

## 3.2 Implementation of Building Rules in Municipal Corporations

### Highlights

*Regulation of building construction in accordance with the provisions of Kerala Municipality Act, 1994, Kerala Municipality Building Rules, 1999, zoning regulations and other related rules and Government orders is one of the functions of Municipal Corporations. Audit noticed numerous unauthorised constructions as a result of issue of permits in violation of the Act and Rules by Municipal Corporations. Short realisation of revenue and unsatisfactory delivery of services to the public were also noticed.*

- **Short realisation of additional fee of Rs.36.28 lakh was noticed due to non-application of correct Floor Area Ratio (FAR).**

*(Paragraphs 3.2.9.1 and 3.2.10.1)*

- **The selected Corporations regularised 11433 unauthorised constructions during 2004-05 to 2006-07.**

*(Paragraph 3.2.12.1)*

- **Though TMC detected unauthorised construction of a temporary shed, no action was taken either to regularise or demolish the construction.**

*(Paragraph 3.2.12.3)*

- **Unauthorised permission granted by TMC to construct residential building resulted in construction of 14 storey building in violation of KMBR and zoning regulations.**

*(Paragraph 3.2.12.4)*

- **Thiruvananthapuram Municipal Corporation (TMC) issued building permit to a hospital in violation of zoning regulations.**

*(Paragraph 3.2.12.5)*

- **Even though incinerators were to be installed in hospitals as per KMBR, 67 hospitals in both the Corporations were running without incinerators for disposing of bio wastes.**

*(Paragraph 3.2.12.6)*

- **No action was taken on 26.12 per cent of applications seeking for building permit in Thiruvananthapuram and Kozhikode Municipal Corporations.**

