

**Namma Bengaluru Foundation (NBF) &
Bengaluru Residents' Associations' Confederation Ensemble®**

February 27th , 2015

To,
Shri D Satyamurthy
Additional Chief Secretary to the Government of Karnataka
Urban Development Department
Vikasa Soudha, Bengaluru

**Sub: Prosecution of Mr. Lakshmi Narayana, Commissioner of the
Bruhat Bangalore Mahanagara Palike**

Dear Sir,

This letter seeks sanction for the prosecution of Mr. Lakshmi Narayana, Commissioner of the Bruhat Bangalore Mahanagara Palike ("BBMP"), for offences committed under the Indian Penal Code, 1860, as amended (the "IPC") and under the Prevention of Corruption Act, 1988, as amended (the "PC Act").

The Bangalore Revised Master Plan 2015 ("RMP 2015") was notified in June 2007, pursuant to Section 13 of the Karnataka Town and Country Planning Act, 1961 (the "KTCP Act"). A public interest litigation (PIL) was filed before the Hon'ble Karnataka High Court in 2008 by Citizen's Action Forum (among others), seeking to address *inter alia* the issue of "mixed land use" set out in the RMP 2015, whereby commercial developments were proposed to be allowed in residential areas. The Commissioner of the Bangalore Development Authority ("BDA") had, in February 2014, filed an affidavit before the Hon'ble Karnataka High Court ("Affidavit") stating, *inter alia* that:

- (a) there shall be no fresh commercial activity allowed in residential main and residential mixed zones if abutting roads are forty (40) feet or less in width;
- (b) only specified ancillary usages as mentioned in BDA's resolution filed along with the Affidavit shall be permitted in residential main and residential mixed zones, if the abutting roads are above forty (40) feet in width; and

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- (c) conversion of ancillary usage to main usage shall be permitted only in “Ring 3” areas as defined in RMP 2015, and not in “Ring 1” and “Ring 2” areas as defined in the RMP 2015.

In addition, it was indicated in the BDA’s resolution filed along with the aforesaid Affidavit that consideration would be given to restricting commercial activity in portions of the mutation corridor that passes through predominantly residential areas. In light of this Affidavit, the Hon’ble High Court had disposed of the matter stating that revised zoning regulations must be drafted and forwarded to the State Government for approval. A copy of this order of the Hon’ble High Court of Karnataka is attached here, as **Annexure A**. The Hon’ble High Court had also noted that an office order was issued by the Special Commissioner (Planning), of the BBMP on November 8, 2012, withdrawing all sanctioned plans issued subsequent to the court’s interim order dated February 25, 2012.

Subsequently, amendments to the zoning regulations of the RMP 2015 have been notified on December 11, 2014 pursuant to the provisions of the KTCP Act. In these amended regulations, the specific averments made before the High Court have been disregarded. Details of the amendments to RMP 2015 are attached in **Annexure B**. The deviations between the Affidavit filed before the Hon’ble High Court of Karnataka and the amendments made to the RMP 2015 are set forth in **Annexure C**. It is pertinent to note that a subsequent public interest litigation petition has been filed and is pending before the Hon’ble High Court of Karnataka in connections with these deviations between the Affidavit filed before the Hon’ble High Court of Karnataka and the amendments made to the RMP 2015.

We note that pursuant to Section 14 of the KTCP Act, every new development in the area covered by the RMP 2015 is required to conform to the provisions of the said plan. Pursuant to Sections 295, 299 and 300 of the Karnataka Municipal Corporations Act, 1976, read with Bye Law 3 of the Bangalore Mahanagara Palike Building Bye-Laws, 2003, a building licence from the Commissioner of the BBMP is required by any person who intends to erect or re-erect a building, or make material alterations to such building in the relevant area. In addition, a trade license under Section 353 read with Schedule X of the Karnataka Municipal Corporations Act, 1976 is required to for carrying on certain commercial activities within city limits. The Commissioner, while considering such application, is required to consider the land use for the relevant area specified in the RMP 2015.

Despite these amendments to the RMP 2015, and the Affidavit filed by the Commissioner of the BDA before the Hon’ble High Court of Karnataka, the BBMP has continued to permit the

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establishment of commercial concerns in certain residential areas of Bangalore in violation of the amended RMP 2015 and the aforesaid Affidavit of the BDA. The address and description of certain such commercial establishments are set out below:

Address	Nature of Establishment
Plot 361, 6 th Main road, 1 st Block, Koramangala 1 st Block, Bangalore 560034	Serviced Apartments
Plot 329, 5 th Main, 1 st Block, Koramangala, Bangalore 560034	Business: Red Baron International
Plot 154, 8 th Main Road, Jakkasandra Block, Koramangala, Bangalore 560034	Business: Breakfast Club, Teju Boutique
Plot 704, 6 th B Cross, Koramangala 3 rd Block, Bangalore 560034	<i>Under Construction</i>
Plot 736, 7 th Cross Road, Koramangala 3 rd Block, Bangalore 560034	<i>Under Construction</i>

These commercial developments, which are situated in areas demarcated as residential areas are illegal, since they are contrary to the provisions of the RMP 2015 and the averments made in the Affidavit filed before the Hon'ble Karnataka High Court. Repeated attempts have been made by the Residents Welfare Associations of Koramangala, in writing, to bring these violations to the notice of the BBMP and ask for immediate action. The BBMP has not initiated meaningful action in spite of considerable time periods having elapsed.

