



DESIGN TEAM 3

ARCHITECTURE | INTERIOR | LANDSCAPE | MASTER PLANNING

CONFIDENTIAL

WITHOUT PREJUDICE

Your Ref:FP/BP/SH/92/12

Our Ref: SL70/COC/IDPL-1/22nd September 2021

Directors,
Indocean Developers Private Limited
127, Sir James Peris Mawatha, Colombo 2,

Date: 22nd September 2021,

Dear Sir,

68 Storey Altair Tower, consisting of 2 Basements, Podium and 68 floors with Apartments and Podium at 127, Sir James Peris Mawatha, Colombo 2

COC FOR THE BUILDING.

We refer your letter of 14th Sep 2021 & email of 20 Sep 2021 Mon, Sep 20, 12:58 PM demanding **forthwith** COC Submission. We draw your attention to our previous letters from 28 May, period 6th – 10th June, 28 30 June, 13 July, 10 August, 14 Sep 2021 and major fire event at 5 pm on 21 Sep 2021. An event similar to which we have been warning would occur, putting lives in danger. Aren't we vindicated. This is the fire spread we spoke of, we have highlighted and why we asked for rectification and you brushed away as “allegations”



Manmohan manmohan

to Kosala, ckokate, Nimal, Shamahil, me, Singara, nirmal

Tue, Sep 14, 8:03 PM (7 days ago) ☆ ↵

Mr. Athula Amarasekera,

Please find attached our letter for your taking necessary action forthwith.

Regards,
Man Mohan Bagree

South City Mall | ALTAIR | South City International School | South City Pinnacle | South City Business Park | South City Retreat | South City InfraPark

On 10-Sep-2021, at 10:31 PM, Athula Amarasekera <athula888@gmail.com> wrote:

1. Your Directive to submit “forthwith” for COC.

Reading below would make it clear that the application of a COC by the qualified person (QP) is a legal mechanism that has been put in place in law arising from centuries of Professional Practice that ensures compliance with Planning Regulations, Approved Drawings, Life Safety for all occupants such as loss of life or injury through fire. etc. (perhaps you are unfamiliar as hardly practiced in India)

10, Jalan Basar#10-03. , Singapore 208787
Chartered Architects, Urban Designers, Town Planners, Landscape Architects and Interior Designers.¹
Licensed Practice in Sri Lanka “AA ONE (PRIVATE) LIMITED”, 36 CHAPEL LANE, NUGEGODA.
web - www.designteamthree.com Tel. +94776330338, +94713987624.
e-mail - athula888@gmail.com, Business registration No- PV 84408

The certifying professional carries professional liability under the law and that liability is not time bound and it is life time liability for the QP.

It therefore needs a due process to be followed, guided by professional practice, testing and commissioning and resort to international codes and practices where local codes are silent. This is adopted to ensure primarily life safety of occupants.

These we know are concepts GREEK to writer of your letters since May 2021- Manmohan Bagree and the drafter Attanu Mitra- of recent communication whose exposure is limited to Indian State of West Bengal, where such practices are alien in the BUILDER MODEL adopted in India vs the DEVELOPER – QP model adopted in rest of the British Commonwealth and USA. Such knowledge and exposure is also abysmally found in your post March 2021 local representatives and in Project Director Chelvaduari Harendran whose key competence is sub-contracting of large truss works.

At the outset, we wish to record as follows.

- a. Such QC/QA processes were followed to a large degree up to March 2021 with our continued presence at Site to ensure necessary supervision of the works. Our letter of July 2021 refers.
- b. From March 2021 there was limited or zero supervision by QP (This dilution of legal requirement was also condoned by Shamahil Mohideen of the SAO office, who is of accounting background and zero major project or ultra – high-rise project background)
- c. We have understood there are major non -compliances, failure to carryout previous directions and attempts to make further changes without seeking professional advice that compromises.
- d. Thus, there is no question of applying for COC “forthwith” until rectifications notified here and future inspections are to be carried.
- e. To clear the ignorance of those **currently** managing the project listed below, let it be loud and clear that we are not paper pushers and COC is not a paper exercise.

We take Professional & Legal Liability for the safety of the building and this building is in no state to be certified as illustrated by the fire incident of 21 Sep 2021.

2. Primary responsibility of qualified Person as a Preamble

The law expects us to exercise professional judgement on the safety of the building. It is with that intent that the law specifies that Architect be engaged in continuous supervision.

It is recalled that your meeting of 15 March 2021 (refer our letter.....2021) has illegally, negligently and irresponsibly excluded us from relevant supervision envisaged under the law.