*(Paragraph 3.2.14.2)*

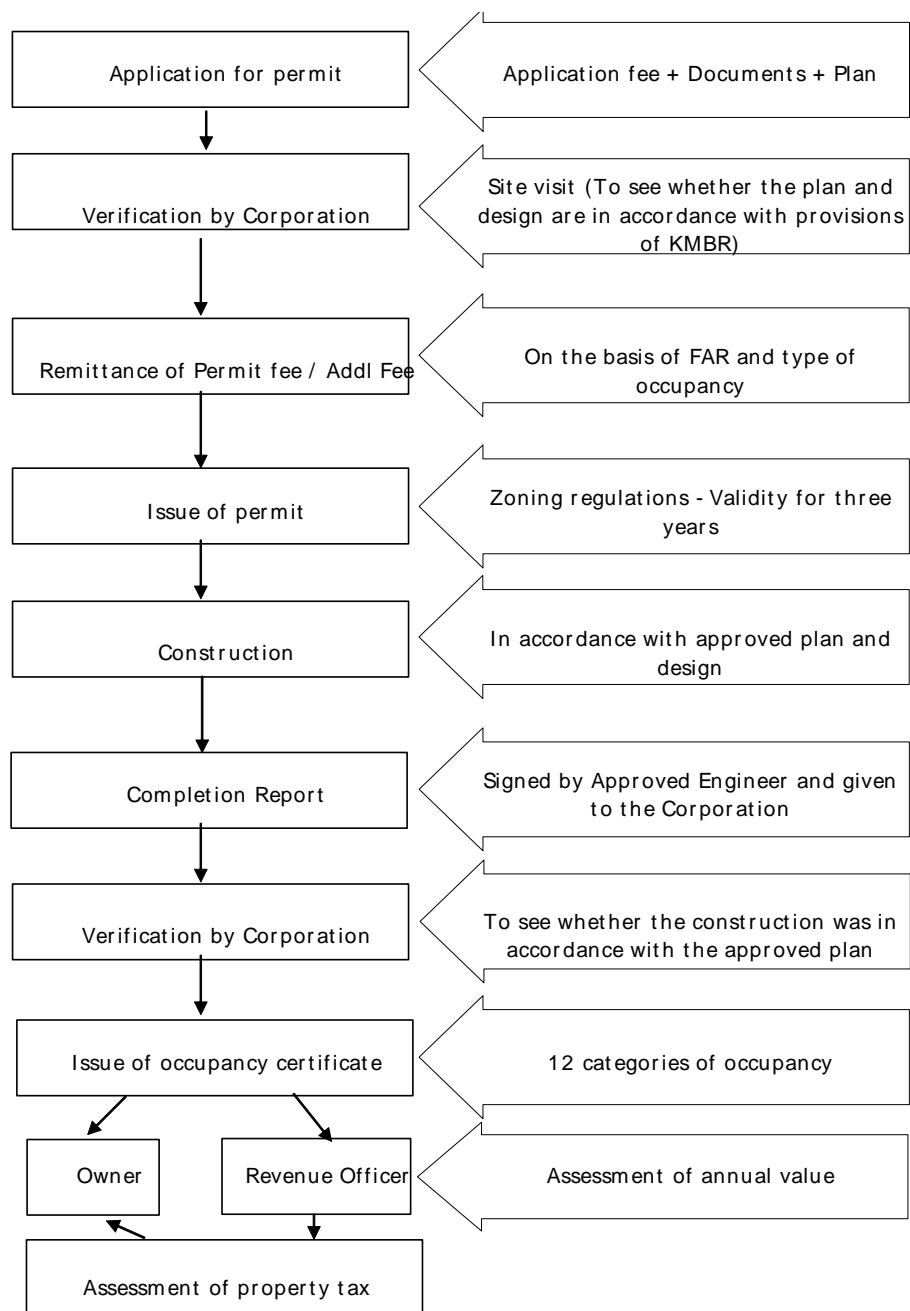
### 3.2.1 Introduction

Regulation of building construction is one of the important mandatory functions of the Municipal Corporations (MCs) as per the Kerala Municipality Act, 1994 (Act). The State Government framed the Kerala Municipality Building Rules, 1999 (KMBR) in exercise of the powers conferred by the Act for planned development of the area concerned and also for the safety and well being of occupants of the buildings and the public. The rules came into force on 01 October 1999. Prior to that, construction of buildings was being regulated by Kerala Building Rules, 1984

(KBR). According to KMBR, no person shall construct/reconstruct any building or make addition/extension/alteration to an existing building or develop or re-develop any parcel of land in the area concerned without obtaining permit from the MC in order to ensure planned development with due regard to aesthetics, ecology and pollution constraints. However, operational constructions of Central and State Government such as Railways, National Highways and Water ways, Aerodromes, etc. are exempted from KMBR. Similarly, permits are not necessary for minor works such as providing and removing windows, doors and ventilators for partition, painting, petty repairs, etc. which do not otherwise violate provisions of KMBR. The Rules also prescribe specific and separate norms for parking spaces, open area, fire escape, ventilators, sanitation facilities, front and rear yards, etc. for each type of buildings based on their occupancy. The Act and Rules contain provisions for ensuring prompt delivery of services by the Corporations in issuing building permits and occupancy certificates.

### **3.2.2 Organisational set up**

The Secretary of the Corporation is the authority to issue building permits and occupancy certificates. The Town Planning Officer and Assistant Town Planning Officer carry out the above functions on behalf of the secretary. Thus they are de-facto responsible for receipt and scrutiny of applications, granting permits, inspecting buildings and issuing occupancy certificates. Any person aggrieved by an order passed by the Secretary may submit an appeal to the Tribunal for LSGIs constituted under Section 271 S of the Kerala Panchayat Raj Act, 1994. The different stages of implementation of KMBR are depicted in the following chart.



### 3.2.3 Audit Objectives

The audit objectives were to evaluate the quality of implementation of the KMBR and related provisions of the Act and to examine whether

- the applications received were properly scrutinised
- the building permits granted were in order
- the permit fee and additional fee collected were as per Rules
- the buildings constructed by the permit holders were in accordance with the approved plan and design

- the Corporation made timely inspection of the building construction
- issue of occupancy certificate was in order and
- there was proper internal control and monitoring system for implementing the KMBR.

#### **3.2.4 Audit Criteria**

Audit criteria used for the evaluation of the implementation of KMBR were:

- Provisions of Kerala Municipality Act, 1994.
- Provisions of KMB Rules, 1999
- Orders and guidelines issued by Government relating to KMBR
- Provisions of KBR, 1984.

#### **3.2.5 Audit Methodology**

Out of five Municipal Corporations in the State, Corporations of Thiruvananthapuram (TMC) and Kozhikode (KMC) were selected for the review. Eleven divisions in TMC and ten divisions in KMC were selected for detailed check while general review was conducted with reference to records of the remaining divisions. The period covered for the review was from 2002-03 to 2006-07. The review was conducted during March 2007 to July 2007 and the findings are given below.

#### **3.2.6 Audit Findings**

The important audit findings are categorised under the following sections.

- i) Zoning regulation
- ii) Application for permit
- iii) Approval of site plans and building plans and issue of permit
- iv) One day permit
- v) Realisation of fees
- vi) Occupancy
- vii) Unauthorised construction
- viii) Exemption from rules and regularisations/demolition of unauthorised construction.
- ix) Delivery of services to the public
- x) Internal control and monitoring

#### **3.2.7 Zoning Regulations**

Before issue of development permit, the secretary should forward the application for building permit to the District Town Planner (DTP) or the Chief Town Planner (CTP) if their approval is required as per KMBR or as per provisions of town planning scheme for that area. Development of any plot is subject to the zoning regulations prescribed as variations to the General Town Planning Scheme. Under this, the Corporation area is divided into various zones such as residential, commercial, industrial, agricultural, etc. having

**Zoning regulations were violated.**

definite and separate permitted uses, restricted uses and prohibited uses. Permits for construction of buildings for permitted uses in each zone could be issued by the Corporations without getting the approval from the DTP/CTP whereas permits for building for restricted uses should only be issued after obtaining approval from the DTP/CTP. Building for prohibited uses could not be permitted either by the Corporations or by the DTP/CTP. It was detected in audit that TMC violated the zoning regulations as mentioned in paragraphs 3.2.12.4 and 3.2.12.5.

