



Realty Data
Chennai continues to attract leading developers to come and invest in commercial projects



There is no need to destroy old trees which are 10 to 100 years, Landscape architects are providing tangible solution to preserve the nature in its pristine glory



TAX PLANNING
Impact of crucial provisions that have adversely hit the already fledgling real estate sector.

OVERVIEW

As Chennai is the hub of manufacturing activity, there is a growing demand for industrial land and warehousing space, reports V Nagarajan.

Surge in Demand for Industrial Lands and Warehousing

Chennai is a hub for the manufacturing of automobiles, auto components, engineering, textiles and garments, leather products software and IT enabled services. The sheer volume of installed capacity of 1.46 million automobile units in the city speaks the enormous potential engulfing the city. Chennai contributes 30% of India's 4-wheeler automobile industry, 33% India's auto parts production and 16% of India's electronics hardware production. A plethora of incentives extended to the MSME sector has encouraged budding entrepreneurs to venture into starting units.



of existing undertaking or those keen to go for new ventures are looking at smaller industrial plots.

The state government has been promoting industrial estates but the availability of land for smaller units is becoming difficult due to high price and the inability of small promoters to earmark substantial cost to land alone. This is because they need working capital which is one reason for the reluctance to spend high initial amount on land and building. As a result of this, MSME units looking for expansion

Land Banking Associates. According to Kanna, pricing plays a major role in clinching transactions. Industrial plots at Rs 1 crore per acre is driving demand in Sriperumbudur and Oragadam whereas in Redhills it can go upto Rs1.25 crore per acre. Whereas in areas like Gummidipoondi, prices ranging from Rs 40 lakh – Rs 60 lakh are riveting attention of prospective entrepreneurs for investment. In a related development, investors are exploring land options for warehousing and industrial purposes in areas like Oragadam, Sriperumbudur, Redhills and Gummidipoondi. The demand varies from 5 to 10 acres and in some cases it goes even upto 30-40 acres, said Kanna. In a webinar organised by APPCC recently, Venkataramani Dhangaraj, CEO of Hariram Enterprises, said that BTS options are gaining momentum in areas like Oragadam, Sriperumbudur, Redhills and Karanodai as is evident from the quantum of enquiries received from entrepreneurs from Bengaluru and Delhi.

PROMINENT INDUSTRIAL AREAS FOR GREENFIELD AND INDUSTRIAL TRANSACTIONS

Industrial park	Total area (acre)
Mahindra World City	1,525
Ascendas One Hub	1,250
SIPCOT Oragadam Industrial Growth Centre	2,727
SIPCOT Vallam-Vadagal	1,503
SIPCOT Aerospace Park, Vallam	345
Pillaipakkam & R&N industrial park	847
SIPCOT Irungattukottai	1,811
SIPCOT Sriperumbudur	2,220
SIPCOT Hitech SEZ	572
Madras Export Processing Zone (MEPZ)	265
Gummidipoondi industrial complex and EPIP	1,478
Mahindra Origins, Puduvoiyal	700
Thervoykandigai industrial park	1,127

Source: InvestIndia & JLL.

Bank Auction Properties – Myth and Reality

Does investing in bank auction properties give unfettered rights to a purchaser? No, says Jayaprakash Padmanabhan, partner with Fox & Mandal, a leading law firm which has won international awards, in a webinar organised by the Association of Professional Property Consultants of Chennai (APPCC) recently. Here are the excerpts.

The general impression surrounding the whole process of bank auction properties is that it comes after undergoing the process of due diligence is a fallacy. A prospective buyer needs to do proper due diligence not only on the legal issues but also on the process adopted by the bank. It cannot be taken for granted that auction properties are insulated from the future liabilities. NRIs/OCIs have the right to purchase bank auction properties except agricultural land, farm house and plantation properties.

INVESTMENT

Secured creditor ('bank') is duty bound to provide all material facts, documents and details to the prospective purchaser. Again if it is said that it is sold 'as is where is' condition, it will be superficial to come to the conclusion that the secured creditor ('bank') is completely absolved of its responsibility, if there are known encumbrances or material facts not disclosed to the auction purchaser, the bank shall not shy away from its responsibility to transfer the property free of encumbrances.

The opportunity of purchasing bank auction property comes at varying discount. The optics surrounding the whole process gives an impression that there would not be any issue. In future purchasing homes from bank auction would also be one of the ave-

nues available to everyone. In fact, the due diligence goes a step further. Besides regular due diligence, one should also do a diligence on the process adopted by the bank. There may be specific risks associated but conducting due diligence becomes critical while purchasing property through bank auction.

How does the whole exercise start with bank auction property? A borrower's loan who has given appropriate security has to be an NPA. If there is a default by the borrower for 90 days in not repaying instalments, on the 91st day, it will be declared as an NPA. The bank as a secured creditor, will have the right to initiate action against the borrower under the SARFAESI Act enacted in 2012.

The Securitisation and

Reconstruction of Financial Assets and Enforcement of Securities Interest Act, 2002 (also known as the SARFAESI Act) allows banks and other financial institutions to auction residential or commercial properties of the defaulter to recover loans.

