CHAPTER IX

URBAN LAND CEILING AND REGULATION ACT - A CASE STUDY

IN PRESSURE GROUP

In the bigger cities housing is increasingly becoming an acute problem. At the same time the building construction both commercial as well as residential is a big area of business activity and a large number of contractors - individuals, firms and corporations are engaged in the construction business. The building contractors and estate developers are a very important interest group which wields considerable influence and are actively involved in the developments about the policy making by the Government relating to the major areas affecting this line of business activity. In the urban areas for housing construction, numerous constraints have been imposed in the form of rules and regulations through which the Contractors and estate developers have to go through for conducting their business. Major area of government regulations which affect these groups are the regulations regarding the clearance of land for the construction in the form of NOC (No Objection Certificate) from the government. Also other areas relate to the controls regarding municipal building regulations, urban development regulations ceiling on land holding, and controls regarding major inputs of construction particularly cement and steel and also the financial incentives by the government in the form of tax concessions etc. to mobilize the finance from the prospective customers of housing to the business so as to enlarge their operations and carry on the business. Major attempt of the
government in the urban areas has been to increase controls on the land use which have been the greatest challenge for the builders and the estate developers because to have the land and have it cleared for construction is the first and foremost hurdle.

Urban Land (Ceiling and Regulation) Act came into force on 17th February 1976 in the State of Andhra Pradesh, Gujarat, Haryana, Himachal Pradesh, West Bengal, Karnataka, Orissa, Punjab, Tripura and all the Union Territories. The underlying purpose of the Act is to implement the policy of socialization of land and to regulate the construction of buildings on such land in excess of ceiling limit. The individual owners thus cannot of their own make the construction or other modifications of the land without the prior permission from the State government in the form of NOC. Therefore the Act has been putting considerable strain to the holders of the vacant lands in excess of the ceiling.

Since the coming into effect of the ULC & R Act 1976, there has been considerable reaction from the interest groups. However, the protest and the attempts in this direction by the trade and industry and more particularly the estate developers have been subtle and well organised. Through the Gujarat Chamber of Commerce and Industry Ahmedabad on March 8, 1976 a memorandum embodying the

1 Urban Land (Ceiling & Regulation) Bill 1976.
views and suggestions on Urban Land (C & R) Act 1976 was submitted by Shri Papotlal C Dani, the then President of the GCCI Ahmedabad to the then Hon. Minister for Works and Housing, Government of India Shri K. Raghuramaiah. The memorandum had contended that some provisions of the Act created undue hardships and practical difficulties in the working of industry, trade and business. The areas allotted to industrial premises and the land held by the public charitable trusts were highlighted and a pragmatic case was made out for their exemption from UL (CR) Act. In this connection, a delegation led by the President of the Chamber Shri Papotlal C. Dani consisting of the executive committee members of the Chamber Shri Indravadan Premalal, Hasmukhlal C. Shah, Bhikhubhai N. Shah, Kantilal J. Mehta and others met the Minister for Works and Housing Sri K. Raghuramaiah, during the period 30th April to 3rd May 1976 during the annual session of FICCI at New Delhi. Thereafter this became a matter of regular attention and each year memoranda were submitted and delegations took the opportunity to emphasize this issue. By the year 1980 reasonable climate had been built up for the possibility of the amendment of the Act by the Central government. On the state front in the year 1980 the chamber submitted a memorandum to the Chief Minister which stated like this: "It has to be realized that this Act is applicable only in respect of Urban Area and as such it cannot possibly be said that there is concentration of land in the hands of a few persons. The fact that the price of land and

building material have gone up tremendously during the last four years and are still rising indicates that the objective of preventing speculation and profiteering has not been achieved. On the contrary, genuine transactions of land have become more or less impossible and middle class section of the society in cities find it difficult to get 400 to 600 square yards of land for construction of houses. Besides, the prices of smaller pieces of land i.e., 400 to 600 sq. yards which are not covered under the Act have also increased tremendously. This has resulted in aggravation of housing shortages in cities with consequential rise in the rents for the same.