### **3.2.8 Application for permit**

According to KMBR any person who intends to construct/reconstruct a building should submit to the Secretary of the Corporation an application together with the site plan for approval of the site and an application together with ground plan, elevation and sections of the building and specification of the work. The applicant has to submit documents to prove ownership of the land concerned and payment of application fee along with a copy of the certificate of registration of the architect/building designer. The selected divisions during 2002-03 to 2006-07 received 6348 applications against which 4335 permits were issued.

### **3.2.9 Approval of site and plans and issue of permit**

The Secretary after inspection of the site and verification of the site plan and relevant documents, if convinced of the bonafides of the ownership of the site, and that the site plan, drawing and specifications conform to the site and provisions of KMBR, approves the site and site plan. After this, he verifies whether the building plan, elevation and sections of the buildings and specifications of the work conform to the site and site plan and is in accordance with KMBR, approves the plan and issues permit to execute the work on remittance of the permit fee at the prescribed rates. The Secretary also has the power to refuse approval or to require modifications to the plan which should be communicated in writing. The Secretary should within 30 days of the receipt of the application either approve or refuse to approve the site plan/grant or refuse to grant permit to execute the work. The permit is valid for 3 years which can be extended twice by the Secretary for 3 years each if the application for extension is within the valid period of the permit and once for 3 years if the application for extension is made within one year of the expiry of the permit.

#### **3.2.9.1 Existing area not reckoned for calculating Floor Area Ratio (FAR)**

In cases where addition or extension to a building is made, KMBR should apply to the addition or extension only. However for calculation of the area for the purpose of determining FAR<sup>1</sup>, area of the whole building including the existing constructed area should be reckoned. While issuing permit (July 2003) to the Cosmopolitan Hospital, Thiruvananthapuram for construction of

**Incorrect application of Floor Area Ratio resulted in short realisation of additional fee of Rs.18.76 lakh.**

<sup>1</sup> Floor Area Ratio =  $\frac{\text{Total covered area on all floors of all buildings on a certain plot}}{\text{Area of the plot}}$

additional area of 1680 square metre, the area of 9105.26 square metre being the area of the existing building was not taken into consideration for calculation of additional fee. Thus, against the total floor area of 10785.26 square metre, only 1680 square metre was considered for payment of additional fee. Since the FAR permissible without payment of additional fee was two, floor area exempt from payment of additional fee in the plot measuring 4454.70 Sq metre was only 8909.40 Sq metre. However, due to non-consideration of the FAR of the existing building, TMC did not realise additional fee on the excess floor area of 1875.86 Sq metre leading to short levy of Rs.18.76 lakh at the rate of Rs.1000 per Sq metre.

### **3.2.9.2 Coverage area exceeded the limit prescribed**

The maximum coverage area (ratio between maximum area at any floor of the building and the plot area) prescribed in KMBR for commercial occupancy is 65 per cent. However, TMC issued (May 2002) a permit for extension of the existing building having total plinth area of 672 square metre (3 floors) without considering the coverage area prescribed. The plinth area of the ground floor of the existing building was 224 square metre and the plot area was 359.17 square metre and the existing coverage was 62.37 per cent which was within the permissible limit. The total plinth area of ground floor that could be permitted was only 233.46 square metre (65 per cent of plot area) i.e. permit could be issued for additional construction upto 9.46 square metre on the ground floor (28.38 square metre for 3 floors). Against this, permit was issued for 174 square metre which exceeded the prescribed limit by 145.62 square metre. Thus overall coverage increased to 78.51 per cent as against 65 per cent admissible violating the provisions of KMBR.

### **3.2.10 Realisation of fees**

The Corporation derived substantial amount of revenue by way of application fee, permit fee and additional fee. While application fee is payable on submitting the application, permit fee is payable on accepting the application and additional fee is payable when the FAR exceeds the permissible limit. The total revenue earned by both the Corporations on this account was Rs.13.01 crore during the period of review as shown below:-

(Rupees in lakh)

Year	Application fee collected		Permit fee/additional fee collected		Total	
	Thiruvananthapuram	Kozhikode	Thiruvananthapuram	Kozhikode	Thiruvananthapuram	Kozhikode
2002-03	2.77	2.80	72.85	10.75	75.62	13.55
2003-04	3.30	3.26	86.97	58.63	90.27	61.89
2004-05	2.84	3.33	98.60	79.91	101.44	83.24
2005-06	2.93	2.60	227.84	96.79	230.77	99.39
2006-07	2.43	2.38	448.02	92.38	450.45	94.76
<b>Total</b>	<b>14.27</b>	<b>14.37</b>	<b>934.28</b>	<b>338.46</b>	<b>948.55</b>	<b>352.83</b>

### 3.2.10.1 Short realisation of additional fee

Short realisation of additional fee of Rs.17.52 lakh was detected in respect of six buildings.

