



NATIONAL RESTAURANT ASSOCIATION OF INDIA

NRAI/26-1

24 July 2020

To,
Shri BS Bhalla
Principal Secretary (Home)
Govt. of NCT of Delhi
Delhi Secretariat, IP Estate
New Delhi – 110002
Email: pshome@nic.in

Subject: Reiteration of oral and written Representation on behalf of NRAI to the Sub-Committee with respect to study and review of the status of existing Guest Houses & Restaurant/Eating Houses in Delhi including various laws connecting with fire safety, fire prevention and the recommendations made thereto qua existing Guest Houses & Restaurants/Eating Houses in Delhi

Respected Sir,

1. That the Sub-Committee was constituted by the GNCT of Delhi vide order No F.No. 16/5/2019/Home-III/8410-8422 dated 27-11-19 to study and review the status of existing Guest Houses and Restaurant / Eating Houses in Delhi including various laws connecting with fire safety, fire prevention and to make appropriate recommendation for the fire prevention and fire safety of Guest Houses & Restaurant/Eating Houses in Delhi. The said Committee is headed by Special Commissioner of Police/Licensing & Transport and included as members different stake holders like from the Fire Department, MCD, PWD etc.

2. That the undersigned National Restaurant Association of India (NRAI) being the leading Association of the Indian Restaurant Industry vide Representation dated 17-12-2019 approached the Hon'ble Minister concerned to include NRAI as the Restaurant Industry stakeholder in the said committee. It was emphasized that NRAI founded in 1982 having headquarter at Delhi, is the voice of the restaurant industry representing the interests of five lacs plus restaurants pan India. It was reiterated to the Hon'ble Minister that the restaurant Industry, with an annual turnover of INR 4 lac Crores is the third largest after retail and insurance in the service sector, providing direct employment to more than 7 million Indians all over the Country.

3. That on the representation of the NRAI, the Hon'ble Minister vide order dated 18-12-2019 was pleased to advise to the appropriate authority to induct at least one member from NRAI in the above constituted sub-committee.

4. NRAI was represented in the meetings of the sub-committee through Authorised Representative Shri Santosh Jindal and even exhaustive written suggestions/objections dated 6th January 2020 were submitted to the sub-committee apart from the active oral participation in the various meetings of the

ANURAG KATRIAR
Executive Director & CEO
deGustibus Hospitality
Pvt. Ltd.
President

KABIR SURI
Co-Founder & Director
Azure Hospitality Pvt. Ltd.
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Jubilant FoodWorks Ltd.
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committee. Minutes of some of the meetings though record the contentions/suggestions/objections of NRAI, many members of the Sub-Committee are conspicuously silent on the points/objections raised by the NRAI and in fact ignoring the same. Furthermore though the presence of representative is acknowledged in the meetings but the issues raised are not addressed and redressed.

5. On the basis of the discussion which have been made in the various meetings of the Sub-Committee, the NRAI is reiterating the following submissions/objections to make:

(A) The representation/participation of NRAI has been made cosmetic and a mere formality. Points raised/objected are not been addressed and rather are been totally ignored and no draft report ever came to the NRAI representative for his consultation and it is verily believed that the final report is being prepared without actual and constructive participation of all the members.

(B) The very definition and interpretation of the term **“Assembly Building”** are being misunderstood, misconstrued and mis-applied by the Sub-Committee while dealing with concerned issues during the meetings.

(C) From the plain reading of discussion which have been made in the various meetings, it appears that the sub-committee are trying to change the definition/criteria of Assembly Building and scope & interpretation of Rule 27 of the Delhi Fire Rules 2010. It has been the stand of the DFS as could be gauged from the judgment dated 27-10-2016 of the Hon’ble Delhi High Court in Khan Market Welfare Association versus NDMC that Restaurants/Eating Houses in Delhi who are running restaurant for less than fifty persons are not Assembly Building and they do not require to have NOC from the DFS as they being not covered under Assembly Building do not attract Rule 27 of the Delhi Fire Service Rules 2010.