This Act has adversely affected the construction activity which is essentially employment oriented. As a matter of fact the building activity has come to a grinding halt and is reduced to negligible proportion. It is also disappointing that the trade and industry are put to enormous difficulties in getting vacant land either for setting up new units or for expansion of existing units. Even land for commercial purpose i.e., for construction of market shops, shopping centres etc. is not easily available.

Keeping in view the above considerations, it is considered desirable in the larger interest of this nation that the Urban Land (C&R) Act 1976 is repealed. This Chamber is of firm view that this Act has done a great damage to the people in general.
and businessmen and industrialists in particular. It is, there­
fore, strongly urged that this Act should be repealed. Even if
the government may take sometime for considering whether the Act
should be repealed or not, then in the interim period following
exemptions and relaxations should be immediately granted by the
government.

All lands which are situated within industrial zones as
prescribed under the development plans of each city in question to
which the law is made applicable should be given a blanket exemption
from the provision of the Act by exercising powers U/S 20 of the
Act. At present land situated within industrial zones is not per-
mitted to be transferred. Even such lands situated within industrial
zones are likely to be declared as surplus land. It is evident that
all owners of the land within industrial zones can not be expected
to start their own industry on the lands held by them. It is thus
necessary that land within the industrial zones need to be exempted
by way of a blanket exemption subject to the following conditions:

The owners of land should use the land for industrial purposes
within a period of 5 years.

The owner of the land should be permitted to transfer the land
by way of sale, lease or otherwise to a person who propose to use
the land for industrial purpose. Such purchasers should be directed
to use land for industrial purposes within a period of 5 years
from the date of its purchase.
Similarly all lands situated within commercial zone in the various cities to which the Act was made applicable need to be exempted from the provisions of the Act. Unless the lands are exempt, development of the lands within commercial zones for providing various shopping centres and commercial offices can not be provided. It is, therefore, also necessary that persons holding lands within the commercial zones should be permitted to transfer such lands to persons who propose to develop these lands for providing facilities in the form of shopping centres and commercial offices.

Thus the Gujarat Chamber of Commerce and Industry made all possible attempts to impress upon the State government to revoke or at least modify the Act for the public good. In the meanwhile, the Chamber also sent its delegations to Delhi to discuss this matter and explore further possibilities before the Minister for Housing and Urban Development Sri Bhisam Narayan Singh.

However, coinciding these developments, a press note appeared in the 'Times of India' Ahmedabad edition October 5, 1981 that the Gujarat Government was contemplating a major decision relating to implementation of Urban Land (C&R) Act in the six big cities of Ahmedabad, Baroda, Surat, Rajkot, Jamnagar and Bhavnagar and has already issued guidelines for giving exemption for constructing houses to the weaker section of the society. According to the Press
note the government's decision was likely to have far reaching repercussions virtually amounting to taking over almost all surplus land in these cities, barring a few exceptions in the case of trusts, industrial units and housing societies to be formed for constructing houses for the weaker section of the society. In fact the state government had already taken the decision on this crucial issue about a fortnight ago but the announcement was withheld by the Chief Minister Sri Madhavsinh Solanki because of certain clarifications to be made in the case of trusts and industrial units who wanted to expand their existing units. But, with whom the Chief Minister had the related discussions and what were the consequential implications could not be known by the public. However, the revenue department, by a circular, issued guidelines to the competent authorities for giving exemptions to societies to be constructed for weaker sections of society, but, it remained silent about the government's policy in regard to industrial units and trusts.

These developments had a spontaneous reaction from the trade, industry and other estate developers. The Gujarat Chamber of Commerce and Industries Ahmedabad, made correspondence with central government and collected all information about the proposed amendment to the central government was supposed to bring with regard to Land Ceiling and Regulation Act, 1976. It also collected the letters issued by the Central government to the government of Andhra Pradesh giving directions regarding the regulation of Land Ceiling Act 1976. The Chamber also called many board of director's meetings in this context.