Depending on the type of occupancy, maximum FAR permissible is prescribed in KMBR. Owners are permitted to exceed the FAR in respect of nine out of 12 categories of occupancies subject to realization of additional fee at the rate of Rs. 1,000 per square metre exceeding the area permissible. However, this is further subject to FAR permissible with additional fee as given in Table 2 under Rule 31 (2) *ibid*. Scrutiny of building permits granted by both the Corporations revealed that there was short realization of additional fee for various reasons such as oversight, irregular exclusion of area of ramps and swimming pool, remission of additional fees to owners who surrendered land, etc. Short-realisation of additional fee by the MCs worked to Rs. 17.52 lakh in six cases as shown in **Appendix VIII**.

### 3.2.11 Occupancy

Occupancy of the building is decided based on the usage of plots proposed for development. According to KMBR, buildings are classified into 12 categories of occupancies such as residential, education, medical, commercial, assembly, industrial, hazardous, etc. Coverage area and FAR (Ratio of floor area to plot area) allowed as per KMBR vary for each type of occupancy. The maximum FAR allowed is for residential buildings which is three. Additional fee is payable over the permit fee for buildings which exceeds the FAR. Hence, the type of occupancy plays an important role in the determination of permit fee and additional fee.

#### 3.2.11.1 Wrong classification of Hospital as commercial occupancy

Commercial occupancy was irregularly changed to hospital occupancy.

The Government exempted (June 2004) the construction of a four storey commercial cum office building in Division No.2 from zoning regulations. On the basis of this order, TMC issued (January 2005) permit to construct a four storey commercial building having a total area of 1363.23 square metre allowing coverage of 65 *per cent*. For commercial occupancy the maximum coverage admissible was 65 *per cent* of the plot area whereas for hospital occupancy it was only 40 *per cent*. The owner completed the construction of the building and started a hospital there instead of commercial cum office building. This change of occupancy from commercial to hospital was not permissible as per KMBR due to difference in the norms for construction. As the maximum coverage permissible for hospital occupancy was only 40 percent, the floor area in one floor should have been restricted to 212.92 sq. metre (40 *per cent* of plot area of 532.30 sq. metre) against 340.81 sq. metre allowed by TMC for commercial occupancy. Change of occupancy was in violation of KMBR. Government stated (December 2007) that action has been initiated to demolish the building under Section 406 of the Act. Further developments were awaited (March 2008).

### 3.2.12 Unauthorised Constructions

According to Chapter III of KMBR, any construction without obtaining permission of the Secretary or which is not in accordance with the approved plans and specifications or in violation of the Act and Rules, will be treated as unauthorised. The Secretary has the power to regularise construction/reconstruction/addition/alteration of any building carried out without obtaining permission or in deviation of the approved plan provided that such

construction is not in violation of the Act and Rules. In cases where regularisation is not done, the Secretary also has powers to require the person responsible to make alterations in accordance with the approved plan or to demolish the unauthorised construction.

### **3.2.12.1 Trend of Unauthorised constructions**

The MCs during the period from 2004-05 to 2006-07 regularised 11433 cases of unauthorised constructions as detailed below.

Year	No. of unauthorised constructions regularised		
	TMC	KMC	Total
2004-05	3609	645	4254
2005-06	2822	781	3603
2006-07	2686	890	3576
<b>Total</b>	<b>9117</b>	<b>2316</b>	<b>11433</b>

**During 2004-07, 11433 unauthorised constructions were regularised.**

The unauthorised constructions could be prevented only by frequent inspections of the constructions made in the corporation area and by strengthening monitoring system for which deployment of more staff is required.

### **3.2.12.2 Unauthorised constructions not regularised**

TMC detected the following cases of unauthorised constructions. However, they did not regularise the constructions or demolish them.

Sl No.	Name of owner	Details of permits/sanction if any	Nature of unauthorised construction	Date of demolition order
1	Sri. N.S Salimkumaran Nair	G.O (Rt) 561/LAD dated. 16 December 1999 to construct two storey building	Construction of unauthorised structure of 17.64 sq.metre in parking space	12 September 2005 (stayed by Court)
2	Sri.G. Mohandas	T.P/BA/662/06 dated 15 May 2006 for internal renovation of existing building	Constructed four storeyed building unauthorisedly on the basis of the permit at the site which was of archaeological importance and subject to zoning regulations	29 November 2006 stayed by Tribunal for LSGIs
3	M/s.Ramachandran Textiles	Nil	Construction of a building with area of 70.20 sq.metre in Division 37	30 May 2007 (stayed by court)

Though TMC issued orders for demolition of the buildings, they could not demolish them on account of stay granted by court/tribunal. Prevention of unauthorised constructions is better than demolition which could be achieved by strengthening the monitoring system as observed in the previous paragraph.