As the chief executive of the BBMP, the BBMP Commissioner is responsible for the actions and inactions of all subordinate officers under his control. However, as per the copies of official records received pursuant to an application filed under the provisions of the Right to Information Act, 2005, it was found that the BBMP Commissioner had personally intervened to obtain a trade license for the "Breakfast Club" establishment situated at Plot 154, 8th Main Road, Jakkasandra Block, Koramangala. In fact, the BBMP Commissioner had, on December 1, 2014, made a note on the application submitted for the purpose of obtaining a trade licence stating "Please help in getting trade license". The trade license was sanctioned by the Health Officer (South) of the BBMP on December 5, 2014, with the note that the license was issued "as per direction from the BBMP Commissioner". These documents also reveal that the local residents' welfare association

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had made representations against the grant of the aforesaid license on the basis that, *inter alia*, the establishment is located in a residential zone, and causes nuisance to the local residents. Copies of these documents are attached here as **Annexure D**

It is clear that actions of the BBMP Commissioner in permitting, indeed encouraging, such illegal commercial establishments to be set up and continue functioning are against the interest of the residents of Bangalore, since this allows commercial development in residential areas in direct contravention of the RMP 2015 and Affidavit submitted by the BDA before the Hon'ble Karnataka High Court. In fact, the BBMP Commissioner has personally intervened and directed his officials to issue trade licenses to commercial establishments. It is clear that these actions have been undertaken with a view to benefit commercial and construction interests, and without any regard to the welfare of the citizens of Bangalore. This in turn raises questions as to Mr. Lakshmi Narayana's motivations behind showing favours to such commercial and construction interests.

The above mentioned actions of, and failure to take action by, the BBMP Commissioner, go squarely against the law of the land and the interests of the residents of Bangalore. These actions and selective inaction on the part of the BBMP, and the BBMP Commissioner in particular, have negated the efforts made by the citizens of Bangalore over a number of years to pursue better urban development and city planning.

In this background, it is imperative that Mr. Lakshmi Narayana be investigated for the commission of offences under the following sections of the IPC and the PC Act:

- (a) Section 166 of the IPC: Public servant knowingly disobeying any direction of law as to the way in which he is to conduct himself as such public servant, intending to cause or knowing it to be likely that he will, by such disobedience, cause injury to any person.
- (b) Section 167 of the IPC: Public servant being charged with the preparation or translation of any document, framing or translating that document in a manner which he knows or believes to be incorrect, intending thereby to cause or knowing it to be likely that he may thereby cause injury to any person.
- (c) Section 13(1)(d) of the PC Act: For criminal misconduct, obtaining a pecuniary advantage for himself through illegal means, and for abusing his position as a public servant.

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It may be noted that although some of the aforesaid offences are cognizable, little or no action seems to have been taken against the concerned officials, including Mr. Lakshmi Narayana.

Mr. Lakshmi Narayana is a "public servant" within the meaning of Section 21 of the IPC, as also within the meaning of Section 2(c) of the PC Act.


The facts and circumstances of the present case indicate that it is of utmost public importance that this matter is investigated and examined thoroughly. The present letter therefore requests sanction for the prosecution of Mr. Lakshmi Narayana, since the alleged offences committed by Mr. Lakshmi Narayana hereunder are attributable to the discharge of his public duty as public servant. We emphasise that such sanction is necessary for assuring transparency in public administration, and, further, to protect the interest of the citizens of Bangalore.

We submit that this is a fit case for granting sanction for prosecution under Section 197 of the CrPC and Section 19 of the PC Act, for offences under Sections 166 and 167 of the IPC and Section 13(1)(d) of the PC Act, and request that sanction to prosecute be accorded. Further, we are ready and willing to assist the investigation in any manner, and to provide any information or clarifications that may be necessary.

Should you require any further information or clarifications, please contact the undersigned.

1)  T.J. BASLY (BRACE-MEMBER)
PRESIDENT - VICTORIA - PALMGROVE AREAS RESIDENT
WELFARE ASSOCIATION (VIPARWA)
NO: 41, XAVIER LAYOUT,
BANGALORE - 560047

2) SURESH . N . R
General Manager - Operations
Namma Bengaluru Foundation
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 27/Feb/15



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Advisor, FORWARD Federation of RWAs, Hebbal
constituent

5. ANAND SIRUR
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13th CROSS, 8th MAIN ROAD
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BANGALORE - 560003.

[Signature]



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Enclosed: As above.

CC:

1. Shri Ramalinga Reddy
Minister for Transport and Bengaluru District In-charge Minister
Government of Karnataka
Vidhana Soudha
Bengaluru-560001
2. Shri Rajeev Chandrasekhar

Member of Parliament, Rajya Sabha
11th Floor , Vishveshwaraiah Towers,
Dr Ambedkar Road,
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3. Shri T.K Anil Kumar
Secretary to the Government of Karnataka
Urban Development Department
Vikasa Soudha, Bengaluru