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connection and prepared various press notes. Lastly the chamber organized a symposium at the premises of the chamber on 22nd September 1981 to consider the far reaching implications arising out of uncertainty in regard to implementation of the above Act and more particularly the proposed move of the government of Gujarat to take over excess vacant land. The consensus reached in the symposium was presented before the Chief Minister Madhavsinh Solanki the next day. In the memorandum the Chamber requested for postponement of the decision on the ground that the Urban Land (C&R) Act 1976 is a Central Act and provisions of Section 21 of the Act are statutory and mandatory. The said Act is applicable to various states of the country and it was understood that the central government was contemplating to amend the said Act very shortly.

In view of the comprehensive and urgent amendments to be made in the Act by the Central Government, it was desirable that the policy should be declared by the state government at that stage. Any declaration of the policy by the state government in connection with provision of section 21 of the Act might prove contrary to the amendments which may be brought into operation by the central government. It was clear that the law should be implemented in a uniform manner in all the states of the country. Such uniformity in implementation was possible only if the Gujarat Government waited till the amendments were proposed by the Central Government. It was then earnestly requested that no policy for rejecting all applications under section 21 of the Urban Land (C&R) Act 1976 be declared as reported in the
press. Even if the government does not choose to wait to declare any policy till the Central government comes out with the amendments, the following basic facts need be taken into consideration seriously before declaring any policy.

"Provisions of S/21 of the Act confer a right upon a holder of Urban Land to present a housing scheme. Any attempt to reject all applications will be contrary to law. Even after applications U/S 21 of the Act are rejected as is understood from the press reports the surplus land will be allotted to institutions like Gujarat Housing Board etc. for developing housing schemes. In substance it means that private sector is discarded against the public sector. Any attempt to discard private sector will be against the interest of the people. Private sector has been rendering useful service in various walks of life and it is sure that government will also appreciate the performance which private sector has made for housing facility to the public. The problem of housing is a problem common to masses as well as to trade and industry. It will be appreciate that growth and development of trade is hindered due to the non-availability of land. It is therefore, requested that problem of housing be looked into as a problem faced by all sectors of the society including trade and industry. It is further felt that despite the declaration by the state government from time to time regarding its policy to give all facilities and concessions to industry including small scale industry to accelerate their growth and development, in substance implementation of concessions is not
effectively done. It is strongly believed that implementation of the policy of the state government in this connection be made without any delay. Even though the state government has declared that no objection certificate for additional construction to existing building of an existing industry shall be granted, the industrialists feel that granting of such no objection certificates takes unduly long time and it also compels the industry holders to move from pillar to post for obtaining the no objection certificate. Although the State government has declared its policy to grant exemption U/S 20 of the Act to holdings of industrial units which are running industry, such exemption are not granted as a matter of course or obtaining of such exemptions entails undue delay. It is sure that the recommendations made at the symposium as mentioned above, will receive due consideration of the government and that the decision if any of the state government for rejecting all application U/S 21 of the Urban Land (C&R) Act 1976 will be postponed till the amendments in the Central Act or proposed by the Central government are brought into operation.

The above memorandum was presented before the Chief Minister Sri Madhavsinh Solanki on 23rd September 1981. This memorandum was accompanied with the letter of the Central Government to the Government of Gujarat providing guidelines with regard to Section 20 for the housing Scheme under the Urban Land (C&R) Act 1976.

4 GCCI, memoranda 23rd September 1981.
It was after a week since this memorandum was presented, the revenue department of Gujarat Government in its Circular No. ULC/2177/5623/B dated September 30, 1981 instructed the competent authorities not to allow any society for weaker section in plots already earmarked for the Gujarat Housing Board, the Slum Clearance Board and the concerned Municipal Corporations in the six cities covered by the Act. A big chunk of land in these cities has been reserved for constructing houses by government and semi-government agencies as well for public purposes. It has also laid down that the proposed society after getting exemptions has to start construction work within a year and it has to be completed in 5 years. If the scheme proposed for the weaker sections was not completed in the stipulated period, the government will be free to take over possession of the land and buildings if any on such land.

