



To  
Shri Siddaramiaiah  
The Hon'ble Chief Minister  
State of Karnataka  
Vidhana Soudha  
Bangalore – 560 001

Date: 26<sup>th</sup> June 2013

Dear Sir:

Re: Development of a real estate project in the Agara Lake region

1. This representation is being submitted by and on behalf of Namma Bengaluru Foundation (“NBF”), a public charitable trust which has been settled inter alia with the objectives of assisting and participating in developmental activities for the general public of Bengaluru.
2. In April 2013, certain employees of NBF were shocked to notice the development of a real estate project (the “Project”) immediately abutting the Agara lake. Since NBF is concerned about protecting the rights of the ‘commons’ and because the said construction appeared to be taking place right on the lake bed, NBF started gathering relevant information in relation to the Project. The information that NBF has gathered reveals that there are large scale illegalities in the proposed Project. NBF is submitting this information with a request for appropriate and immediate action.
3. The Karnataka Industrial Areas Development Board (the “KIADB”) has acquired and allotted 80 acres of land in the Agara Lake region, which appears to be an ecologically sensitive area as clearly denoted in the Revised Master Plan 2015, to two companies, namely, Manipal ETA Infotech Limited (“Manipal”) and Core Mind Software and Services Private Limited (“Core Mind”). The allotment has been made for the development of a real estate project comprising Software Technology Park, hospitality, commercial and residential complex, Multi Level Car Parks or establishing any other industry permissible under the law (the “Project”). Separate ‘Lease cum Sale Agreements’ have also executed by both these entities in relation to the allotted land.

#### Land Acquisition

4. The approximately 80 acres land on which the Project is being developed appears to be located in an area denoted as ecologically sensitive in the Revised Master Plan 2015. The Project land had been demarcated as land falling within ‘housing and agricultural zone’ by the Bruhat Bangalore Mahanagara Palike (“BBMP”). NBF could not decipher any fathomable reason as to why, an area which has been recognized to be ‘sensitive’ had to be chosen for acquisition.

It stands to reason that, an area falling within the sensitive zone ought not to have been chosen, unless there was an absolute dearth of land that is more suitable for real estate development. It is our submission that land marked out in the zoning regulations for public utilities and residential purposes in the master plan formulated by the BDA should not be allotted for an industrial purpose and all other applicable laws disregarded, unless there is an overwhelming public interest for the same. There can be hardly any 'overwhelming' public interest in construction of a software technology park clubbed with a hospitality project (a five star hotel), commercial and residential complexes. NBF also understands, from certain records available with it, that the Project land has been allotted to Manipal and Core Mind at a price that is way below the market value of the said land.

5. Such acquisition also raises questions of participatory democracy. It cannot be gainsaid that the BBMP and the BDA, the corporation and the town planning authority, have a role to play in the orderly development of the city of Bangalore. Can a demarcation by BDA be ridden roughshod by purported exercise of overarching powers under the Karnataka Industrial Areas Development Act of 1966 ("KIADB Act")? A review of available documents does not indicate that all these issues were considered either at the time of acquisition or allotment of the lands in question. It appears that powers conferred under Section 47 of the KIADB Act, which negates the provisions of all other applicable statutes, were exercised as a matter of routine and without considering relevant or any considerations at all. NBF therefore most respectfully submits that the acquisition of such lands is vitiated and not in public interest at all, let alone in 'overwhelming' public interest. An area that has been categorized as sensitive ought not to be put to real estate / industrial use.

#### Environmental Impact

6. The allotted lands have huge Rajakaluves (storm water drains) flowing through it. Further, the land that has been allotted is located in an area that has been earmarked for public utilities and residential purposes in the master plan formulated by the Bangalore Development Authority ("BDA").
7. The Environmental Information System [ENVIS], Center for Ecological Sciences, Indian Institute of Science Bangalore, has issued a report dated May 2013 on the "Conservation of Bellandur Wetlands: Obligation of Decision Makers to Ensure Intergenerational Equity" (the "Report"). The Report focuses on the possible consequences and environmental ramifications of setting up a Special Economic Zone ("SEZ") in the Bellandur Lake area. The Report unequivocally states that, "the proposed plan to set up SEZ by KIADB needs to be stopped and wetland to be restored considering....". A few of the several factors for consideration as set forth in the Report are as follows:



- (i) Valley Zone: Location of the Project in a valley zone is contrary to sustainable development as natural resources like lakes and wetlands get affected, which eventually kills the lake. Further, valley zones are “no development zones” as per the Revised Master Plan 2015 issued by the BDA;
  - (ii) Flood Prone Zone: The Project is located in a flood prone zone. Further, a 30 meter buffer zone around a water body is to be a “no development zone” as per the Revised Master Plan, 2015, Sections 17 and 32 of the Karnataka Town and Country Planning Act, 1961 and the Bangalore Development Authority Act, 1976 and the Wetlands (Conservation and Management) Rules, 2010; and
  - (iii) Water shortage and insufficient drinking water: Bangalore is already experiencing severe water shortage and BWSSB has not given a NOC to the project. It has indicated an inability to supply such huge quantity of water to the project on a regular basis.
  - (iv) Public consultation : As per the EIA notification this project does not require public consultation but as the water requirement is so high and it will have an impact on the residents in the surrounding areas, it is important that there is a Cumulative Environmental Impact Assessment, and ensure public consultation to seek suggestions from the public. This will ensure the spirit and the letter of the 74<sup>th</sup> amendment is followed.
8. The Hon’ble High Court of Karnataka, in W.P. No. 817/2008 appointed a committee under the chairmanship of Hon’ble Mr. Justice N.K. Patil to suggest the required steps and measures to be taken for preservation of lakes in and around Bangalore. The recommendations contained in the report submitted by the committee headed by Justice N.K. Patil, include immediate action to remove encroachments on the lake area and the Rajakaluves. It is submitted that the Hon’ble High Court in the said writ petition had ordered that the channels which feed the lakes have to be properly protected and maintained. Further, the Hon’ble High Court ordered that unauthorized construction within 30 metres of peripheral lake area have to be removed. Approval to the Project is in the teeth of the recommendations of the Hon’ble High Court of Karnataka in W.P.No.817/2008.
9. Further, as regards implementation of the Project, the Rajakaluves (storm water drains) that run through the land on which the project is being developed have disappeared over a period of time owing to the construction activity that has commenced thereon. This is a violation of a condition imposed in the sanction plan for the Project, which stipulates that the Project shall not disturb the storm water drains, natural valleys etc. In fact, it is inconceivable as to how, in a real estate development, a natural valley will not be disturbed. It is inconceivable that a construction of 13,50,454.98 square metres of built up area will be undertaken without, in any manner, affecting the natural contours of the allotted land. In fact, what has been done is to raze the valleys down and create artificially plain land which is more suitable for construction, but which is completely contrary to the sanction plan. This has also, in turn, affected the flow of water into the largest lake in Bangalore, the Bellandur Lake, thereby adding to the water woes of Bangalore.