### **3.2.12.3 Unauthorised Structures not demolished**

KMC issued (May 2004) a permit to four persons for construction of a temporary shed in R.Sy No. 40/13 consisting of office and shed for keeping



old cars for exhibition. The owners constructed a permanent building for office room and a temporary shed. According to the conditions of permit, the structures should have been removed after three months or else KMC was to remove it departmentally on realisation of expenses from the owners. The owners, however, did not remove the structures after three months which was in violation of the permit condition. Though KMC issued notices twice in May 2005 and September 2006, the owners did not remove the structures even after three years. Though KMC issued demolition notice (January 2007), the structures were not demolished (October 2007). Permit fee amounting to Rs. 1.44 lakh\* payable from September 2004 to October 2007 was also not paid by the owners. Further developments were awaited (March 2008)

#### 3.2.12.4 *Unauthorised permission to construct Residential building*

TMC received (28 November 2003) an application for construction of a 14 storey-building in 30 cents\* of land on the side of Museum Kowdiar Avenue. Subsequently on 22 March 2004, the applicant surrendered 39 square metre of land to Government for widening Kowdiar – Kuravankonam Road. This surrender of land enabled the applicant to claim concessions/relaxations from the provisions of KMBR in accordance with Chapter XI of KMBR. TMC issued (June 2004) permit as recommended by the Special Committee constituted under Rule 85 of KMBR to construct a 14 storey building having a total floor area of 5932.26 square metre. A Detailed Town Planning (DTP) scheme for Museum Kowdiar Avenue was in existence from 1977 onwards with a view to controlling developments and also to preserving the beauty of the avenue and premises. According to the zoning regulations for Residential Zone under the scheme, single and double storey residential buildings with height of 7.5 metres with maximum coverage of 30 per cent alone were permitted to be constructed in the zone. As against this, the height of the building and coverage permitted by TMC were 51.90 metre and 68.8 per cent respectively with FAR of 3.94. Moreover, the applicant was exempted from payment of additional fee of Rs. 11.41 lakh payable for FAR exceeding 3 under proviso to Rule 81 (2) *ibid*. According to KMBR and DTP scheme a two storey building with plinth area of 364.23 square metre at each floor (total 728.46 square metre) alone was permissible against which building with 5932.26 square metre was permitted to be constructed.

While the construction was in progress, the Government in an urgent letter addressed to the Secretary stated (18 June 2005) that so many concessions in violation of provisions of KMBR were allowed to the applicant on surrender of a small piece of land measuring less than one cent. The Government also called for explanation for the irregularities and asked to report the names of officers of TMC and the members of Special Committee who were responsible for the lapses. Even on receipt of this letter TMC allowed the applicant, to continue the work which was completed by April 2006 as shown in the photograph

**Despite Government orders, Thiruvananthapuram Corporation permitted construction of a 14 storey building against a two storey building permissible.**

\* 190 Sq.M x Rs.20 x 38 months = Rs.1.44 lakh.

\* 1 cent = 40.47 Sq Metre.



**View of 14 storey residential building**

Later, Government intimated (December 2006) that the concessions given to the applicant were invalid and accordingly, TMC issued (May 2007) orders cancelling the permit already issued during June 2004. TMC or Government did not fix responsibility for committing such a serious irregularity which enabled the applicant to construct eight times the permissible area with excess height of 44.4 metre and to avoid remittance of additional fee of Rs.11.41 lakh. Government admitted (December 2007) that issue of permits by TMC was in violation of DTP scheme.

### ***3.2.12.5 Irregular issue of permit violating zoning regulations***

According to zoning regulations, the area where PRS Hospital, Killippalam is situated comes under green strip where construction of buildings is prohibited. However, Government exempted (June 2004) the hospital from zoning regulations subject to the condition that only a three storey building for a hospital and canteen would be constructed, that the construction should satisfy all provisions of KMBR and the lay out approval would be obtained before obtaining the building permit. Accordingly, CTP approved (October 2004) lay out for construction of a three storey building. As against this, TMC issued (January 2005) permit to construct a four storey building with a total area of 2007 sq. metre (Ground floor 779 sq. metre, first floor 564 sq. metre second

**Eight storey building was constructed for a hospital against a three storey building permitted by Government.**

floor 552 sq. metre and third floor 112 sq. metre). Later, the hospital authorities submitted a fresh application for constructing an eight storey building having a total area of 8072 sq. metre ignoring the permit already issued in January 2005. On the basis of this application, TMC issued (February 2006) a permit as applied for by the hospital authorities without making any reference to the permit issued earlier. Thus the permits issued by TMC were in violation of the environmental law. Accordingly, an eight storey building was constructed as seen in the photo given below.



