



Bahria Town Karachi built without any NOCs: SBCA

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KARACHI: If claims made in a report submitted by the Sindh Building Control Authority (SBCA) in the Supreme Court on Saturday are correct, construction in Bahria Town Karachi (BTK) is taking place in brazen violation of building rules and regulations. The explosive revelations are all the more significant given the massive size of the upcoming gated community in district Malir.

They come a little over a month after the [Supreme Court judgement](#) on May 4 that found massive illegalities in the process of acquiring land for Bahria Town Karachi (BTK). They also raise many questions about the role that Sindh's regulatory bodies and provincial land bureaucracy have played in the sordid saga. SBCA is the regulatory and supervisory body that approves building plans and issues NOCs for any and all construction in Sindh.

Notice placed in newspapers by SBCA warning the public not have any dealings in connection with the housing projects on the list. It contains no mention of Bahria Town Karachi.

The SBCA report gives a timeline that purports to show how Bahria Town disregarded all the terms and conditions it had to meet at every stage in the regulatory process before undertaking construction in BTK.

As per the document, the Malir Development Authority (MDA) approved the first layout plan for land measuring 1,330 acres on March 20, 2014. The same day, SBCA issued a 'Conditional NOC' for sale and advertisement for 3,098 residential and 748 commercial plots in favour of Zain Malik, executive director of Bahria Town Ltd, "in the capacity of special power of attorney of co-owners. The subject NOC required among others that registered power of attorney and registration of mortgage deed (15 per cent) of all open plots shall be submitted within three months..."

MDA approved a second, revised layout plan on August 21, 2014 for 4,696 acres that "consolidated" the earlier 1,330 acres.

In May, an SC judgement found massive illegalities in the process of acquiring land

SBCA approved building plans for 1,055 ground plus one houses on April 2, 2015 on land measuring 4,696 acres. However, it did not issue an NOC for sale and advertisement submitted on September 14, 2015 because Bahria had not fulfilled the conditions stipulated in the previous NOC.

Individual building plans for 444 houses out of the 1,055 mentioned above were submitted to SBCA but approval remained pending because the builder had not complied with any of the earlier conditions.

Approval for proposed building plan for ten apartment sites was submitted in July 2015, but that too, remains pending for the same reason.

The SBCA report then states: "The latest site inspection reveals that construction activities without approval of SBCA are being carried out..." A long list of residential and commercial buildings follows. This includes: 9,319 villas, 51 flat sites, four office buildings and 10 public buildings such as restaurants, schools, a hospital, a club house, parks and dancing fountains, as well as two mosques, among them the Grand Masjid.

All of them are either under construction, or have been constructed — without obtaining even basic NOCs from the building control authority.

As the report states, Karachi Building & Town Planning Regulations, 2002 (KB&TPR) require that along with the building plan, the owner/builder of a project has to submit documents proving title to land before SBCA can issue an NOC.

The owner/builder is also legally required to mortgage 15pc of plots as a security deposit in favour of SBCA.

Bahria Town has met none of these conditions. A former bureaucrat with experience in land matters describes Bahria Town's actions as an outrageous transgression. "A builder in Karachi can't build a single floor without approval."

The report however does not explain why basic SBCA conditions as per sections 5 and 12 of the Sindh Building Control Ordinance (SBCO) 1979 that require submission of title documents, builder's licence, approved layout plan for sale NOC and approved building plans for houses and flats, etc were completely disregarded.

These documents are basic prerequisites for SBCA to ensure that the builder/developer owns and possesses the subject land.

A retired senior land official points out that the SBCA report has been written up after the retirement on June 5, 2018 of Agha Masood, who was DG SBCA for two years, and after the caretaker set-up was installed in Sindh. "Has the SBCA, which is part of the Sindh government, only woken up to its responsibilities now, when the project has spread to over 30,000 acres in Karachi's outskirts?"

According to Section 5 of the SBCO: "Sale of Plots (i) No developer shall transfer any plot or plots on the basis of owner ship or by sale or advertise such transfer, without obtaining a no objection certificate from the Authority (SBCA) in the manner and on payment of such fee as may be prescribed."

Similarly, Section 12 deals with the sale of buildings: "No builder shall sell or advertise for sale any building, through any audiovisual aids or any other means before he has obtained approval in writing of the Authority, and he shall mention such fact in the advertisement which will further specify all such details about the building as may be prescribed."

Section 19 provides ample opportunity for penalising any builder violating the above rules. It states that "whoever contravenes any provision of this ordinance, shall be punished with simple imprisonment for a term not exceeding two years or with fine not less than Rs20,000 or with both and if the offence is a continuing one, further fine not exceeding Rs500 for each day after the date of the first commission of the offence".

Similarly, Chapter 5 of the KB&TPR, in exercise of the powers conferred by section 21-A of the SBCO that deals with public sale projects, stipulates that NOCs from SBCA are mandatory for sale of units in buildings.

Sub-section 5-1.6 requires the security deposit from the developer to be deposited with the SBCA in cash or a bank guarantee equivalent to 2pc of the cost of the project. In addition, in case of delay in completion of the project, where such delay has not been condoned as per clause 5-1.18, deduction from the security shall be made in proportion to the extent of the delay.

Interestingly, the SBCA report claims that the security deposit (5-2.5) was to be provided by Bahria Town in form of 15pc of the plots. However there is no provision of such mortgage in KB&TPR. All amendments to KB&TPR are available on SBCA website at <http://www.sbca.gos.pk/bylaws.aspx> except the amendment to 5-2.5 that seems to have been inserted recently and is being applied in retrospect to save SBCA from further embarrassment.

An investigative report in Dawn on April 18, 2016 clearly showed that every land authority concerned was not only aware of, but complicit in the scam. These bodies also came in for harsh criticism in the recent SC judgement. "At times the MDA appears to have acted as a property dealer and even as a go-between in the deal. Likewise, the government of Sindh which ... acted as a collaborator than a protector of the government land...it is thus a brazen betrayal of the trust of the state and the people and a blatant fraud on the statute."

There has even now, been no accountability for the fact that the huge cost of constructing the major roads, culverts and bridges in BTK is being borne by MDA, rather than the builder. "That is further evidence, if any is needed, of the mutually beneficial relationship between the two, not to mention the enormous clout of Bahria Town," says the former land official.

Recently, the SBCA placed a notice in the newspapers with a list of housing projects it says are illegal and sponsored by the land mafia. The notice warns the public to refrain from any sale or purchase activity in the said projects. One may well ask why the list includes no mention of BTK.

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