The chamber again reacted vehemently to the proposals made by the government for housing as one of the most ill conceived and hurriedly drafted plan. The chamber pointed out that the plan will lead to an unplanned development of the area under its jurisdiction. It pointed out if one is to go by rumours circulating among builders and contractors AUDA (Ahmedabad Urban Development Authority) seems to be one of the most corrupt organizations set up by the State Government so far. It is just unthinkable to get

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any housing scheme approved without greasing the palms of some
functionary in the organization. The Chamber also invited the
notice of the government about the innumerable cases of unauthorized
construction of tenements by unscrupulous organizers. Many housing
societies have come up on the periphery of Ahmedabad City without
any clearance by the authorities. Some have been constructed even
in the green belt area, where contractors have built about 10,000
tenements described as unauthorized! They have charged the pros-
ppective owners Rs. 40,000 each. Now the fate of these 'owners' 
hangs in the balance because the government has refused to give the
No Objection Certificate to contractors.

The press reports also pointed out that "though described as
a revolutionary measure" the Urban Land Ceiling Act has only added
to the housing shortage in the six cities. The government has so
far acquired only 2,000 acres of Kotarpur village for the ambitious
water supply project of the Ahmedabad Municipal Corporation. Its
inability to acquire and develop plots for housing and rejection of
almost all application of private builders for construction of houses
in the surplus land have pushed up land prices in these six cities
beyond the reach of even the upper middle class. Looking at the
tardy progress made by the various government and semi-government
agencies in constructing tenements, it seems highly unlikely that
civic corporation, the Gujarat Housing Board and the Slum Clearance
Board which had asked for big chunks of land for housing will be
able to fulfil their obligations even during the next twenty years.
It is, therefore, felt that the government should adopt a pragmatic policy instead of being carried away by "socialistic" ideas. No one is opposed to government and semi-government agencies building tenements for the poor. But the question is whether the government and its agencies have enough raw material, finance as well as manpower to take up housing projects on such a large scale."

Thus the chamber of Commerce in an organized manner made all possible efforts to influence the State government to revoke the Act and at the same time requested, giving all justification for the damage it shall bring to the poor masses, to postpone the act. The pressure groups as such through the Chamber took the opportunity to bring to the notice of the state government, the implications of the Urban Land Ceiling Act and its adverse effects on the masses as well as the industry and keep these issues alive by inviting the constant attention of the government. However during this process of collective approach the individual industrial units, Society Organizers and builders made systematic attempts to influence the concerned authorities by making out individual cases for exemptions or clearance of the land from the provisions of the Act. For example, one of the industrial units in Ahmedabad namely Arvind Mills which got the exemption had sent its memorandum to the State government which reads like this: "It is common knowledge that the industry is not involved in land speculation and profiteering therein, particularly land used for constructing residential buildings. It is also a common knowledge that the industry has to keep land for its normal growth as well as to meet
its future expansion plans. Municipal by-laws also require that only 50% of the area can be built up. As no useful purpose is going to be achieved by bringing the industrial land in the possession of industrial undertakings to be used for industrial purposes within the purview of the ULC Act, 1976, it will be a good gesture on the part of the government to totally exempt industrial land from the purview of the ULC Act 1976.

According to the present policy only as much as the built up area is allowed to be kept as open area by an industrial undertaking in the absence of any plans of expansion etc. during the next 5 years. Even as per the Municipal rules and regulations only 50% of the area is allowed to be built. This means no provision has been made in the latest guidelines for the normal growth of an industry over and above the schemes of expansion. If we look at the pattern of growth of industrial units one can see that all well managed units continued to grow in a regular manner and substantial land has been built up over a period of time to meet the normal requirements of growth. Therefore, the existing ratio of 1:1 is likely to come in the way of growth of industrial units and thus there is a strong case for upward revision of the same. It should be at least 1:2 of the built up area. It is high time to have a fresh look at the whole issue and take immediate remedial steps before it does much damage in the industrial development of the State.  

Industrialization and Urban Land Ceiling Regulation Act 1976
The State government, nevertheless, passed the proposed bill inspite of the sustained and organised efforts of the Gujarat Chamber of Commerce and Industry. But from this it can not be assumed that the continuous efforts of the GCCI failed altogether to bring any influence on the government. The government did certainly consider some of the proposals made by the chamber keeping in view the fact that the provisions will not hinder the basic purpose of bringing the ordinance. For example, the government of Gujarat in an official release of the Industrial Extension Bureau on March 8, 1982 stated that the industrial units which had plans of expansion or the construction of houses for their employees would be considered for the exemption. Again in August 1982 the government extended the time limit for filing applications for exemption to 31st March 1983.