The Government Order exempting zoning regulations was for construction of a three storey building subject to approval of lay out by CTP. As per the order of CTP approving the lay out of the building, construction of a three storey building alone was permissible. Issue of building permit by TMC for construction of eight storey building was in violation of zoning regulations and was against lay out approved by CTP. This also tantamounts to extension of undue benefit to the hospital.

#### **3.2.12.6 Violation of restrictions in construction of buildings**

Several restrictions are prescribed in KMBR for the safety and well being of the public such as structural stability certificate from a registered engineer for high rise buildings, incinerators for hospitals, aviation warning lights for telecommunication towers, adequate car parking space, etc. On audit scrutiny, it was seen that these restrictions were violated in the following cases.

**67 hospitals in Kozhikode and Thiruvananthapuram are running without incinerators causing environmental hazard.**

Sl No.	Name of owner and permit number	Type of occupancy	How restriction was violated	Rule
1	Sri.K.A Ammad and Sri.O.K. Abdulllah E4/75593/02 dated 23 December 2005 (KMC)	Commercial high rise building	Structural stability certificate was not obtained before issue of permit	120
2	67 hospitals in Kozhikode and Thiruvananthapuram (TMC and KMC)	Hospital	Incinerators for disposal of hazardous and pathological Wastes not installed	54 (4)
3	Reliance communication Ltd TP1/BA/1524/03 dated 29 October 2003 (TMC)	Telecommunication Tower	Aviation warning lights not provided at the height of 40 metre	137 (1)
4	Sri. V.O Mathew Thiruvananthapuram TP1/BA/537/03 dated 5 November 2003	Commercial	Against the required parking spaces for 11 cars. 9 parking space provided	34 and 7.9D
5	Sri.K. Suresh Babu Thiruvananthapuram TP1/BA/1279/03 dated 22 December 2006 (TMC)	Commercial	Permit was issued before taking into possession the land surrendered	79 (1)
6	Smt.Latha S Nair Thiruvananthapuram TP3/BA/1589/02 dated 22 December 2003	Residential	Permit was issued before taking into possession the land surrendered	79 (2)

Non installation of incinerators by hospitals in two Corporations is a very serious violation of restrictions prescribed in KMBR since it continuously affects the state of health of people of the two Corporations.

### **3.2.13 Exemption from KMBR and Regularisation/demolition of unauthorised constructions**

According to KBR, which was in force till 30 September 1999, Government was empowered to exempt constructions from the Building Rules. However, by the introduction of KMBR from 1 October 1999, Government's power to exempt constructions from Building Rules was dispensed with. The Building Rules which are meant for the planned development of the area concerned and also for the safety and well being of the occupants of the building and the public should be strictly enforced. However Government/ District Collector, Thiruvananthapuram, exempted the following constructions during November 1999 to January 2003 based on the KBR which had ceased to exist since October 1999.

**Government exempted buildings from certain restrictions which were not authorised.**

Sl. No	Name of applicant	No and date of order of Govt/District Collector, Thiruvananthapuram	Rules exempted	No and date of permit issued by TMC and plinth area	Effect of exemption
1	Sri.B. Mohankumar	GO Rt77/2003/LAD dated 4 January 2003	Rules15 (2) (3) and other rules of KBR	TPI/4454/03 Dated 28 January 2004 - 1156.17 sq.metre.	Exempted from leaving prescribed space on front, rear and sides of the buildings.
2	Sri.A.R. Peeru Mohammed	E/2807/T.997/DS dated 4 November 1999 of DCT	Rules15 (2) (3) and other rules of KBR	TI/BAP/792/02 dated 19 July 2002 - 96 sq.metre.	
3	Sri. Mohammed Kassim	G.O (Rt) 3552/2000/LSGD dated 30 August 2000	Rules15 (3) 17 (1) 19 (iii) etc of KBR	TPI/47489/2000 dated 22 March 2001 - 1143 sq.metre.	
4	President, Medical College Lutheran Church, Thiruvananthapuram	G.O (Rt) 1205/2002/LSGD dated 14 May 2002	Rules15 (3) 17 (1) 19 (iii) etc of KBR	TPI/38705/04 dated 13 August 2004 - 460.77 sq.metre	

It was irregular on the part the Government/District Collector to waive the provisions of a rule which was not operational. It is significant that though the exemptions granted were from the operation of provisions of KBR, building permits had to be issued by the TMC as per provision of KMBR as KBR ceased to exist. The Secretary stated that as no validity period was specified in the order of Government/District Collector, granting permits on the basis of such orders was proper. This is not tenable as no exemption can be granted after 01 October 1999 by the Government.

