

CHAPTER VI

Regulatory Functions

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This chapter deals with issues related to compliance of regulatory functions of Ghaziabad Development Authority, *i.e.*, approvals of construction and development work, environmental regulations and enforcement against unauthorized development.

Audit Objective: *Whether regulatory functions such as land use conversion, prevention of uncontrolled development, enforcing environmental condition were adhered to and maps/layout plans were sanctioned in compliance with Building bye-laws and applicable rules.*

Brief snapshot of the chapter:

- GDA issued demand notes without mentioning details of map fees in the approved format of Uttar Pradesh Online Building Plan Approval System at the time of sanctioning of maps.
- GDA sanctioned maps/layout plans without obtaining requisite documents from applicants.
- Undue benefit was extended to developers due to short/non-levy of ₹ 25.69 crore towards infrastructure development fees and maps fees.
- Due to weak enforcement of GDA, unauthorised construction cases increased from 5,395 to 9,416 during 2017-22.
- Compounded maps were issued in violation of provision of Compounding bye-laws and setback rule under Building bye-laws was not followed at the time of approval of maps.

6.1 Introduction

Uttar Pradesh Urban Planning & Development Act, 1973 (UPUP&D Act, 1973) envisages¹ that after declaration of any area as development area, no development of land shall be undertaken or carried out or continued in that area by any person or body, unless permission for such development had been obtained. The Authority is empowered to take action against unauthorised construction by imposing penalty, discontinuing construction works and removal by demolition.

Audit findings related to approval of layout plan/maps and action taken against unauthorised construction is discussed in the succeeding paragraphs:

¹ Section 14, 15, 26, 27 and 28

6.2 Sanction of layout plan and maps

Sections 14 and 15 of UPUP&D Act, 1973 prescribe that every person or body desiring the permission for development work shall make an application in writing in the form prescribed by the State Government along with requisite documents and prescribed fees. GoUP introduced Uttar Pradesh Online Building Plan Approval System² (UPOBPS) in October 2017. Subsequently, in August 2020, GoUP introduced a new updated version of Uttar Pradesh Online Building Plan Approval System³ (UPOBPAS).

Audit examination of records disclosed that 4,217 maps related to residential and non-residential units (commercial, housing, hotel, etc.) were sanctioned by GDA during 2017-22 as detailed in **Table 6.1**.

Table 6.1: Status of receipt *vis-à-vis* acceptance of maps during 2017-22

Sl. No.	Financial year	No. of maps received for sanction	No of maps accepted by GDA (in per cent to column 3)
(1)	(2)	(3)	(4)
1.	2017-18 ⁴	319	256 (80)
2.	2018-19	1,549	982 (63)
3.	2019-20	993	611 (62)
4.	2020-21	1,127	952 (84)
5.	2021-22	1,658	1,416 (85)
Total		5,646	4,217 (75)

(Source: Information provided by GDA)

Out of the total received 5,646 maps, 423 maps were in process and 1,006 maps were rejected as of March 2022. For detailed scrutiny, Audit selected 68 maps⁵ approved during 2017-22. However, GDA despite repeated requests, provided partial information (calculation of map fees, required and attached NOCs, etc.) in respect of 45⁶ maps and did not provide any record related to 23 maps approved in UPOBPS. Resultantly audit could not scrutinise procedure and approval of test checked maps in complete form.

The State Government replied (March 2024) that 26 maps⁷ under question were provided to audit. The Government further stated (July 2024) that the data related to 26 maps which was made available to audit did not contain details of fees, NOCs, etc., which were to be taken at the time of sanctioning of map. However, the required information/records pertaining to the Maps (fees, other related information/records) have been compiled in soft copy and subsequently forwarded through via e-mail.

The replies of the State Government were not acceptable, because GDA did not provide any record in respect of 23 out of 26 test checked maps sanctioned in UPOBPS during 2017-20 and provided incomplete records related to

² (<https://upobps.in>)

³ (<https://upobpas.in>)

⁴ Data not available between April 2017 to September 2017

⁵ Based on total plot area which has been mentioned in Appendix 1.2, 26 approved under UPOBPS and 42 approved under UPOBPAS.

⁶ Two maps were cancelled after approval.

⁷ Out of 26 maps were approved under UPOBPS during 2017-20, partial information of three maps were made available by GDA.

45 maps due to which approval of maps *vis-à-vis* prescribed procedures and norms could not be ascertained in Audit.

Audit examination of records further disclosed shortcomings in sanctioning of maps as discussed below:

6.2.1 Lack of transparency in levy/collection of map fees

GoUP introduced UPOBPAS (August 2020) to make uniform and transparent procedure for levy of fees and approval of maps. According to the system, the Authority has to scrutinize the maps submitted by the applicants and if found correct as per prevailing rules, it issues demand note (invoice/challan) comprising of rate of charges/fees, total charge/fees due, total charges/fees previously paid and remaining total charges/fees to be received from the applicants.

Scrutiny of demand notes of test checked maps revealed that GDA did not mention the prescribed area/rates, etc., in concerned columns of demand notes issued (*Appendix-6.1*) due to which audit could not ascertain whether GDA demanded requisite fees/charges during approval of maps or not.