But the most important consequence of the attempts made by the organized economic elite group is that while the government's decision in this regard was to have far reaching repercussions virtually amounting to taking over almost all surplus land in these cities, it gave a few exceptions in the cases of trusts, industrial units and housing societies to be constructed for weaker sections of the society. The Gujarat Chief Minister, Madhavsinh Solanki had displayed strange fascination for certain private trusts whether these were set up by themselves or by their friends. The private trust in question is the "Kanoria Seva Kendra" a trust set up by his well known industrialist
friend Kailash Kumar Kanoria. The State government's allotment of a plot of forty thousand square metres to this trust at a throwaway price has remained on the files and out of the glare of publicity. The Gujarat government sold on January 13, 1981 a plot of forty thousand square metres to the West of Ahmedabad Gandhinagar Highway to the Kanoria Trust for hospital and etc. uses at a nominal price of Rs. 2.50 per square metre.\(^8\) The price was fixed at a time when the State government had been fetching Rs. 2,500 per square metre for plots auctioned out to others in the area. The State government has itself sold another plot in the adjoining area to the Physical Research Laboratory a government of India Undertaking under the Ministry of Science and Technology which is headed by the Prime Minister Mrs. Indira Gandhi. The price charged from a private trust for uses which are left completely vague, was extremely low. The story about the speed with which the entire deal was concluded sounds stranger than fiction. The Urban Land Ceiling Act came into force in 1976 and most industrial undertakings had filed the applications for exemption under S/20 of the ULCR Act.\(^8\) Till date necessary exemption orders have not been passed in most cases. In the absence of such orders the industry had to apply for temporary NOC from time to time for taking up additional construction work for industrial purposes. Initially it used to take about a month to obtain temporary NOC, later on it was taking three to six months and now it has not been possible to obtain NOC even after waiting 1 to 1½ years. One can well imagine how frustrating it will be for an entrepreneur to wait for such long periods just to obtain per-

\(^8\) News Mag, August 31, 1982, p 5.
mission for undertaking construction work. Similarly, the process of acquiring land for industrial purposes is also equally time consuming for want of necessary permission under the Urban Land (Ceiling and Regulation) Act. But in Kanoria’s case within a single day the land was acquired from villagers without any adequate legal procedures. The next day, the Deputy Mamaltdar passed on the requisitioned resolution of the Gram Panchayat with his recommendation to the collector who issued the orders in three days i.e., on January 12, 1981 confirming the deal. Even the price for the land had not been decided but orders were passed confirming the deal. The Deputy Town Planner of Ahmedabad was nominated to decide the ‘market price’ for land which was handed over to Kanoria the next day even before the amount of payment had been concluded. Two months later, the Deputy Town Planner after careful consideration came to the conclusion that the market price for land was Rs. 2.50 per square meter. It will be worth noting that the plot is to the north of the Sabarmati river while Hansol airport is to the south of the river. The Ahmedabad power house is also close by. As there is a Thermal power station, it deposits so much soot that in certain months the entire region is flooded with ash and it is hard to breathe. What will be its impact on patients who are proposed to be kept in the six story open heart surgery hospital is left for experts to say. But the collector or the sponsors did not seem to have taken this very essential aspect into consideration. Even before this deal, the State government did not seem to have consulted
airport safety regulations authorities either at the state or the central level. This deal was transacted with Kanorias' when the latter owned already a plot of nearly 29000 square meters at the Thaltej region in Ahmedabad. Also on the Ahmedabad-Gandhinagar highway the Kanorias own a hundred acres farm which also could have been more useful and suitable for the laudable purposes of building an open heart surgery hospital because it could have been away from ash pollution caused by Ahmedabad thermal power station on the highway. Therefore there are certain very obvious observations as to what was the consideration that prompted the state government to part with valuable land at throwaway prices for the ostensible purpose of building a hospital and etc. uses. Also if Kanoria could be given the land at Rs. 10,000 per acre why did the state government charge Rs. 100000 per acre from the Union government-owned undertaking which is in the science and technology department headed by the Prime Minister Mrs. Indira Gandhi? That Kailash Kanoria who is the mainstay of the private trust has been a good friend of Sri Madhavsinh Solanki is known all over Gujarat since he was appointed as Chairman of the State Textile Corporation though Kailash Kanoria is a Calcutta-based industrialist. Kailash Kanoria is also the major force behind the state government proposal for the controversial Soda Ash project with an investment of Rs. 90 crores. It has raised considerable dust and din in the states power corridors because the entire state machinery was used to give Kanoria the project. It is in the light of this preferential treatment that there is surprise over the Solanki government's pouring off such an important
piece of land to the Kanoria without caring even to define clearly the purpose of its usage by a private trust.  

