

Power of Authority to require local authority to assume responsibility for amenities in certain cases.

50. Where any area has been developed by the Authority, the Authority may require the local authority within whose local limits the area so developed is situated, to assume responsibility for the maintenance of the amenities which have been provided in the area by the Authority and for the provision of the amenities which have not been provided by the Authority but which in its opinion should be provided in the area, on terms and conditions agreed upon between the Authority and that local authority; and where such terms and conditions cannot be agreed upon, on terms and conditions settled by the State Government in consultation with the local authority on a reference of the matter to that Government by the Authority.

## CHAPTER V

### Road and Streets

Width of public streets.

51. (1) The Authority shall, from time to time with the sanction of the State Government specify the minimum width for different classes of public streets according to the nature of the traffic likely to be carried there, the localities in which they are situated, the heights up to which building abutting thereon may be erected and other similar considerations.

(2) The width of a new public street shall not be less than that prescribed in sub-section (1), or that shown on the Master Plan for the class to which it belongs in areas for which Master Plan has been prepared.

Power to prescribe street line.

52. The Authority may prescribe a line on one or both sides of any public street, provided a public notice of the proposal has been issued by the Authority in the prescribed manner. No person shall construct or reconstruct any portion of any building on land within the prescribed new street line.

Setting back  
building to  
the prescri-  
bed street  
line.

53. (1) If any building or any part of a building abutting on a public street is within such line of the street, the Authority may require such building to be set back to the prescribed line, whenever it is proposed ;—

- (a) to re-build such building or to take down such building :
- (b) to remove, reconstruct or make any addition to or structural alteration in any portion of such building which is within the regular line of the street.

(2) When any building or any part thereof within the prescribed line of the street falls down or is burnt down or is taken down, under the provisions of this Act or otherwise, the Authority may at once take possession of the portion of land within the prescribed line of the street previously occupied by the said building and if necessary, clear the same.

(3) Land acquired under the foregoing subsections shall, henceforward be deemed to be a part of the public street.

Acquisition  
of land  
within the  
line of street.

54. If any private land whether open or enclosed lies, within the prescribed line of a public street and is not occupied by a building or if a platform, verandah, steps, compound wall, hedge or fence or other structure, is within the line of such street, the Authority may, after giving the owner of the land or building a notice of the intention to do so, take possession of the said land with its enclosing wall, hedge or fence, if any, or of the said platform, verandah, steps, or such other structure as aforesaid or of the portion of the said platform, verandah, steps or other such structure as aforesaid which is within the prescribed line of the street.

Acquisition  
of the remain-  
ing part of  
building  
and land  
after their  
portions wi-  
thin a pres-  
cribed line  
of the street  
are acquired.

55. If a building or land is partly within the prescribed line of a public street and if the Authority is satisfied that the land remaining after the exclusion of the portion within the said line will not be suitable or fit for construction of independent building, the Authority shall acquire the remaining portion of the land if so desired by the owner.

CHAPTER VI

Acquisition of land

Power of State Government to acquire land.

56. Where on the representation of the Authority it appears to the State Government that in order to enable it to execute the scheme it is necessary that land within, adjoining or surrounded by any such area should be acquired, the State Government may acquire the land by publishing in the Official Gazette, a notice to the effect that the State Government has decided to acquire the land in pursuance of this section.

Proceeding for acquisition of land.

57. (1) The provision of the Land Acquisition Act, 1894 (Central Act No. I of 1894 as amended) shall be applicable for acquisition of land under this Act and the compensation shall be computed under the provisions of the same Act.

(2) In computing compensation for land acquired, the value will be market value as prevailed on the date of coming into force of this Act.

(3) The owner of the lands will also be entitled to the reasonable cost of development, if any made during the period.

(4) Twenty five per cent increase in value on the date of acquisition of the land.

(5) Where any such land has been acquired by the State Government it may, after it has taken possession of the land, transfer the land to the Authority for the purpose for which the land has been acquired on payment by the Authority of the compensation awarded under that Act and of the charges incurred by the State Government in connection with the acquisition.

Disposing of land.

58. Subject to the rules made under this Act, the Authority may retain, lease, exchange or otherwise, transfer any land acquired by it under this Act:

Provided that in case of lease or transfer the owner will get first priority if due to acquisition he becomes landless.

Provisions of private negotiation before compulsory acquisition.

59. (1) The Authority may, in the first instance make reasonable efforts to purchase any land by private negotiation.

(2) In case of failure to purchase the land by private negotiation within a specified time, the said land shall be compulsorily acquired.