The State Government in reply (March 2024) stated that online system of approval of map was in initial stage, therefore, due to lack of knowledge about complete function and non-activation of details of fees in the chart, the details of required fees were mentioned in the demand note based on calculation as per the rule.

The fact remains that demand note was neither generated online with full details in the prescribed format by GDA nor the calculation sheet of fees/charges of test checked maps were provided to Audit.

6.2.2 Approval of maps without no objection certificates

According to para 3.1.3.1 (iii) of the Building Construction and Development Bye-laws (Building Bye-laws), No Objection Certificates (NOCs) would be required from U.P. Pollution Control Board, Fire Department, Archaeological survey of India, etc., before approval of map.

Scrutiny of records disclosed that requirement of NOCs for different categories of maps (residential, non-residential, etc.) were neither mentioned in the bye-laws nor defined by GDA. Audit further observed that out of test checked 45 maps⁸, it was mentioned in 32 maps that the maps have been sanctioned subject to obtaining all required NOCs. However, no details in respect of obtaining these NOCs by the applicants from the concerned departments were available in records. Four maps were sanctioned with the condition that applicants would have to obtain NOCs from one to six⁹ departments. However, these maps were sanctioned after obtaining only one to

⁸ Records of two cancelled maps were not provided.

⁹ Railways, Uttar Pradesh Power Corporation Ltd., Uttar Pradesh Pollution Control Board, Ministry of Environment and Forest, Indian Oil Corporation & Gas Authority of India Ltd, Irrigation Department, National Highway Authority of India, Ground Water Department and Authorities of Hindon Airport.

two NOCs. In seven maps there was no mention about requirement of NOCs. Hence, audit could not ascertain the details of specific NOC's required/collected for approval of test checked maps.

The State Government in reply stated (March 2024) that at the time of application for obtaining no objection certificate from environment department, the department demands a copy of the approved map and other related details of approved map. Since lot of time is spent in issuing no objection certificate by environment department, the Authority gives approval of maps with the condition to obtain and submit no objection certificate from the environment department before starting the construction work, the compliance of which is done by the concerned section of the Authority before carrying out the construction work.

The reply of the State Government does not address the observation and is not tenable because the State Government neither provided the case-wise details of NOCs required for approval of maps nor it submitted documentary evidence in respect of ensuring receipt of all NOCs before approval of maps/start of work. Further, if conditional maps were required to be issued due to practical reasons, this was to be included in the building bye-laws.

6.2.3 Sanction of map without certificate of structural drawing/design

GoUP issued guidelines¹⁰ for making anti-earthquake arrangements in construction of new buildings and all types of infrastructural facilities building (such as hospital, cinema hall, etc.) having plot area more than 500 square meter (sqm.). According to the guidelines, the structural design should be countersigned by the professor of structural engineering of IIT Roorkee or other specified technical institution.

Scrutiny of test check records revealed that a developer¹¹ submitted map of 2,023.002 sqm. for construction of hotel in June 2019. GDA demanded submission of requisite no objection certificates along with vetted certificate of structural safety and earthquake resistant from IIT Roorkee/Delhi or equivalent institution.

Audit noticed that the developer did not submit vetted certificate of structural safety and earthquake resistance drawing/design to GDA. However, GDA sanctioned map in August 2019 in violation of the GO.

The State Government did not provide specific reply and merely stated that maps are approved after obtaining structural design and drawing from the competent level.

The reply of the State Government was not tenable because vetted certificate of structural safety and earthquake resistance drawing/design received from the developer at the time of approval of the aforementioned map were not available in records provided to Audit.

¹⁰ February 2001 and July 2001

¹¹ Map No. MAP20190606155636430 (Plot no. 54 GT road, Sahibabad, Ghaziabad).

6.2.4 Short levy of development fee

The Uttar Pradesh Urban Planning and Development (Assessment, Levy and Collection of Development Fee) Rules, 2014 (November 2014) prescribes levy of development fee on the developers for permission of dwelling units/apartments. According to the Rules, in case of an application for building permit for four or more dwelling units/apartments including group housing anywhere in the development area, the development fee up to density of 100 dwelling units per hectare shall be 100 *per cent* of the development fee and 5 *per cent* higher for every additional 25 dwelling units of part thereof (maximum 150 *per cent* for above 325 dwelling units)¹² as per clause 4 (1 and 3) of the Rules.

Scrutiny of records revealed that GDA sanctioned a map¹³ of 7.48 hectare (74,786 sqm) for construction of group housing in October 2020 consisting of 3,067 dwelling units (DUs). As such, the developer proposed to construct 410 DUs per hectare (3,067 units/7.48 hectare). Hence, GDA was required to levy ₹ 22.29 crore¹⁴ as development fee, but GDA levied only ₹ 19.62 crore as development fee¹⁵ on the developer which led to short levy of development fee amounting to ₹ 2.67 crore.