MINUTES OF THE ALTAIR WEEKLY MEETING HELD AT THE IDPL BOARD ROOM

on 15th MARCH 2021 at 03.00 PM

PRESENT:

Dr. Nirmal De Silva	- South City Project
Mr. Ravi Shankar	- IDPL
Ms. Chandima Dissanayake	- IDPL
Mr. Pradeep Lindagedara	- IDPL

4. Extension for Development Permit to be applied, raised by Mr. Ravi Shankar. Mr. Nirmal asked Mr. Ravi Shankar to write to DT3 on the same. This to be discussed in the Management Meeting on 16.02.2021. Also, Dr. Nirmal stated that DT-3 to coordinate the COC application process and SPLL to follow through and ensure COC is obtained. DT-3 not to get involved in this process beyond filing any applications and signing any drawings

Mr. Ravi
Shankar/ DT3/
SPLL

This has caused delay and you only have yourself to be blamed. It appears that you have misled the inexperienced Shamahil Mohideen of SAO office, whom the state had appointed to ensure faster completion and appears said Shamahil Mohideen has colluded with an incompetent developer.

Sufficient to say that this misguided action can be rectified by reinspection, rectification and certification through a due process but with a competent team.

We are also aware of your erroneous & primary school understanding that the QP role defined in law for the act can be administered by any Engineer.

3. Recent Case of Liberty Plaza Fire and State's role and observation

We are privy to a high- level conversation after a recent fire at Liberty Plaza. <https://www.pressreader.com/sri-lanka/sunday-times-sri-lanka/20200830/281663962396689>

The high level conversation and direction had been on hearing of the fire.

QUOTE

- a. Ensure Suppression
- b. Ensure Safety
- c. Let us know "**who the architect is**" and whether the certifying architect is at fault.

UNQUOTE

It is thus clear that the onus on fire safety is on the Architect. (Similar to UK, Singapore etc) and opposed to the builder model in India. We are aware that one current Director is on bail for an incident of death of 95 patients in a hospital fire.

Any attempt to coerce us therefore will not stand until items listed below are amongst others in detailed reports are complied.

4. Non – Compliances

We highlight key non – compliances as highlighted in previous correspondences in summary.

- a. Issue of Atrium creation and removal of natural ventilation from Escape passages L 40 and above
- b. Newly introduced combustible material as underlay in all Bedrooms, pre-insulated ducts.

- c. Pressurisation Staircase testing function and not testing as per international methods of testing
- d. Issue of Ventilation at Fire Command centre
- e. Overall Warning System and integrity of warning system
- f. Basement Ventilation system
- g. Earthing system (Important to prevent heating short circuiting in addition to life safety)

We rebut summarily, assertions by Manmohan Bagree and Attanu Mitra of IDPL with no exposure to the Professional Planning Regime of jurisdictions of UK, Australia Singapore and Sri Lanka that these are allegations.

The letters you wrote in June & July are drafted in language of West Bengal Courts perhaps by inhouse lawyer Atanu Mitra, and displays zero understanding of professional practice and QP role in the British Commonwealth outside India.

If the said Manmohan Bagree has had some education on the Sri Lankan Acts, he should withdraw such uneducated statements.

5. Reference to Qualified Person Directives as “Allegations” and waste of Critical Time otherwise could have been used for rectification

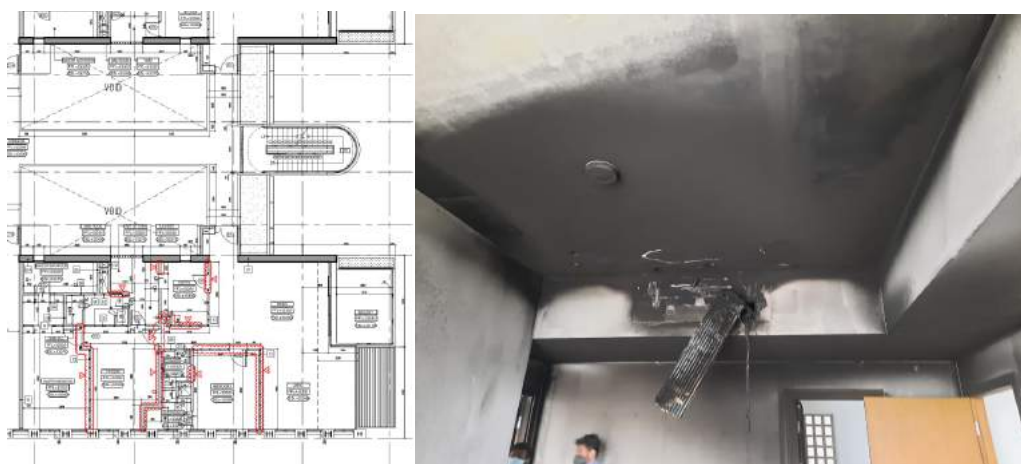
We note that technical deficiencies we have been highlighting and it is time that IDPL takes serious note of the deficiencies and non-compliances.