(3) Nothing in this section shall, however debar the State Government or the Authority from compulsorily acquiring any land without prior private negotiation.

Payment to owner by adjustment.

60. All payment due to be made to any person by the Authority under this Act, shall so far as possible, be made by an adjustment in respect of the plot concerned or of any other plot in which he has an interest and failing such adjustment payment shall be agreed upon by the parties.

Sarkari land.

61. (1) The State Government may by notification in the Official Gazette and upon such terms and conditions as may be agreed upon between the State Government and the Authority, place at the disposal of the Authority all or any developed and undeveloped lands in Guwahati Metropolitan area vested in the Government of Assam (known and here-in-after referred to as "Sarkari lands") for the purpose of development in accordance with the provisions of this Act.

(2) No development of any Sarkari land shall be undertaken or carried out except by, or under the control and supervision of, the Authority after such land has been placed at the disposal of the Authority under sub-section (1).

(3) After any such Sarkari land has been developed by, or under the control and supervision of the Authority, it shall be dealt with by Authority in accordance with rules made and directions given by the State Government in this behalf.

(4) If any Sarkari land placed at the disposal of the Authority under sub-section (1) is required at any time thereafter by the State Government, the Authority shall, by notification in the official Gazette, replace it at the disposal of the State Government upon such terms and conditions as may be agreed upon between the State Government and the Authority.

Power of the Authority to develop land in non-development area.

62. Notwithstanding anything contained in sub-section (4) of Section 35, the Authority may, if it is of opinion that it is expedient to do so, undertake or carry out any development of any land which has been transferred to it or placed at its disposal under Section 57 or Section 61 even if such land is situated in any area which is not a development area.

## CHAPTER VII

### Compensation and Levy, Betterment and Development Charge.

Right to Compensation.

63. Any person whose property is injuriously affected in value by the making of a Scheme shall, if he makes a claim for the purpose within a period of three months after the date of publication of a notification sanctioning the scheme under Section 39, be entitled to obtain compensation in respect thereof from the Authority.

No right to Compensation.

64. A person shall not be entitled to obtain compensation under the foregoing section on account of any building erected or contract made or other thing done with respect to any land within the area included in a scheme after the date of the notification of the scheme under Section 35.

Provided that this provision shall not apply to any building erected, contract made or other thing done in accordance with the permission granted under Sections 23 and 41 of this Act.

Power of Government to exclude compensation in certain cases.

65. (1) No compensation shall be payable in respect of any property which may be injuriously affected by putting into operation of any provision of the scheme which :--

- (a) prescribes the space about buildings ; or
- (b) limits the number of buildings ; or
- (c) regulates the size, height, design or external appearance of buildings ; or
- (d) prohibits or restricts building operations permanently or temporarily on the ground that erection of building thereon will be likely to be injurious to the health of the occupants or the neighbours or likely to cause excessive expenditure of public money in making provisions for roads, sewers, water supply or other public services ; or
- (e) Prohibits or restricts the use of land or a building for a purpose which may involve danger or injury to public hygiene or the health of the occupants or their neighbours or for a purpose which is against the public policy or public morals ; or
- (f) in the interests of safety, regulates the height and position of proposed walls, and building fences or Hedges near the corners or bends of roads ; or
- (g) in the case of the erection of any building intended to be used for purposes of business or industry, requires the provision of parking the Vehicles.

(2) No compensation shall be payable for refusal of permission to make any alteration in any building which is not in conformity with the use specified in the plan or in the scheme

Right of owner to require Authority to acquire or purchase land.

66. (1) The owner of any land which is to be acquired for purposes of a scheme may, at any time after the sanction of the scheme by the Government, by a written notice to the Authority in the prescribed manner, call upon it to acquire or purchase the land in so far as the land is to be acquired by the State Government or the Authority

(2) If within six months of the services of the notice under sub-section (1), the land is not purchased or acquisition proceedings are not started, the scheme in so far as that land is concerned, shall be deemed to have been withdrawn and all notices and orders in that connection shall lapse.

Levy of betterment fee.

67. (1) Every property which has increased in value due to its inclusion within an area under a plan or a scheme or due to the execution of such schemes shall be charged with a betterment fee:

Provided that no such fee shall be levied in respect of the lands owned by Government and on such public land or building as are used for charitable, religious and educational purposes or for places of non-professional entertainment and recreation.

Provided further that when any land belonging to Government has been let out by Government to any person, then the land and any building situated thereon shall be subject to a betterment fee under this section.

(2) The betterment fee shall be an amount equal to twenty percent in case of residential holdings so long the original owners use for their residences and equal to fifty percent in case of non residential areas and will be realised in five equal instalments.