The State Government in reply (March 2024) stated that the first map of affordable housing was sanctioned¹⁶ in May 2014 after deposit of development fee of ₹ 19.62 crore for total net area of 63,568.10 sqm. by excluding 15 *per cent* green area out of total plot area of 74,786 square meters. Subsequently, during revised map, the development fee on the total net plot area of 63,568.10 sqm. was calculated as ₹ 17.83 crore¹⁷ as per effective bye-laws. Therefore, no amount was demanded from the developers because amount of ₹ 19.62 crore was already deposited by the developer for development fee.

The reply of the State Government was not tenable, because the development fee was to be calculated on the basis of gross area¹⁸. However, the Authority calculated development fee on net plot area of 63,568.10 sqm. after deduction of 15 *per cent* green area, which was not correct. The incorrect computation of development fee has led to short levy of ₹ 2.67 crore.

6.3 Enforcement

In case of any contravention on the sanctioned permission or illegal¹⁹ construction in the development area, the Authority is empowered to order demolition of the development and/or impose penalty. Besides, the State

¹² Multiplying factor for more than 5 and upto 10 hectare=0.60, additional development fee for more than 325 DUs per hectare=150 *per cent* of original development fee.

¹³ Map no. MAP20191012123059560 for construction of affordable group housing in village Shahpur Bamheta Ghaziabad

¹⁴ Area (74,786 sqm) x rate of development fee in 2020-21 (₹ 3,312 per sqm) x multiplication factor as per GO (₹ 0.60) x 150 *per cent* (for DUs in excess of 325 DUs) = ₹ 22,29,22,108.80

¹⁵ GDA in its record has mentioned it as external development fee.

¹⁶ Map No 658/Zone-5/2013-14 of M/s Utility Estate Pvt. Ltd.

¹⁷ 63,568.10 X ₹ 3,116 X ₹ 0.60 X ₹ 1.50 = ₹ 17,82,70,380

¹⁸ Minus the master plan road and green belt, if any.

¹⁹ Work for which permission had not been taken from the Authority under UPUP&D Act, 1973.

Government had also issued necessary directions (May 2018 and August 2018) to the Authorities for checking and removing unauthorised constructions and encroachment.

6.3.1 Unauthorised construction

The status of unauthorised construction and action taken by the GDA during 2017-22 is given in **Table 6.2**.

Table 6.2: Status of unauthorised construction

Year	OB	Cases identified during the year	Total cases identified upto the end of the year	Action taken during the year					CB	Status of availability of responsible officers to identify unauthorised construction	
				Compounding	Demolition	Disposed ²⁰ off	Total	Per cent (8/4* 100)		Sanctioned post ²¹	Person-in-position
2017-18	5,395	1,723	7,118	322	118	8	448	6	6,670	531	452
2018-19	6,670	1,688	8,358 ²²	394	413	0	807	10	7,551	513	419
2019-20	7,551	1,188	8,739	272	332	8	612	7	8,127	450	422
2020-21	8,127	1,173	9,300	105	121	2	228	2	9,072	429	397
2021-22	9,072	992	10,064	475	171	2	648	6	9,416	413	361

(Source: Information provided by GDA)

As detailed in Table 6.2, identification of unauthorised constructions was in declining trend. Further, Junior Engineer and Supervisor/Mate were responsible to collect the information of illegal construction and submit it to the respective zonal in-charge. However, availability of these staff decreased from 452 to 361 against sanctioned strength (including supernumerary post) of 531 to 413 during 2017-22 which may be a reason for less identification of illegal construction in the development area.

Audit test checked action taken in 1,703 cases identified during period from 2017-22 and observed as follows:

- Out of 1,703 cases, there were demolition in 52 cases, sealing in 100 cases, compounding in 334 cases and other actions such as issuance of notices, seal/demolition orders in 354 cases²³. Remaining 863 cases (51 per cent) were pending in the court (*Appendix-6.2*).

The State Government in reply (March 2024) stated that the Enforcement is divided into eight zones and in each zone, an in-charge, Assistant Engineer (AE), JE and Supervisor/Mate are posted. The JE and Supervisor/Mate collect information of illegal construction on daily basis and send it to the

²⁰ The cases in which there was no action required after hearing against notice or other reasons.

²¹ Including Supernumerary Post

²² Total Cases identified upto the end of the 2018-19 was 8,366 as per MPR, however, this would be 8,358, which has been accepted by GDA stating that this was due to clerical mistake.

²³ Issued notice in 173 cases and issued seal/demolition order in 167 cases and other action like opening of seal, compounding applied in 14 cases, however, no further action taken by GDA.

respective zonal in-charge for necessary action. The State Government also stated that maximum undisposed cases were related to small dwelling level structure and undisposed cases of unauthorized construction had increased due to enforcement of graded response action plan (GRAP) in NCR, limited availability of police force and prevailing code of conduct before the elections of the Urban Local Bodies, State Assembly and Lok Sabha. In reply, the State Government further added that efforts were being made to demolish/regularise the remaining cases by formulating an action plan at the Authority level.