With this arrogant ignorance, with the backing of said Shamahil Mohideen, you have delayed a code compliant completion.

If these non-compliances were heeded and not brushed aside our role as paper pushers, you have completed these works in the past 4 months since your meeting 11 May 2021 we would have been in a state to certify this building. We note that the Shamahil Mohideen is culpable in this delay.

6. Fire Event on 21 Sep 2021 at 5.pm.

Whilst said Manmohan Bagree was ordering us to forthwith apply for a non-complaint building, and calling our directions “allegations “ the following fire has happened in Unit 10A exactly as we feared.





Imagine this event happening in the night and the escape passage blocked smoke, and few dozen to 100 souls would be dead by now.

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7. Likely Causes for the Fire

The developer may divert the blame to the customised unit owner. Sufficient to mention that backbone elements that likely caused the fire is by the developer.

There are multiple reasons for an electrical fire. (This is a "new building", thus old / outdated appliances, socket outlets, light fittings are not being considered)

1. Water leakage causing short circuit on a live circuit. If the Earth Leakage protection is working, this should be tripping and fire is pre-empted.
2. Overload on an electrical circuit either by a defective motor, without thermal protection . It is worthy to check whether the AHU installed has requisite thermal protection. Given the corruption highlighted this needs to be checked.
3. A loose connection, increase the AMPs on a wire which does not have a circuit breaker designed for this size of cable. Thus the current drawn will increase, which can cause also an electrical fire. Breakers should be triggered when circuits get overloaded... and if the breakers are oversized or not installed, the circuits will not be protected.

The following needs to be investigated

- a. Why did it happen – It is alarming and it should not happen this way and is extremely rare in millions of apartments around. This points to major deficiencies in material installation and equipment and final Electrical installation.
- b. Cause and origin of fire
- c. Why did it propagate from fire origin to a grill and externally from source, example unauthorised use of combustible material which we have highlighted to be removed and replaced.
- d. Which warning systems pick up and which did not function. Example why did not staircase pressurisation or lift homing did not happen properly?
- e. Why did someone switch off fire pump and not the zonal valve endangering the entire building further in case heat had caused fire in adjacent unit especially due to combustible material in the immediate floor above.

We draw attention to multiple specialist reports from May 2019, which you have chosen to ignore.

8. Suppression of the Fire Incident from Authorities

Upto point of writing the Fire Dept has not been notified.

We have been informed that there was a massive operation to suppress the information on the fire incident above and that includes illegal act NOT to notifying the legal authority on fire in Sri Lanka - the Colombo City Fire Brigade.

This serious incident is being actively suppressed by the said Man Mohan Bagree and parties acting for the developer.

9. Finding of Corruption by Registered Accounting Firms

We must remind you that three of the registered accounting firms found major irregularities and corruption that brings to question major installations.

It may be the practice in India or the understanding of Manmohan Bagree to refer them as allegations but in the rest of the commonwealth these firms do fulfil a investigative role recognise by the courts and recognised under the law, as expert witnesses.

The key findings are against Chellvadurai Harendran.

10. Qualification and Experience of current IDPL Team & Others recently associated.

An Ultra – Highrise building of this nature require a team of maturity, relevant education and experience. Pertinent to note the Management team in the past 7 months of crucial completions.

Manmohan Baghree - Appears to be a Commerce Graduate of an unknown College with low-rise mall management exposure and ZERO understanding of Professional Practice. We have seen him authoring fairy tales around the fire code. The ultimate result is the fire seen on 21 Sep.

Nirmal De Silva – No Experience in high-rise construction or medium scale construction as seen the direction of excluding the QP in supervision as listed here-in. Suffice to recall the question he asked at a meeting in May in SAO's office – “ Do you always scrutinise this degree with regard to the code.?” Our line of supervision when looking at the fire incident on 21 Sep 2021 needs no further elaboration.

Chelvadurai Harendran – Project Director – As stated sub-contract experience and reputation highly tainted due to finding of irregularities and corruption highlighted in KPMG, EY and PWC reports in his tenure as project director. Again his patronising of incompetent subcontractors we had asked to be replaced and insistence to continuing with them perhaps resulted in a fire today.