### 3.2.14 Delivery of Services to the Public

Though KMBR contains numerous provisions for restricting constructions, it also assures prompt and timely delivery of services by the Corporations to the people who are the ultimate beneficiaries of the Rules. Accordingly, KMBR prescribed time limit for providing services such as issue of building permits and occupancy certificates. It was seen in audit that there was inordinate delay in providing such services. This may be attributable to the shortage in staff strength as discussed below:

#### 3.2.14.1 Shortage of manpower

The personnel strength in test checked MCs for implementing the rules is as follows:

Category of post	Thiruvananthapuram	Kozhikode
Town Planning Officer	1	1
Asst Town Planning Officers	2	2
Building Inspectors	10	9
Clerks	12	10

Specific norms regarding staff required for issue of permits were not fixed. There was no increase in staff strength corresponding to the increase in the number of permits issued.

### 3.2.14.2 Inaction on application for building permits

Out of 6348 applications for building permits received during 2002-03 to 2006-07 in the selected divisions of both the Corporations, 355 applications were rejected and 4355 were accepted as detailed below.

Year	No. of applications received			No. of permits issued			No. of applications rejected			No. of applications pending		
	TMC	KMC	Total	TMC	KMC	Total	TMC	KMC	Total	TMC	KMC	Total
2002-03	401	649	1050	262	519	781	7	32	39	132	98	230
2003-04	709	602	1311	501	468	969	6	44	50	202	90	292
2004-05	708	616	1324	489	483	972	7	43	50	212	90	302
2005-06	740	650	1390	494	455	949	16	66	82	230	129	359
2006-07	678	595	1273	375	289	664	13	121	134	290	185	475
<b>Total</b>	<b>3236</b>	<b>3112</b>	<b>6348</b>	<b>2121</b>	<b>2214</b>	<b>4335</b>	<b>49</b>	<b>306</b>	<b>355</b>	<b>1066</b>	<b>592</b>	<b>1658</b>

No action was taken by the Corporation on 1658 applications for building permits.

There were 1658 applications (26.12 per cent) which were neither rejected nor accepted and were pending finalisation. Applications received as early as from 2002-03 onwards were pending with the Corporations. As per KMBR every application for permit should have been disposed of within 30 days from the date of receipt. Inaction on 26.12 per cent applications without valid reasons points to the control weakness in handling individual applications and poor delivery of service to the public.

### 3.2.14.3 Delay in issue of permits

The time limit prescribed for issue of building permits is 30 days from the date of receipt of application. Out of 2121 and 2214 permits issued in selected divisions of TMC and KMC during 2002-03 to 2006-07, 186 and 1060 permits respectively were issued after three months from the date of receipt of applications as detailed below:-

Year	No of permits issued		Delay in issue of permits							
			4 to 6 months		7 to 12 months		More than 12 months		Total	
	TMC	KMC	TMC	KMC	TMC	KMC	TMC	KMC	TMC	KMC
2002-03	262	519	19	138	6	90	2	34	27	262
2003-04	501	468	29	111	19	119	2	35	50	265
2004-05	489	483	26	134	15	85	1	21	42	240
2005-06	494	455	30	122	16	89	3	14	49	225
2006-07	375	289	16	56	2	12	-	-	18	68
<b>Total</b>	<b>2121</b>	<b>2214</b>	<b>120</b>	<b>561</b>	<b>58</b>	<b>395</b>	<b>8</b>	<b>104</b>	<b>186</b>	<b>1060</b>

While the delay in issue of permits was only 8.76 *per cent* in TMC, in KMC, the permits were issued late in 47.88 *per cent* cases which were attributable to increase in construction activity, defective applications, lack of required details in the application for permit, etc.

#### 3.2.14.4 Delay in issue of occupancy certificates

The Corporations were to issue occupancy certificates within 15 days of receipt of completion certificate from the owner of the buildings. Out of 2998 and 3418 completion certificates received during 2002-03 to 2006-07 in selected divisions, TMC and KMC respectively could issue 2911 and 2907 occupancy certificates as detailed below:-

Year	No. of completion certificates received		No. of occupancy certificates issued		No. of cases pending		Percentage of pending cases	
	TMC	KMC	TMC	KMC	TMC	KMC	TMC	KMC
2002-03	631	725	627	631	4	94	0.63	12.97
2003-04	606	668	602	575	4	93	0.66	13.92
2004-05	632	634	629	545	3	89	0.47	14.04
2005-06	603	651	580	586	23	65	3.81	9.98
2006-07	526	740	473	570	53	170	10.08	22.97
<b>Total</b>	<b>2998</b>	<b>3418</b>	<b>2911</b>	<b>2907</b>	<b>87</b>	<b>511</b>	<b>2.90</b>	<b>14.95</b>

There was delay in issue of occupancy certificates in respect of 598 cases which was due to deviation from approved plan and deficiencies in documents to be accompanied with completion certificate.