- Further, audit collected information related to increase in buildings/DUs under jurisdiction of local bodies²⁴ covered under development area of GDA during 2017-22. Scrutiny of information collected from the local bodies revealed that during 2017-22, number of buildings (residential as well as non-residential) increased by 1.15 lakh in the development area. However, scrutiny of records of GDA revealed that total maps sanctioned by GDA in the same period were only 4,217. The summary of maps approved and increase in number of buildings in the development area during 2017-22 is given in the **Table 6.3**.

Table 6.3: Summary of maps sanctioned and increase in number of buildings

Sl. No.	Year	Number of maps applied	Number of maps sanctioned by GDA	Increase in the number of buildings in the development area of GDA ²⁵	Difference
(1)	(2)	(3)	(4)	(5)	(6)
1	2017-18	319	256	25,015	24,759
2	2018-19	1,549	982	16,430	15,448
3	2019-20	993	611	25,489	24,878
4	2020-21	1,127	952	22,883	21,931
5	2021-22	1,658	1,416	25,321	23,905
Total		5,646	4,217	1,15,138	1,10,921

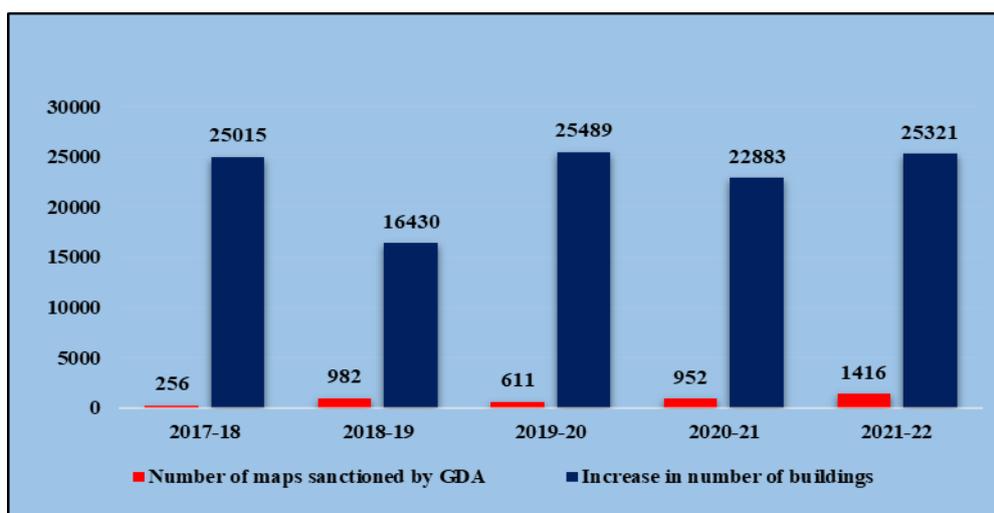
(Source: Information collected from GDA and ULBs under it)

It is evident from Table 6.3 that the number of approved maps is very less in comparison to increase in the number of buildings in development area of GDA during 2017-22. The number of approved maps against the increase in the number of buildings was only 3.66 *per cent*. The graphical presentation of the number of buildings increased in the development area during the year 2017-22 against the sanctioned map is given in **Chart 6.1**.

²⁴ As per Master Plan Nagar Nigam, Ghaziabad, Municipal council Modi Nagar, Loni, Murad Nagar and Nagar Panchayat Dasna comes under the developemnt area of GDA.

²⁵ Data collected from Nagar Nigam, Ghaziabad, Municipal council Modi Nagar, Loni, Murad Nagar and Nagar Panchayat Dasna.

Chart 6.1: Maps sanctioned vis-à-vis increase in number of buildings during 2017-22



(Source: Information provided by GDA)

As per building bye-laws, the validity of approved maps is for five years which may be extended upto eight years after payment of fees. To assess the number of developments works which were to be completed during 2017-22, it was required to analyse the number of maps approved during 2009-17. However, after repeated requests GDA did not provide details of approved maps during 2009-17²⁶.

The State Government in reply (March 2024) stated that the Authority approves the maps of individual residential units and multistorey buildings within the development area. The multistorey buildings comprise of number of flats which are owned by different individuals and municipal bodies treat each flat as single residential building. It also added that there was no provision to accord approval of maps in irregularly developed areas by the private developers. Due to which, there was difference between numbers of approved maps by the Authority to the number of buildings consolidated by the urban bodies. The State Government in its reply (July 2024) further added that during the period 2017-18 to 2021-22, a total of 33 group housing maps were approved in which 26,632 units were proposed for construction.

The reply was not tenable, because even after adding units constructed under group housing schemes, the approved maps for dwelling units during 2017-22 would be 30,816 which was much below than the increase in dwelling units/buildings by 1,15,138 as reported by local bodies. Further, GDA identified only 6,764 cases under illegal construction during the period. Therefore, enforcement of GDA was weak and not effective.

6.3.2 Map fees and surcharge in the compounded maps

At the time of approval of map, the Authority determines that all the charges have been correctly imposed and ensure that the developer has paid all the charges to the Authority. As per compounding bye-laws, if any variation in

²⁶ Except number of 1303 maps for which completion certificate was required to be obtained.

comparison to the sanctioned map has been made, it should be compounded otherwise it should be demolished.