EXPLANATION: -The increase in value for the purpose of this section shall be the increase in the market prices in between the date on which

a notification under sub section (1) of Section 35 has been issued and the date on which the execution of the scheme has been substantially completed.

Appeal.

68. (1) Any person aggrieved by the decision of the Authority with respect to matters of compensation and betterment fee, may appeal to the Appellate Authority within thirty days of the award.

(2) If the owner of any property objects to the amount of betterment fee determined by the Authority on any ground, he shall also state the amount which, he contends would be correct and may within thirty days of the date on which the determination of his objection or appeal becomes final by written notice, require the Authority to acquire the property together with any building or other works that may exist thereon.

(3) The Authority shall thereupon acquire the property.

Levy of  
development  
charge.

69. (1) In accordance with the provisions of this Act, and the rules made thereunder and with the previous sanction of the State Government, the Authority shall, by notification published in the Official Gazette, levy a charge (herein-after called the development fees) on the carrying out of any development or change of use of land for which permission of the Authority is required at the rate prescribed in the rule :—

(2) The fees shall be leviable on any person who undertakes or carries out such development or changes any such use.

(3) Notwithstanding anything contained in sub-sections (1) and (2), no development fees shall be levied on development or change of use of any land vested in or under the control or possession of the Central Government, the State Government or any local authority.



(4) The State Government may, by rules, provide for the exemption from the levy or development fees on any development or change of any use of any land specified in the rules.

(5) (i) For the purpose of providing and maintaining any amenity, the Authority may also levy such fees as it may consider necessary which shall be in addition to any fee for the time being leviable under this Act or any other law in force, in respect of any land or building on the transferee or occupier thereof.

(ii) Where any transferee or occupier makes any default in the payment of any fee levied under clause (1) of sub-section (5), the Authority may direct that in addition to the amount of the arrears, a sum of not exceeding that amount shall be recovered from the transferee or occupier, as the case may be, by way of penalty.

(iii) In case of any default in payment of an amount payable under this Act, the outstanding amount in default together with any sum, if any directed to be paid by way of penalty under clause (ii) of sub-section (5) may be recovered from the transferee or occupier, as the case may be, in the same manner as arrear of land revenue.

Re-ump-  
tion of  
land or  
building

70. In case of non-payment of consideration money or instalment thereof on account of the transfer of any land or building or any rent due in respect of the lease of any such land or building or in case of the breach of any other conditions of such transfer or breach of any rules made under the Act, the Authority may if thinks fit, resume the land or building so transferred and may further forfeit the whole or any part of the money if any, paid in respect thereof.

## CHAPTER VIII

### Appeals and the Appellate Authority

Appoint-  
ment of  
Appellate  
Authority.

71. (1) Save as otherwise provided, the State Government shall appoint an Appellate Authority to hear all appeals arising out of the provisions of this Act. The decision of Appellate Authority shall be final.

(2) The person or persons appointed by the State Government as Appellate Authority shall have the qualification of a District Judge, or of becoming a member of the Assam Board of Revenue constituted under the Assam Boards of Revenue Act, 1962, (Assam Act-XXI of 1962). The appointment shall be on such terms and conditions as the State Government may decide.

Duties of  
the  
Appellate  
Authority

72. (1) The duties and powers of the Appellate Authority shall be as follows:—

- (a) to hear and decide appeals against the orders of the Authority;
- (b) to decide and hear appeals in respect of such other matters and exercise such other powers as may be entrusted to and conferred upon it by the State Government in accordance with the provisions of this Act.

(2) All appeals to the Appellate Authority shall be filed within a month from the date of the order appealed against. The time required for taking out copies of the order shall be excluded. The Appellate Authority may, however, in its discretion condone such delay in filing appeal for sufficient reasons.

Procedure  
of working  
of the  
Appellate  
Authority.

73. (1) The Appellate Authority shall conduct its proceedings in the prescribed manner after giving the opposite party or any one interested in the order appealed against and give opportunity of being heard.

(2) The Appellate Authority may, at any time call for any extract from any proceeding of the State Government or Authority and call for any return or statement or report concerning or connected with any matter with which the Authority has been authorised to deal.

(3) The Appellate Authority shall have all the powers of a Civil Court for the purposes of taking evidence on oath or enforcing the attendance of witnesses including the parties interested or any of them and compelling the production of documents and material objection if considered necessary.

