarium and Opera. On the basis of this it was seen that-

- (i) An aquarium would be constructed at the cost of Rs.132.3 crores. Assuming a concession period of 30 years, the project will give low returns with an IRR of 0.03%.
- (ii) An opera on the other hand would be constructed at a cost of Rs.97.5 crores. Assuming a concession period of 30 years, the project will have a negative IRR.

Hence, it is seen that an Aquarium is both technically and financially infeasible as a development option. An opera on the other hand is technically feasible but will fail to give financial returns. Hence, both these development options may be a part of the entertainment facility, not viable on standalone basis and may be developed as themes for which the flexibility may be provided to the developer.

Of the Mall-cum-Multiplex and Multiplex-cum-tower options, both development options have been found to be technically feasible and having market demand. From the primary surveys, it emerges that a mall-cum-multiplex development would be a profitable real estate venture for developers. A preferred product mix would include Multiplex, high and retail, entertainment facilities such as gaming multi-specialty dining areas. Given good market potential and high rental returns as perceived by developers, a retain-cum-leisure facility would be the preferred development option.

The other option that seemed to have emerged is a mix of entertainment cum support A grade office tower as a profitable option. The office tower could primarily be a support to entertainment business such as the multiplex, etc.

Conceptual drawings of the **options (a) and (b)** have been given with detailed financial analysis over a thirty year period keeping in view two methods of development:

(a) Build Operate Transfer (BOT) model by a private developer

In the BOT option the developer may be given by NDMC through a concession/authorization agreement the right and responsibility of conceptualizing, obtaining approvals, funding, constructing, marketing, letting out the built up space to end-users and realizing revenues in return,

operating the common areas and infrastructure utilities for the concession period. The developer will finally hand over vacant possession of the property to NDMC at nil value at the end of the concession. For the rights given to him, the developer will be expected to make various payments to the concession grantor and lessor NDMC. These could be structured as a combination of:-

- Upfront payments,
- recurring (monthly/quarterly) lease rentals and
- percentage of gross revenue receipts of the developer.

(b) **NDMC funded model**

In the NDMC funded option, the Council would develop the entire project and lease/license out the built-up spaces to individual customers, and retain the entire income itself, as it is doing in many commercial buildings today. NDMC may hire a specialized facility management agency to take care of the day-to-day operations, estate management functions on its behalf so that the property is maintained as a landmark/premium destination.

The basic assumptions relating to cost and revenues are the same in both the NDMC as well as the NDMC funded model. However, the consultants suggest that the income should be discounted by about 30% in case of an NDMC funded model because of differences in efficiencies in operations and market perception of the developer. Also, the construction period is anticipated to be shorter in a BOT Model as there is an inherent incentive to complete the project early in a BOT scheme. This is eventually reflected in the financial returns from the project. The summary of the financial analysis is given below:

Case	Options	Estimated project landed Cost (Rs in crores)	Expected lease rental per sq.ft. of FSI.	Upfront Premium (in Rs. crores)	Likely revenue in crores over the project life
Option (a) Mall-cum-multiplex with high end retail.	1. BOT	75.19	43	50	159.09
	2. NDMC	20.72	0	0	138.08
Option (b) Multiplex, leisure, entertainment and related office tower	1. BOT	55.77	43	33	132.27
	2. NDMC	20.06	0	0	96.71

- 4.2 NDMC has been consistently pressing for possession of the property and payment of outstanding arrears before the courts. The arguments before the court have been that the development of the project has been delayed due to non-eviction of the petitioner. In the last hearing held on 21/3/07, the Hon'ble Supreme Court was of the opinion that NDMC should consider the proposals outlined in the report at appropriate level and take a decision and place it before the court before the next date of hearing.