Scrutiny of test checked records revealed that the Authority did not impose following fees/surcharges during map approval and its compounding.

6.3.2.1 Short levy of Shelter fee

GoUP formulated (September 2011) a policy to ensure housing construction for economically weaker section (EWS) and lower income group (LIG) categories through cross-subsidisation in new residential schemes in the public, private and cooperative sectors. As per the policy, a minimum of 10 *per cent* EWS dwelling units and 10 *per cent* LIG dwelling units of total residential units proposed in the residential scheme would be proposed and approved in the map having area more than 3,000 sqm, subject to the condition that the number of said units will not be less than five units per acre on the 'gross area' of the scheme. Construction of EWS and LIG units was compulsory in any planned housing scheme, *viz.*, plotted development, group housing or planned in any other manner.

GoUP amended the above policy in December 2013. In the revised policy, if the construction of EWS and LIG dwelling units is not possible, 'Shelter Fee' will be payable by the developer to the Development Authority/Avas evam Vikas Parishad. Hence, the developer will be free to choose either the option of constructing the EWS and LIG buildings or paying the 'shelter fee'.

Scrutiny of records revealed that GDA approved (June 2011) a group housing map²⁷ of SAV FAB buildtech Private Limited having an area 37,284 sqm for 428 residential dwelling units (DUs) which was revised²⁸ in January 2012 having 572 DUs. The revised map should have been approved consisting of 114 DUs (57 EWS DUs and 57 LIG DUs) in view of GoUP policy (September 2011), but it was not complied with. Audit scrutiny further revealed that builder constructed 560 DUs against approved 572 DUs without EWS and LIG DUs.

The builder again submitted (March 2015) a revised map for 1,150 DUs (i.e., additional 590 DUs) at the same area with the benefit of 3.75 floor area ratio (FAR)²⁹, which was 1.995 FAR before December 2014. In the revised map, the builder opted to pay the shelter fee instead of constructing EWS and LIG DUs. GDA approved (July 2015) the group housing map with 1,150 DUs³⁰ in July 2015³¹ by imposing a shelter fee of ₹ 7.97 crore in lieu of 118 EWS/LIG DUs (59 EWS + 59 LIG) for additional proposed 590 DUs in the revised map. However, GDA was required to levy shelter fee of ₹ 15.53 crore for 230 DUs (115 EWS+115 LIG) by considering the entire number of dwelling units (1150 DUs) approved by the Authority. This resulted in undue benefit of ₹ 7.56 crore to the builder.

²⁷ SAV FAB Buildtech Pvt. Ltd. (Map no. 1954/T.H.A./ G.H./2010-11 dated 21.06.2011).

²⁸ Map no. 1411/Zone-4/G.H/2011-12 dated 12.01.2012.

²⁹ Purchasable 50 *per cent* of basic 2.50 FAR which is 1.25 +2.50.

³⁰ Out of sanctioned 572 Dwelling Units builder constructed 560 Dwelling Units, and 590 Dwelling Units sanctioned in year 2015. Total dwelling units (560+590) = 1,150.

³¹ Map no. 712/zone-7/14-15 dated 23.07.2015.

The State Government in reply (March 2024) stated that, the Group Housing map of the SAV FAB buildtech Pvt. Ltd. was approved in June 2011 (before the GO issued for EWS/LIG in September 2011) with 428 dwelling units. Subsequently, the revised map for 572 units was approved in January 2012 in which construction of dwelling units of EWS/LIG were not proposed. Therefore, shelter fees were not imposed on constructed 560 dwelling units against approved 572 dwelling units. The State Government further stated that subsequently, a revised map of 1,150 dwelling units for the same site was approved in July 2015 with purchasable FAR on the request of the builder, wherein, shelter fee was imposed for only 590 units after deducting 560 earlier constructed units as per prevalent GO of December 2013.

The reply of the State Government was not tenable, as at the time of first revision of map for construction of 572 dwelling units (March 2012), the GO for construction of EWS and LIG dwelling units was effective (September 2011) but GDA did not take cognizance of the GO. Since builder was liable to construct 114 EWS/LIG DUs against 572 DUs approved (March 2012) under Group Housing, the non-compliance thereof should have been rectified at the time of third revision of the map in July 2015 while approving 1,150 DUs. Thus, GDA short levied shelter fees of ₹ 7.56 crore on the developer.

6.3.2.2 Non-levy of Infrastructure surcharge

GoUP provisioned (January 1998) infrastructure surcharge at the rate of 10 *per cent* of the cost of land to be collected by the development authorities on sale of land. Further, the Authority issues completion certificate only after recovery of all dues.

Scrutiny of records revealed that in two cases (Group Housing project; Panchsheel Pebbles by M/s Panchsheel Build Tech Pvt. Ltd. and Max Super Specialty hospital by M/S Crossley Remedies), GDA issued completion certificates in August 2019 and December 2019 respectively. It was also observed that GDA issued notices³² to the developers for depositing infrastructure surcharge of ₹ 15.46 crore (*Appendix-6.3*) after issuance of completion certificates, which was not deposited by the developers till July 2024. However, both buildings were in use.