(4) The Appellate Authority in its discretion may make any orders regarding the cost to be paid by any of the parties to the proceeding and the Appellate Authority shall have full power to determine by whom or out of what property and to what extent such costs are to be paid and the Authority shall be bound to execute the orders of the Appellate Authority in accordance with the directions, if any, contained in the order and such costs or amounts awarded by the Appellate Authority shall be realised as arrears of land revenue.

Place where  
Appellate  
Authority  
may sit.

74. The Appellate Authority may sit either at the Head Quarter of the Guwahati Metropolitan Development Authority or at any other place within the local limits of his jurisdiction which he may deem convenient for the consideration and decision of any matter before the Appellate Authority.

Right to  
appear by  
recognised  
agent.

75. Every party to any proceeding before the Appellate Authority constituted under this Act, shall be entitled to appear either in person or by his agent authorised in writing in this behalf.

Protection  
of action  
taken under  
this Act.

76. (1) No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

(2) Save as otherwise expressly provided in this Act, no suit or other legal proceeding shall lie against the State Government for any damage

caused or likely to be caused by anything in good faith done or intended to be done in pursuance of this Act or any order made thereunder.

## CHAPTER IX

### Finance, Accounts and Audits.

Fund of the Guwahati Metropolitan Development Authority. 77. (1) The Guwahati Metropolitan Development Authority shall have and maintain its own fund to which shall be credited---

(a) all money received by the Authority from the State Government by way of grants, loans, advances or otherwise;

(b) all development charges or other fees received by the Authority under this Act or rules or regulations made thereunder; and

(c) all money received by the Authority from any other sources.

(2) The Authority may keep in current account in any nationalised Bank approved by the State Government in this behalf, such portions of each fund as may be prescribed and any money in excess of the said sum shall be invested in such manner or may be approved by the State Government.

Grants, advance and loans by State Government. 78. The State Government may make such grants, advances and loans to the Authority as it may deem necessary for the performance of the functions under this Act and all such grants, advances and loans made shall be on such terms and conditions as the State Government may determine.

Powers to borrow money. 79. (1) The Guwahati Metropolitan Development Authority constituted under this Act shall be deemed to be a local authority as defined in the Local Authorities Loans Act, 1914 (Central Act, IX of 1914) for the purpose of borrowing money under that Act, and the making and execution of a plan and scheme shall be deemed to be a work which such local authority is legally authorised to carry out.

(2) The Authority may, from time to time, borrow money by way of loans or debenture from such sources issue debenture at such rate of interest and for such period and upon terms, as the State Government may approve, any sum of money required for carrying out the purposes of this Act or servicing any loan obtained by it.

Development fund.

80. The receipt of the Authority under this Act shall form a separate development fund and all expenditure under this Act or any development scheme thereunder, shall be defrayed out of such fund. No portion of the fund shall, except with the sanction of the State Government, be expended for purposes not provided by this Act.

Sinking fund.

81. (1) The Authority shall maintain a sinking fund for the repayment of money borrowed or floated or issuing debenture by it.

(2) The money paid into the sinking fund shall be invested in such manner and in such securities as may be prescribed.

(3) The sinking fund or any part thereof shall be applied in or towards, the discharge of the loan or part thereof for which such fund is created and until such loan or part thereof is wholly discharged, the money standing to the credit of the fund shall be applied for no other purpose.

Budget of the Authority.

82. The Authority shall prepare every year in such form, a budget of the Authority in respect of the next financial year, showing the estimated receipt and expenditure under revenue head and capital head separately, and submit it to the State Government not later than fifteenth of February each year or as may be directed by the State Government for approval.

Accounts and Audit.

83. (1) The Authority shall maintain proper accounts and other relevant records and prepare and annual statement of account including the balance sheet in such form as may be approved by the State Government.

(2) The accounts of the Authority shall be subject to Audit annually by the Accountant General

Assam. The accounts of the Authority along with the Audit Report shall be placed before the State Legislature.

Annual Reports.

84. As soon as may be after the close of a year, the Authority shall prepare a report of each activities during the preceding year and submit it to the State Government in such form and on or before such date as may be prescribed Legal proceedings.

## CHAPTER X

### Legal proceedings

Penalty for unauthorised development or for use otherwise than in conformity with the Master Plan and scheme.

85. (1) Any person who, whether at his own instance or at the instance of any other person, commences, undertakes or carries out development, or changes use of any land or building,

- (a) in contravention of the provisions of the Master Plan and Zoning Regulation and of any development schemes ;
- (b) without permission as required under this Act ;
- (c) in contravention of any condition subject to which such permission has been granted ;
- (d) after the permission for development has been revoked under Section 33 ; or
- (e) in contravention of the permission which has been modified under Section 33 ;

shall be punishable under this section.