Rules 27 of the Delhi Fire Services Rules 2010 reads as under:

“27. Classes of occupancies likely to cause a risk of fire. -The following classes of occupancies for the purposes of sub-section (1) of section 25 of the Act shall be construed to likely cause a risk of fire, namely:-

(1) Pandal having seating capacity more than 50 persons or covered area more than 50 square meters.

(2) Residential buildings (other than hotels and guest houses) having height more than 15 meters or having ground plus four upper stories including mezzanine floor.

(3) Hotels and guest houses having height more than 12 meters having ground plus three upper stories including mezzanine floor.

(4) Educational buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.

(5) Institutional buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.

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(6) All Assembly buildings.

(7) Business buildings having height more than 15 meters or having ground plus four upper stories including mezzanine floor.

(8) Mercantile buildings having height more than 9 meters or having ground plus two upper stories including mezzanine floor.

(9) Industrial buildings having covered area on all floors more than 250 square meters.

(10) Storage buildings having covered area on all floors more than 250 square meters.

(11) All Hazardous buildings having covered area on all floors more than 100 square meters.

(12) Underground Structures.”

Clause 1.4.75 and 2.3.3 of UBBL 2016 reads as under:

“1.4.75 **Occupancy Or Use Group:** The principal occupancy for which a building or part of a building is used or intended to be used, for the purposes of classification of a building according to the occupancy, an occupancy shall be deemed to include subsidiary occupancies which are contingent upon it. The occupancy classification shall have the meaning given below unless otherwise spelt out in MPD.

a. **Residential Buildings:**-----

b. **Educational Buildings:** -----

c. **Institutional Buildings:**-----

d. **Assembly Buildings:** These shall include any building or part of a building where group of people not less than 50 congregate or gather for amusement, recreation social, religious, patriotic, civil, travel and similar purposes; for example theatres, banquet hall, motion picture houses, assembly halls, auditoria, exhibition halls, museums, skating rinks, gymnasium, restaurants, places of worship, dance halls, club rooms, passenger stations, and terminals of air surface and other public transportation services, recreation piers and stadia.

e. **Business Buildings:** -----

f. **Mercantile Buildings:**-----

g. **Industrial Buildings:**-----

h. **Storage Buildings:** -----

i. **Hazardous Building:**-----

Clause 3.1.5 of Part 4 (Fire and Life Safety) and Table 3 of Part 4 of National Building Code 2016 are as under:

“ 3.1.5 Group D Assembly Buildings- These shall include any building or part of a



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building where not less than 50 persons congregate or gather for amusement, recreation social, religious, patriotic, civil, travel and similar purposes, for example theatres, motion picture houses, assembly halls, auditoria, exhibition halls, museums, skating rinks, gymnasium, restaurants, places of worship, dance halls, club rooms, passenger stations, and terminals of air, surface and marine public transportation services, and stadia.”

Table 3 of Part 4 of NBC 2016 reads as under:

Table 3 Occupant Load

(Clauses 4.3 and 4.4.2.1)

S.No.	Group of Occupancy	Occupant Load Factor (m ² /persons) (see Note 1)
(1)	(2)	(3)
• i)	Group A: Residential	12.50
ii)	Group B: Educational	4.00
iii)	Group C: Institutional (see Note 2):	
	a)Indoor patients area	15.00
	b)Outdoor patients area	10.0
iv)	Group D: Assembly:	
	a)Concentrated use without fixed seating	0.65
	b)Less concentrated without fixed seating	(see Note 3)
	c)Fixed seating	
	d)Dining area and restaurants with seating and table	1.40
		see note 4
v)	Group F: Mercantile:	1.80
	a)Street floor and sales basement	
	b)Upper sales floor	3.00
	c)Storage/warehouse, receiving and the like	6.00
		20.00
vi)	Group E:Business	10.00
vii)	Group G: Industrial	10.00
viii)	Group H: Storage (see Note 5)	30.00
ix)	Group J: Hazardous	10.00

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NOTES

1 Gross area shall be the floor area as defined in 2.35. All factors expressed are in gross area unless marked net.

2 Occupant load in dormitory portions of homes for the aged, orphanages, insane asylums, etc. where sleeping accommodation is provided, shall be calculated at not less than 7.5 m² gross floor area/person.