10. The State Level Expert Appraisal Committee (“SEAC”) constituted by the Central Government to assist the State Environmental Impact Assessment Authority (“SEIAA”) had required Manipal to submit a revised no objection certificate from the Bangalore Water Supply and Sewerage Board (“BWSSB”) for the proposed area of the Project, which requirement was not complied with. The SEIAA later decided to close the file pertaining to Core Mind due to non-submission of the required information sought by SEAC.
11. Both the aforementioned Lease Cum Sale Agreements inter alia contain stipulations which denote that the allotted property may be used only for the purpose of Software Technology Park, hospitality, commercial and residential complex, Multi Level Car Parks or establishing any other industry permissible under the law. The stipulations further denote that the lessee shall observe and conform to the rules, regulations and guidelines as framed by the Department of Ecology and Environment, Karnataka State Pollution Control Board and other competent and jurisdictional authorities with regard to prevention of water, air and noise pollution. However, we have not been able to trace any records that suggest that either Manipal or Core Mind has obtained any of the requisite environmental approvals in connection with the Project.
12. It is our submission that the KIADB, before the acquisition of the Project lands for development, ought to have considered the consequence and adverse impact on the environment of a real estate development on such lands. Further, the KIADB had also failed to incorporate the mandatory condition of allotment that every project obtains the clearance from the Karnataka State Pollution Control Board before the agreement to allot the land for development is executed. This was laid down by the Hon’ble Supreme Court in the case of KIADB v. C. Kenchappa reported in AIR 2006 SC 2038.

Whether the purported allotment is for ‘Industrial’ use?

13. It is submitted that although the Project is being developed by Manipal and Core Mind ostensibly as an industrial project, it is, in reality, nothing but a large real estate project. Manipal and Core Mind are predominantly real estate companies.
14. Although the KIADB Act provides for and permits the establishment of “industrial infrastructural facilities” on the land that is allotted by it, such “industrial infrastructure facilities” refer to those facilities which “contribute to the development of industries established in an industrial area”. However, given the area where the instant software technology park is proposed to be developed, there is no requirement, or justification, for the development of residential, commercial and hospitality facilities thereon. The areas surrounding Agara are hubs of residential and commercial activities and therefore, there is no requirement for the development of additional residential or commercial facilities thereon.



Further, given that the Project land is in an ecologically sensitive area owing to the proximity to the Agara Lake, a real estate development of this size and nature is completely unjustifiable.

#### Flawed implementation

15. It appears that Core Mind is using the approval obtained from the Karnataka Udyog Mitra (“KUM”) as a tool to surpass the requirements for other approvals that are critical to a project of this nature, especially the approval of the BWSSB and other environment related approvals. The minutes of the meeting dated November 11, 2011 of the SEAC notes that the total amount of water that would be required by the project is 50 kilo litres per day (“KLD”) for the construction phase and 3,259 KLD for the operational phase, which are both proposed to be met from the supply of water by the BWSSB. To the best knowledge of NBF, the only approval from the BWSSB that the Project has, as of date of this letter, is a partial approval dated May 12, 2011 which covers only “building 1&2 comprising of basement + GF for 18 flats only with a total built up area of 17,404 square metres”, while the total built up area of the project as noted by the SEAC is 13,50,454.98 square metres. The Project therefore, has no clearance from a governmental authority as to the enormous quantity of water that is required by it during its construction and operational phases.
16. Although to our knowledge the file pertaining to the approval process for Core Mind was closed by the SEIAA in November 2012 owing to failure by Core Mind to submit the requisite approvals, the Project continues its course. We also believe that the SEIAA has requested Core Mind to submit a document stating that the project site is in proper place, slope and High Flood Level in spite of the fact that the Project is situated between two lakes. This amounts to Core Mind undertaking a self certification about a project being developed by itself, which is blatantly in violation of the basic principles of administrative law. As the old adage goes, ‘no one can be a judge in his own cause’.
17. As is evident from the above, the Project is in violation of critical environment norms as well as in breach of significant regulatory norms. Considering the grave consequence that the development of a project of this nature may have on the environment as well as the people of Bengaluru, NBF urges you to take all actions that may be necessary to bring the Project to a complete halt. We have also enclosed a detailed list of supporting documents, together with documents for your kind perusal. We request you to let us know if we can of further assistance in this matter.

Yours’ sincerely,

For Namma Bengaluru Foundation  
Mahalakshmi Parthasarathy  
Director



CC:

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Vidhana Soudha  
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