Shamahil Mohideen – SAO's Representative – Accounting and recent hotel operations, CFO background and zero exposure to Professional Practice in Construction. The result of his unprofessional and incompetence is obvious given the state of the project and the dance he did with the M & E Engineer ignoring repeated warnings of the legal QP. Presided over and **wasted a phase of rectification** with no clue on the complexity required and endorsed the exclusion of the QP throughout and endorsed the circus with an inexperienced local M & E Engineer as we were raising irritant issues (Note – These are necessary irritants IN THE INTEREST OF LIFE SAFETY, we take liability for)

The relevance of highlighting above is despite the Auditors highlighting corruption and incompetence in the sub-contacting, blatant overpayment to incompetent contactors and us repeatedly requesting remedying of c non-compliances, (Avinash Report etc) the Project Director has persisted with his proven incompetent pets of Nawaloka and Maxaire of Zero previous experience to carry out this work. It is no wonder that the fire of the calibre as WE FOREWARNED OCCURRED yesterday. In a late hour, this would spread to the next floor and throughout to the use of combustible material above.

11. Action in the face of Incompetence of Nawaloka & Maxaire

Given the limitations of Nawaloka and Maxaire and life-threatening and malfunctioning, non-conforming installations, we did recommend a third party integrator to test, find defects, rectify from November 2020 to March 2021.

You have plundered that opportunity and persisted with Nawaloka and Maxaire reasons best known to Project Director and team listed in above 8.

Prior to certification, we therefore need to seek third party certification of their work, given the fire illustrated above.

12. Implications of corruption on life-safety

We doubt the functioning of the following systems due reasons of patronising corruption and incompetence and failure to get proper independent third party commissioning.

- a. Staircase Pressurisation – There is only escape instead of the code specified two escapes
- b. Fire Alarm
- c. Synchronisation of Fire Pumps, Lifts, Generators, Emergency lighting, Staircase Pressurisation on activation of Fire alarm

As Predicted most of these malfunctioned at event on 21 Sep 2021.

We also understand that the two units are being occupied by 2 buyers without COC and after dismantling of separations achieved in previous COC. We also understand that some of the fire related systems had been switched off thereby endangering the lives of illegal occupants.

13. In- Experience of Local M & E Team

We refer our letter of Our Ref: SL70/FSD/IDPL-11/29th June 2021

We remind you that when we when introduced K2, it was on the premise to work under the supervision of an internationally experienced M & E.

You are in this precarious situation due to your dancing around with K2, whose principal was not even qualified on vital parts of Mechanical Engineering when installation was in progress. K2's principal's major experience is in Electrical Engineering and is a recent reader of Highrise codes.

This matter has been dealt with in detail in our letter of 29th June 2021 and without malice as it is a matter of competence we rely and K2 has no experience of this scale and complexity.

We recall our recommendation on 29th June 2021

Quote

Due to the above breach of trust, to ascertain that the building is compliant to the codes, and safe for its occupants we would recommend that :

1. *A specialist MEP firm with fire experience in high-rises be appointed for an independent Audit, with a gap and forensic analysis of the systems installed and the integrations, and practical recommendations.*
2. *That an experienced Third Party testing and commissioning engineering company be appointed to work out the method statements for these works.*
3. *That the report emanating from the Audit, the recommendations be implemented under supervision of the third party Testing and Commissioning. (TnC) , followed by and full compliance signed off document.*

Unquote

14. Abuse of Intentions of the State & Abuse of the Office of SAO –

The mandate of the state is to complete and handover this iconic building. That does not give the developer the abusive right to deliver an unsafe construction.

By demanding that we ‘ forthwith “ seek COC, the developer is misleading and abusing the good office and goodwill of the SAO.

This is now obvious from the fire event of 21 Sep 2021

15. Fire certificate is a cursory inspection

A pre-requisite for a COC is a fire certificate.

We challenge you to forward us the final fire certificate.

We are made to understand undue coercion at behest of IDPL to the Fire Dept and the fire department has been forced to a 2 months valid temporary fire certificate which is irregular and irrelevant.

- i. We note that issuance of Fire Certificate is a cursory process and is not a total certification of the inbuilt construction required under the law from the qualified person.
- ii. We note that you intently and with ulterior motive of deception excluded the qualified person from supervision duties immediately prior to inspections and you carried out inspections without the presence of the QP
- iii. We challenge you to prove out involvement in the final COC

16. Final Arbitrator of Safety

We as the Architectural QP are the final arbitrators of safety and certification. It is not the Chairman and Board of Management or an office bearer of the UDA. If they wish to act so, they do so at personal liability and abuse.