Another case which came to limelight known as 'Motera Case' relates to allotment of 50 acres of land to the Gujarat Cricket Association for construction of a new Cricket Stadium and a player's club at Motera near Ahmedabad. It came to focus that Mr. Jayakrishna Harivallabhdas a noted industrialist who is the President of the Gujarat Cricket Association is closely related to several Cabinet Ministers and to oblige him the government of Gujarat alloted 50 acres of land to GCA so that Mr. Jayakrishna Harivallabhdas can run the show at his sweet will. It is to be noted that there is already a big cricket stadium in the heart of the city owned by the Ahmedabad Municipal Corporation and as such there was no need to construct a new stadium which would cost Rs. one crore. The constitution of the player's club could be formed for the recreation in the land alloted for the construction of the stadium. This special treatment is said to be owing to the close relations of Shri Jayakrishna Harivallabhdas with the State government and the Centre.  

As narrated earlier due to individual efforts and consequent linkages, Arvind Mills also obtained the no objection certificate to expand their industrial unit in the surplus land.

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9 News Mag, August 31, 1982, p 5.
11 Economic and Political Weekly, August-September 1983.
Therefore, it is observed that the collective gain of the Chamber of Commerce and Industry and the societies is much less than what the individual industrialists, builders and the contractors gained due to their strong linkages with the government authorities. Even during the period of restrictions imposed by the State government to stop illegal constructions, so many construction works were going on in the city. Lands were transferred, sold to many big industrialists and contractors who are "fans of government officials" at Gandhinagar. The housing cooperative have become "the biggest racket in the city". The frauds committed by the so-called promoters of cooperative housing societies remain unchecked. It is indeed surprising that out of about 8000 cooperative housing societies in the country, as many as around 4000 are in Ahmedabad. What makes it a flourishing business is a startling story. The cooperative housing societies are given all possible facilities like priority allotment of land declared surplus under the Urban Land Ceiling Act, easy finance, allotment of cement, and steel, etc. Influential builders have utilized these concessions to feather their nests. Not a few are the people who pawned their valuables to win a house and were later taken for a ride by numerous housing societies. According to the people in the know, the majority of such societies are "pre-planned rackets," contrary to the co-operative principle of needy people coming together to form a co-operative society. Such builders launch cooperative societies to serve their vested interests and fool the public.
Therefore it is observed that the intention for the enactment of the Urban Land (C&R) Act is definitely for the public good. The attempt of the pressure group is continuous in line with their interests. Theoretically it may be said that the interests of these groups are seldom entertained by the government. But in the various stages of the application or extension of the Act, the interested industrialists and the builders having personal linkages with the government in their individual capacity get the benefit. Collectively the group has succeeded to a lesser extent, but only individually the big industrialists and builders have got the benefits of exemption and clearance from the provisions of the Urban Land Ceiling Act. During the Rajya Sabha biennial poll (March 1984) a number of builders, contractors, society organizers and land developers "generously funded" the campaign of Sri G.I. Patel (Chairman of the Gujarat Housing Finance Board, Gujarat State) as the fourth candidate fielded by the ruling party for one of the four Rajya Sabha seats of Gujarat. Newspapers report in Gujarat also uniformly report about their active canvassing in favour of Sri G.I. Patel. The nexus between his Chairmanship and pattern of support to him by a corresponding interest is obvious.  

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12 Based on personal interview.