The counsels appearing for NDMC have advised NDMC to consider taking a decision on the following terms:

- "(i) *In the event of eviction order passed by the Hon'ble High Court be upheld by the Supreme Court and possession of the property being handed over to the NDMC, the NDMC would develop the property in terms of the report of the consultants.*
- (ii) *The NDMC may consider either of the two options suggested by the consultants in the light of their recommendations made at page-116 of the report.*
- (iii) *The criteria to be adopted by the NDMC is selected either of the two options should be primarily based on (a) optimum utility of the premises (b) optimum revenue realization by the NDMC (c) large needs of the City and the locality (d) potential need of the option selected (e) capability of the NDMC, or the party so selected by the NDMC to manage the project (f) any other relevant factors.*

After taking decisions, the NDMC should inform the Court before the next date of hearing of the decision so taken by NDMC.

In the light of what transpired in the Hon'ble Court, it would be advisable to select and appropriate partner, BOT operator by an open and transparent competitive bidding. It may be made clear that the present occupant namely Aggarwal & Modi Enterprises Limited would also be allowed to bid."

(copy of the advice is placed as Annexure A, See pages 10 - 12)

- 4.3 In view of the discussion in para 4.1 and in view of the counsels advice in para 4.2, it is proposed as under

Proposal 1: Based on the discussion above, it is proposed that the recommendations of the consultants be accepted both on the product mix as well as the model of implementation i.e BOT.

Proposal 2: The developer under the BOT model be selected through a competitive bidding process. No special concession is to be allowed to M/s Aggarwal & Modi Enterprises Pvt Ltd. However, they may be allowed to participate in the bid process if they meet the eligibility requirements.

5. **Financial implications of the proposed project/subject :**
NDMC is likely to earn an upfront premium of Rs 50 crore with an annual return of about 4.5 crore from development of the project.
6. **Implementation schedule with timeliness for each stage including internal proceeding:**
The second phase of the consultants assignment is to prepare the bid documentation and conduct the bid process. A period of 24 weeks has been allowed under the consultancy contract for the process. Thereafter it will take about 2 years to complete the construction.
7. **Comments of the Finance Deptt. on the subject**
Not shown in finance.
8. **Comments of the deptt. on comments of Finance Deptt.**
NA
9. **Legal implications of the subject/project**
NDMC is complying with the directions of the Hon'ble Court.
10. **Details of previous Council Resolutions, existing law of Parliament and Assembly on the subject**
Matter was discussed in Council vide resolution No 15(Q-5) dated 26/8/2004. A status report containing a brief history of the Subject was noted for information of the council in its ordinary meeting held on 19/05/06 vide resolution no. 24(W-4) & the appointment of the Consultant was noted in the meeting held on 13/10/2006 vide Resolution no. I(W-7).
11. **Comments of the Law Deptt. on the subject/project**
"The agenda item is in accordance with the recommendations of the consultant and advice of advocates and Law Department approves of the agenda item and recommendations"

12. Comments of the deptt. on the comments of Law Deptt.

13. Recommendation

This intimation is placed before the council for information & consideration of the option (a) Mall-cum-multiplex with high end retail on BOT basis.

COUNCIL'S DECISION

The Council deliberated in detail the report of the Consultants recommending various options for redevelopment of Chanakya Cinema Complex. The Council took note of the suggestion in the report that there is substantial demand for a multiplex as well as a commercial complex which can be a shopping complex or an office Complex and projection of substantial increase in the revenues to NDMC from such a redevelopment of the Complex as compared to the present revenues from the single screen cinema.

The Council resolved to accept the report of the Consultant and the recommendation for redevelopment of the complex into a Multiplex-Cum-Commercial Complex. The Council further resolved that as the project is a time bound project, to be completed before the Commonwealth Games, 2010, the department should now expeditiously procure, with the help of the consultant, bids from interested parties for its redevelopment as a Multiplex-Cum-Commercial Complex and place before the Council, the actual financial implications from such redevelopment.

Resolved further that in the event of its being financed by the Council, a sum of Rs. 20 crores be initially provided in the Budget Estimate for 2007-08.

Resolved further that in anticipation of the confirmation of the minutes of the meeting of the Council, the Supreme Court may be informed accordingly.



For Secretary

New Delhi Municipal Council
Patla Keshav, New Delhi