Given the event of 21 September 2021, this deception of the Authorities and the buyers must end.

17. Deceptive Manoeuvring

We highlight in above deceptive manoeuvring you and your agents such as Manmohan Bagree has carried out to deliver through deception a building that is primarily non-compliant and dangerous to occupy in its current state.

This is evident from the events on 21 Sep 2021

18. Commercial Consideration

- a. It would be appropriate for you to withdraw unconditionally your email of Disna Kaunaratna 20 April, 2021, copied to Manmohan Bargee. Nirmal De Silva etc where you boasted of “ Parting”, prior to further active engagement of Design Team 3.

Dear Athula

This has reference to your below response and our conversation on the matter.

- b. You must appreciate that we were commissioned for a professional service and agreements for professional fees as per original contract and subsequently agreed fee for extra work needs to be paid or credited to a unit than boastfully writing to us using words such as “in parting” and before demanding forthwith application for COC.

19. Way forward

1. Reminder – We have been a key initiator of this Iconic Project and its success is our common success. Following Key milestones need to be reminded where we played a key role.
 - a. Land securing
 - b. Selection of Concept Architect with Anil Khetawat
 - c. First presentation by Moshe Safdie at Bel Air, Kolkatta
 - d. Expansion of footprint on Christmas day 2015 at DT3 Bangkok Office, attended by Pradeep Sureka etc
 - e. Continued presence thereafter to ensure Moshe Safdie’s Design intent.
2. It is therefore not our intent to ruin this marvellous creation.
3. BUT LIFE SAFETY IS OUR PREROGATIVE AND LEGALLY EXPECTED DUTY UNDER THE ARCHITECTS ACT, UDA ACT AND LAW OF NEGLIGENCE ETC.
4. We shall be pleased to meet you to reinstate rectification works needed based on principles repeated below.
 - Due to the above breach of trust, to ascertain that the building is compliant to the codes, and safe for its occupants we would recommend that :
 - A specialist MEP firm with fire experience in high-rises be appointed for an independent Audit, with a gap and forensic analysis of the systems installed and the integrations, and practical recommendations.
 - That an experienced Third Party testing and commissioning engineering company be appointed to work out the method statements for these works.
 - That the report emanating from the Audit, the recommendations be implemented under supervision of the third party Testing and Commissioning. (TnC) , followed by and full compliance signed off document.
5. Alternative - mutual termination and get others who may think the building is fit for purpose to certify. Your attention is drawn to our letter of Our Ref: SL70/FSD/IDPL-9/17th June 2021. Since you had previously threatened termination of architect –
 - a. We advise you to familiarise yourself with Architects Act on requirements for such termination.
 - b. In the Architects Act, all our dues need to be settled prior to engagement of another architect and the replacement architect need to seek our clearance that all our dues are paid prior to appointment.
 - c. We shall be pleased to advise you that our current claim agreed with the management in August 2019 if required.
 - d. We shall be pleased issue a clearance as stipulated in the code of conduct forming part of the act on settlement of the invoice in cash or credit to a unit.
 - e. Please advise whether you wish to take this path.
 - f. However, this is subject to 5.3.1.(2), 2. (b) of the Architects Act.

6. The specialist investigations by PWC & EY reports highlight multiple matters of implied corruption such as blatant over payments, favouritism to a subcontractor without any previous experience. etc. Thus as evidenced by events of 21 Sep 2021 there are major issues with life safety.
7. On your threat of litigation etc, we rebut such attempts as what you demand is clear dereliction of our duties expected to be performed under the law and Acts mentioned.
8. We also note that you are abusing the good office of H.E the President through the office of the SAO bringing His Excellency to disrepute.

It is our intention to actively participate in the due completion and we trust we have clearly illustrated above the malefic process of trying to achieve a dubious completion.

Above is communicated without prejudice to our rights and contentions in the matter and as duties expected of the legal qualified person under multiple legislation and laws of Sri Lanka.

Yours Faithfully,

DESIGN TEAM 3 PRIVATE LIMITED



Archt. Athula Amarasekera,

B.Sc(Built Env), M.Sc.(Arch), M. Urban Design (Hong Kong) (AIA) S.L, MSIP,
Authorized Signature

Designation: Director/Qualified Person under the Act

Enclosure : As stated above

CC:

Chairman, UDA.	- To highlight the danger of COC
Director General, UDA	- To highlight the danger of COC
Director, Colombo Metro Region, UDA	- To highlight the danger of COC
Chairman, CMA	- For info
SAO, Altair	- To highlight the incompetence of said Shamahil Mohideen
Moshe Safdie	- For info