The State Government in reply (March and July 2024) stated that:

(i) Completion certificate to M/S Crossley Remedies had been issued in December 2019 after obtaining NOC from the commercial section of GDA. The commercial section of GDA intimated the developer to deposit 10 *per cent* infrastructure charge of ₹ 1.39 crore for the allotted plot in May 2021. In this respect, the Enforcement section issued letters to the developer in May and August 2021. However, the developer did not deposit the fee. Therefore, the completion certificate had been cancelled by the Authority in September 2021. The case was under hearing³³ at the Secretary, Housing and Urban Planning Section, Uttar Pradesh Government level. However, the premise was under use (July 2024).

³² In May 2021 to M/s Crossley Remedies and in October 2019 to M/s Panchseel Buildtech

³³ Revision Case No. 16/Re/2022 M/s Crosley Remedies Pvt. Ltd. vs. Ghaziabad Development Authority.

(ii) The completion certificate to M/s Panchsheel Build Tech Pvt. Ltd. had been issued in August 2019 after obtaining the NOC from the commercial section of GDA. The developer did not deposit these charges, therefore, the GDA issued an order to seal the building in January 2020. However, the premise was in use (July 2024).

The State Government did not provide specific reply in respect of issue of NOCs by commercial section of GDA without obtaining recoverable dues from the developers. Further, no action was initiated against the person who issued NOCs without getting recoverable dues and also no action was taken against the developers for using building after cancellation of completion certificate/issue of order to seal of the buildings.

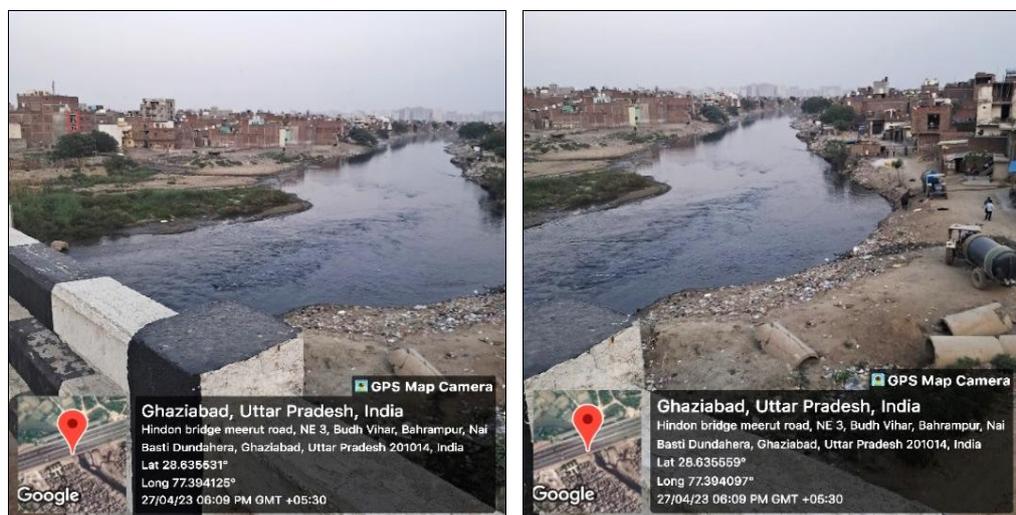
6.3.3 Illegal construction in flood plain zones

Government of Uttar Pradesh (GoUP) issued guidelines (March 2010) for 'effective control of illegal construction/encroachment in flood area (flood plain zone) of river' to all Developmental Authorities for clear depiction of flood plain zones along rivers as flood affected areas in the Master Plans. GoUP also directed to reserve the area as Green Zone and effective action under UPUP&D Act, 1973 was to be taken to prevent any type of construction in the flood plain area. Government reiterated that GOs in this regard were also issued in the year 1995 and April 2003. However, the compliance of the instructions was not ensured by the concerned authorities resulting into illegal constructions in the flood plain zones.

Besides, MP-2021 of Ghaziabad envisaged that area up to 200 metres on both sides of the Hindon river would be protected area and no construction activities will be permitted.

Audit noticed that the banks and even bed of the Hindon river were filled with residential and other constructions. The status of the banks of river is depicted in **Photograph 6.1**.

Photograph 6.1: Construction of buildings at the bank of Hindon river



Right bank of Hindon river

Left bank of Hindon river

As informed (June 2023) by GDA, 1.5 square kilometer development area are in flood plain zone in which five illegal colonies were developed and 5,180 buildings³⁴ were constructed. GDA also informed that the demolition of illegal constructions was carried out on a regular basis. However, Photograph 6.1 of the site revealed that even after action taken by GDA, illegal constructions were carried out in the prohibited area of the MP-2021.

The State Government in reply (March 2024) stated that the flood plain area which comes under the development area of the Authority is declared as prohibited areas by the Authority as per the applicable Master Plan. Further, under the Uttar Pradesh Urban Planning and Development Act, 1973, no approval has been granted by the Authority for any kind of construction activity in the flood plain area and there is no provision for the approval of any kind of map in the flood plain area. Further, the State Government stated that as per GoUP guidelines (March 2010), the Irrigation Department of Uttar Pradesh has been directed to take effective action to remove illegal construction by notifying the areas under Section 55 of the Northern India Canal and Drainage Act, 1873. GDA also regularly informed to the division of Irrigation Department through letter and telephonically to take necessary action to prevent unauthorized constructions/encroachments in the floodplain area.