#### 3.2.14.5 One day permit

An innovative system of granting building permits for single residential units on the same day of the application was introduced in TMC during 1997. However KMC introduced the system of 'one day permit' only during October 2000. Out of 52382 building permits issued during 2002-03 to 2006-07 in both the Corporations, 28701 were one day permits which was 54.79 *per cent* as detailed below:-

Year	No. of building permits issued						Grand Total
	TMC			KMC			
	One day permits	Others	Total	One day permits	Others	Total	
2002-03	3354	2178	5532	3043	2060	5103	10635
2003-04	3447	3144	6591	3057	2232	5289	11880
2004-05	2631	3039	5670	2365	2332	4697	10367
2005-06	3039	2814	5853	2506	2258	4764	10617
2006-07	3033	1827	4860	2226	1893	4119	8979
<b>Total</b>	<b>15504</b>	<b>13002</b>	<b>28506</b>	<b>13197</b>	<b>10775</b>	<b>23972</b>	<b>52478</b>

The system became popular as there was no delay in getting building permits. Only those applications against which building permits could be granted on the same day were accepted. Hence, no application was pending with the Corporations under this system.

**3.2.14.6 Delay in assigning building number leading to delay in assessment of property tax**

It was seen in audit that there was delay in assigning building number and assessing property tax in respect of 30.89 per cent cases where occupancy certificates were issued as shown in the table below:

Year	No of occupancy certificates issued by TPO		Delay in assigning building number and assessing property tax						Total
			1 to 3 months		4 to 6 months		more than 6 months		
	TMC	KMC	TMC	KMC	TMC	KMC	TMC	KMC	
2002-03	627	631	111	115	98	-	105	-	429
2003-04	602	575	80	122	81	53	38	-	374
2004-05	629	545	63	45	74	-	18	-	200
2005-06	580	586	112	126	83	72	21	-	414
2006-07	473	570	145	94	92	-	49	-	380
<b>Total</b>	<b>2911</b>	<b>2907</b>	<b>511</b>	<b>502</b>	<b>428</b>	<b>125</b>	<b>231</b>	<b>-</b>	<b>1797</b>

In respect of 231 out of 2911 buildings, there was delay of six months and more in assigning building number and assessing property tax in TMC.

**3.2.14.7 Excess compounding fee levied for regularisation of unauthorised constructions**

A formal application in the prescribed form should be submitted for regularisation as in the case of application for permit for building construction after remitting the prescribed application fee. If the secretary is satisfied that regularisation could be granted, the applicant is required to remit a compounding fee at double the rate of permit fee. However, scrutiny of records revealed that both MCs realised permit fee in addition to compounding fee from 11433 applicants for issue of orders of regularisation during the period from 2004-05 to 2006-07. The realisation of permit fee was irregular which resulted in penalising the applicants unauthorisedly.

**3.2.15 Internal Control and monitoring**

**3.2.15.1 Non maintenance of Register of Regularised Constructions**

As per KMBR, several registers are to be maintained as tools for internal control. Register for Regularised Constructions for recording details of unauthorised constructions and the details of regularization as prescribed in KMBR were not maintained by KMC. This weakness in internal control affected the watching of action taken on unauthorised constructions.

**3.2.15.2 Weakness in monitoring system**

Every stage of implementation of KMBR such as receipt and processing of applications for building permits, issue of permits and occupancies, etc. is to be monitored by the Corporations. The pendency in disposing of applications for building permits as mentioned in paragraph. 3.2.14.2 was attributable to insufficient monitoring of receipt and processing of applications. Similarly, non-maintenance of Register of Regularised Construction by KMC affected

**Monitoring building construction was very weak leading to unauthorised construction.**



the monitoring of unauthorised constructions detected by KMC when compared to that in TMC where the register was maintained. On noticing increasing number of unauthorized constructions, Government issued (July 2006) directions to the Corporations to form squads to prevent and detect unauthorized constructions during state holidays and during night time and to resort to demolish such constructions and to take stringent action against the erring officials. Even though squads were formed in the Corporations, unauthorized constructions are recurring as mentioned paragraph 3.2.12.1. There is no system to monitor whether the provisions of KMBR are adhered to during each stage of construction. The weaknesses in the monitoring system affected the implementation of KMBR.

### **3.2.16 Conclusion**

The review on implementation of building rules in municipal corporations revealed that the municipal corporations issued permits in violation of the provisions of KMBR. Additional fee was realized short due to error in determining the floor area of buildings. Instances of numerous unauthorized constructions were noticed and the delivery of service to the people was not satisfactory. Monitoring of implementation of KMBR was also very weak

### **3.2.17 Recommendations**

- The MCs should take more effective steps to avoid delay in processing applications and issue of permit.
- The MCs should assess the floor area more accurately so as to avoid short realization of additional fee.
- The MCs should be vigilant and careful so as to avoid unauthorized constructions.
- Sufficient staff should be deployed for regulating building construction efficiently.
- Monitoring system should be strengthened.