3 These shall include gymnasium table tennis room billiard room and other gaming rooms, library swimming pool and like.

4 IN case of assembly occupancy having fixed sets, the occupant load shall be determined by multiplying the number of sets by 1.2.

5 Car parking area under occupancy other than storage shall also be 30 m² per person.

(D) From the combined reading of all the applicable provisions / Rules / clauses etc. mentioned herein above, it is explicitly clear that a restaurant/Eating House which has a seating arrangement of less than 50 is not an assembly building therefore, neither Rule 27 of Delhi Fire Services Rules 2010 nor Clause 1.4.75 and 2.3.3 of UBBL 2016 or clause 3.1.5 of Part 4 (Fire and Life Safety) and Table 3 of Part 4 of National Building Code 2016 are applicable in the present case. The “so-called” criteria of 90 sq. meters of gross floor area of any restaurant to obtain NOC from fire department is not stipulated under the provisions of law applicable in cases where the seating arrangement is limited to less than 50.

(E) Table 3 of Part 4 of NBC 2016 while dealing with occupant load mentions requirement of 1.8 sq. mtr per person in the dining area and Restaurant with seating and table in the Group D building which is Assembly Building. Therefore the ingredient (1.8 sq mtr) of Assembly Building cannot be applied to Non-Assembly Building. Definition of Assembly Building is very clear as it is not size-based but occupying/sitting arrangement based. If the building is occupied by less than 50 persons, it is not an assembly building. If a building comes within the definition of Assembly Building, then the occupant load should be 1.8 sq. mtr per person. However this 1.8 sq. mtr per person occupant load theory cannot be imported to non-assembly building as the law also does not warrant it.

(F) Therefore it is legally fallacious and factually incorrect to say that Eating Houses having more than 90 sq.mtr would be requiring the NOC from DFS. Law as on date does not permit such interpretation. Therefore criteria of 90 sq.mtr which are being applied by DFS of lately should be replaced with seating arrangement of less than 50 patrons.

(G) The issues being discussed in the meetings are based on the erroneous understanding of the definition of Assembly Building and illegal changes of classification of Assembly Building without any legal amendment in the definition, scope and application of “Assembly Building” by the competent legislation. Even the observation of the Hon’ble High Court in judgment dated 27-10-2016 in Khan Market Welfare Association case are being misinterpreted by the members of the

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sub-committee. The Hon'ble High Court made clear observation at paragraph 44 of the judgment that the Hon'ble Court is refraining from proceeding on the interpretation of the statutes as none of the parties raised the said issues. The direction of the Hon'ble High Court to DFS and NDMC to re-visit its policy of classifying Assembly Buildings by the seating capacity thereof has to be understood contextually. The DFS or the Sub-Committee cannot be allowed to change the definition of Assembly Building or its classification on its own without necessary changes/amendment in law relating thereto. The very basis of understanding of the members regarding definition of Assembly Building, its classification is on the premises which the DFS is projecting and persuading the members of the committee to understand and not what the provisions of law says and allows.

6. In the premises set out hereinabove, it is most respectfully submitted to the Chairman to relook into the issues being raised by the NRAI and request the members to consider the representation / objection of the NRAI while dealing with major issues relating to fire safety and prevention in consonance with the prevalent law / rules / regulations and make recommendations accordingly. The laws / rules / regulations need to be correctly and contextually understood in order to have constructive discussion/debates which could pave the way for necessary recommendations also. Anything in contravention of the relevant provisions of UBBL 2016, NBC 2005 & Fire Safety Rules 2010 would not serve the purpose of the sub-committee for which it was constituted. It is requested that before the draft Report is finalized, meaningful meeting of the NRAI may be allowed for proper consideration of the issues being raised by NRAI.

Thanking You,

Sincerely,

Prakul Kumar
Secretary General
For National Restaurant Association of India
Authorised Signatory
Email - prakul.kumar@nrai.org
Tel - 011-41000967
Mob – 8860640879

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