The reply of the State Government was not tenable, since as per GoUP guidelines (March 2010), the respective Development Authorities/Industrial Development Authorities and Municipal Corporations had been directed to take effective action against unauthorized constructions in flood plain zone of the respective authorities. Further, concerned division³⁵ of Irrigation Department had replied (June 2023) that only rural area was under the jurisdiction of Irrigation Department. However, the area shown in the observation was within the development area of the Authority.

6.3.4 Non-compliance of Compounding bye-laws

The Development Authority Compounding Offenses bye-laws 2009 (Compounding bye-laws) envisages that compounding of the construction against approved map would be allowed within prescribed limit as given in the rules. Audit noticed instances in which the Authority violated the guidelines during implementation of bye-laws as discussed in the succeeding paragraphs:

6.3.4.1 Demolition of non-compoundable area not ensured

As per Compounding bye-laws, only 10 *per cent* additional area constructed by the developer/person against sanctioned map can be regularised by compounding with levy of requisite fees. However, if construction is more than 10 *per cent* of compounded limit, the Authority may issue compounding map after receipt of compounding fees and oath certificate by including provision for demolition of uncompoundable area within 30 days in addition to other conditions for demolition. Further, the Board of GDA also directed³⁶

³⁴ Information were not made available except zone 5 and 6.

³⁵ Irrigation Construction Division, Ghaziabad.

³⁶ 154th Board meeting dated 29-09-2019.

(September 2019) to issue compounded map only if the developer had submitted photograph of demolition of excess constructed area.

Scrutiny of test checked records revealed that in 320 out of 384 cases between year 2017 and 2022 the developers/persons constructed in additional area which was more than 10 *per cent* of the sanctioned map. However, GDA issued 320 compounded maps by taking requisite fees of ₹ 22.78 crore with oath certificate without ensuring demolition of earmarked area within 30 days. Audit further observed that despite instructions issued by the Board, GDA issued 116 compounded maps during 2020-22 without obtaining photographs of demolition of the excess constructed area. Details of compounded maps in which demolition was required is summarised in **Table 6.4**.

Table 6.4: Details of cases compounded and area to be demolished

Year	Number of cases	Range of area to be demolished in identified case (in sqm)	Compounding fees (₹ in lakh)
(1)	(2)	(3)	(4)
2017-18	29	1.950 to 298	120.7
2018-19	94	3.15 to 518.26	589.72
2019-20	81	1.91 to 206.506	580.69
2020-21	15	5.76 to 93.390	111.05
2021-22	101	7.360 to 183.11	875.74
Total	320	-	2,277.90

(Source: Information provided by GDA)

The State Government did not provide specific reply (March 2024) and explained only procedure of compounding and mentioned that as per the Compounding Bye-laws 2010, for demolition of uncompoundable area of unauthorized constructions, an affidavit is submitted by the developer and thereafter action for compounding is initiated and after depositing entire amount of compounding fees the compounding map is issued, mainly with the condition that the non-compoundable construction will be demolished under the supervision of a structural engineer, and special attention will be paid to the structural safety and the protection of life and property. During this process if any dispute or damage to life or property occurs the entire responsibility will be borne by the builder/property owner. Further, in cases, where the unauthorised construction is not demolished by the property owner themselves, adequate opportunity for hearing is provided to them through reminder letters, thereafter demolition proceedings are initiated under the relevant provisions of the UPUP&D Act, 1973.

The reply of the State Government was not tenable because GDA did not adhere to directions of the Compounding Bye-laws and instruction of the Board to ensure demolition of the uncompoundable area.

6.3.4.2 Non-maintenance of setback line

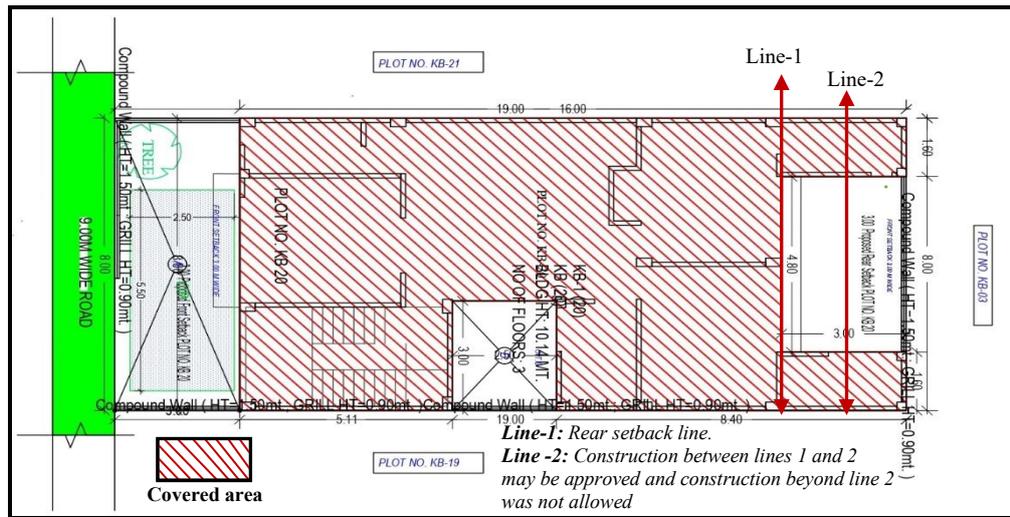
A setback line³⁷ is defined as a parallel line to the boundary of the plot which shall be maintained during approval of maps and no construction would be allowed beyond the line. Set back area is required for proper ventilation,

³⁷ As per Building Bye-laws 2008

sunlight, allow vehicles and exit in emergency situations, greenery, etc. Further, as per Compounding Bye-laws, construction up to 50 per cent³⁸ is permissible in rear set back area.

Scrutiny of records revealed that the rear setback line was not maintained parallel to the boundary of the plot in 288 maps out of 384 compounding cases test-checked in Audit. Photograph of approved map with covered area in rear setback, without maintaining setback parallel to the boundary of plot, is given in **Photograph 6.2**.

Photograph 6.2: Sample of the approved map to show setback line



Horizontal setback line to be maintained (as shown by red line) during approval of map

The State Government in reply (March 2024) stated that, as per the provision under section 3.4.1 (i) of the Building Bye-laws-2008 (as amended), the map was approved on 40 per cent of rear set back and as per provision mentioned in paragraph 3.3.2 of the Compounding Bye-laws-2010, only 10 per cent of the total open area of the rear setback was compounded.

The reply of the State Government was not acceptable as the bye-laws regarding setback line was not followed. As per paragraph 1.2.21 of the Building Bye-laws-2008 (as amended), the setback line refers to the parallel line of the boundaries of the plot and beyond which it is not permissible to carry out any construction towards the boundaries of the plot. However, the setback line in the approved compounded map was no longer parallel to the boundary of the plot due to permission for the construction in the rear setback. This was contrary to the provisions of the Building bye-laws and envisaged concept of setback area for proper ventilation, sunlight, to allow vehicles and exit in emergency situations, greenery, etc.

³⁸ Maximum 40 per cent area during approval of maps and additional 10 per cent area in case of compounding.

6.3.5 Completion certificate of approved maps not ensured

UPUP&D Act 1973³⁹ provides that no person shall occupy or use the building before obtaining completion certificate from the Authority. The Authority issues completion certificate after recovery of required fees.

The construction of building must be completed within eight years⁴⁰ and completion certificate⁴¹ is required to be obtained from the Authority after its completion for letting the building into use.

As per information provided by GDA (July 2023), construction in respect of 1,303 approved maps were due to be completed during the year 2017-22. Audit noticed that GDA issued completion certificate of only 125 maps out of 1,303 maps (10 *per cent*) during 2017-22. However, status of completion of remaining 1,178 maps were not made available to audit despite repeated requests.

The State Government in reply (March 2024) stated that the Authority issues maps with the condition that the property owner would have to apply to the Authority for obtaining completion certificate within the stipulated construction period before making use of the building. Thereafter, upon inspection by the concerned sections of the Authority, the completion certificate is issued by the competent level as per rule. In cases, where builders/developers did not apply for completion certificates, campaigns are conducted from time to time to inform them to obtain completion certificate by the Authority.

To sum up, GDA approved maps without ensuring all requisite records/fees and issued faulty demand note at the time of approval of maps. Due to weak enforcement of GDA, the number of unauthorised/illegal development cases increased continuously during 2017-22 which also extended in the flood plain zone of Hindon river. The compounded maps and completion certificates were issued without ensuring compliance of required condition/recovery of dues and cess from the developers.

Recommendation 11: *Ghaziabad Development Authority should ensure availability of all requisite no objection certificates/structural design and fees before approval of maps. Transparency in generating demand note should be ensured by providing requisite details in Uttar Pradesh Online Building Plan Approval System.*

Recommendation 12: *The State Government should ensure stringent action is taken by the Ghaziabad Development Authority against unauthorised constructions in the development area. Timely checking and stopping of such construction should be ensured by Ghaziabad Development Authority.*

³⁹ Section 15A.

⁴⁰ The construction work will be completed within five years, subject to extension of three years after deposit of requisite fees/charges and extension of time to complete the construction work.

⁴¹ Residential building having area more than or equal to 300 sqm and all non-residential building, irrespective of area.

Recommendation 13: Ghaziabad Development Authority should ensure issuance of compounded maps/completion certificates only after recovery of all dues and verification of removal of non-compoundable area and take action against officials where issued inspite of pending dues and without verifying.

Recommendation 14: Responsibility should be fixed against errant officials of Ghaziabad Development Authority who have flouted the rules by giving undue benefit to the builders/developers/beneficiaries by not levying infrastructure development fees, giving sanction of maps without documents, non-monitoring & checking of unauthorised constructions.