The SARFEASI Act's main objective is that there is no intervention from the court recover the dues by auctioning the property. The special enactment has been legislated in such a way that the secured creditor bank should be able to enforce the security and effectively recover the dues without unwarranted judicial interference.

Once it becomes an NPA, the bank will issue a notice under Section (13)2, as the breach rectification period. Within 60 days the defaulter need to ensure that the dues are paid. Once Section 13(2) notice is issued, the

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Realty Data

CHENNAI OFFICE MART TRENDS

	Q2 2020	Q3 2020	Q4 2020	Q1 2021	Growth (Q1 2021 over Q4 2020)
Net absorption (million sqft)	0.10	0.21	0.86	0.37	-57%
New Completions (million sqft)	—	—	2.99	—	—
Vacancy (%)	7.9	7.6	10.4	9.8	—
Rent (Rs/sqft/month)	60	60	60	60	—
Good Host Spaces	OP Jindal	Student Housing	Sonipat	900 (120)	—

Source: JLL Research

OFFICE MART – RENTALS

Micro Markets	WAQ Rent	Micro Markets	WAQ Rent
Ambattur	35.0	MPH Road	73.3
CBD	99.9	Off CBD	65.0
GST Road	50.0	OMR Post-Toll	50.4
Guindy	73.3	OMR Pre-Toll	89.1

OFFICE MART – Q1 – KEY TRANSACTIONS

Client	Building	Location	Area (sqft)
CohnReznick	Olympia Tech Park	Guindy	58,000
Orangescape Technologies	Brigade World Trade Centre	Perungudi	45,000
SRM Technologies	RMZ Millenia Phase 1	Perungudi	42,905
CohnReznick	Olympia Tech Park	Guindy	58,000

MAJOR INVESTMENT DEALS 2020 (US\$ MILLION)

Investor	Investee	Asset Class	City	Amount
Brookfield	RMZ	Office	Multiple	14,000 (2,000)
Blackstone	Prestige	Mixed-use	Multiple	12,745 (1,500)
The Carlyle group	Nixtra Data Services	Data center	Multiple	1,700 (235)
GIC-ESR	Joint venture platform	Logistics	Multiple	5,500 (750)
Good Host Spaces	OP Jindal	Student Housing	Sonipat	900 (120)

Source: Colliers International

Note: Tier 1 data centres offer the simplest infrastructure, while Tier 4 offers the most complex infrastructure with accompanying redundancy upto an expected uptime of 99.995%.

MATERIAL PRICE CHART ACROSS MAJOR CITIES IN INDIA

SI No	DESCRIPTION	UOM*	MUMBAI	DELHI-NCR	BANGALORE	HYDERABAD	CHENNAI	PUNE
	CEMENT: Grade 53	INR/BAG	290	238	273	211	275	285
	STEEL							
2	Reinforcement	INR/MT	51,000	51,300	50,420	50,500	51,250	60,500
	Structural Steel	INR/MT	53,500	55,400	56,500	54,500	57,500	56,500
	CLEAR GLASS							
3	6mm	INR/SF	75	70	95	75	67	55
	8mm	INR/SF	118	105	145	100	97	90
	STONE							
4	Granite	INR/SF	90 to 275	110 to 250	90 to 250	90 to 250	90 to 250	80 to 250
	Marble	INR/SF	200 to 550	180 to 350	175 to 500	175 to 500	150 to 450	200 to 550
	Makrana	INR/SF	550	450	725	675	750	575
	Kota	INR/SF	40 to 50	30 to 40	50 to 60	40 to 60	50 to 60	35 to 48
	Cuddappa	INR/SF	30 to 35	35 to 45	20 to 25	15 to 20	20 to 23	30 to 35
	WOOD							
5	Sal wood	INR/CUFT	2,250	1,850	2,150	1,650	1,450	1,550
	Plywood 12mm Thick	INR/SF	65 to 95	60 to 80	65 to 75	70 to 90	70 to 95	70 to 95
	PAINTS							
6	Emulsion	INR/20 L	1,800 to 2,000	3,000 to 3,400	3,200 to 3,400	3,200 to 3,400	3,200 to 3,400	1,850 to 2,100
	METALS							
7	Aluminium	INR/Kg	175	210	210	200	210	220
	Stainless Steel	INR/Kg	316	235	225	225	265	285
	PLUMBING							
8	GI Pipe - 50mm to 100mm C Class Heavy	INR/m	370 to 780	390 to 820	390 to 280	495 to 875	475 to 850	375 to 785
	Upvc 32mm - 100mm	INR/m	69 to 525	75 to 550	72 to 585	72 to 585	72 to 585	70 to 540
	CPVC 25mm - 50mm SDR 11	INR/m	185 to 685	210 to 785	235 to 825	235 to 825	235 to 825	185 to 685
	LABOUR							
9	Skilled	Per day	750	600	700	750	725	695
	Semi-skilled	Per day	600	450	500	580	550	500
	Unskilled	Per day	550	400	450	500	450	400
	Coolie (Female)	Per day	300	225	285	300	285	250
	Coolie (Male)	Per day	350	275	325	350	325	290

Source: CBRE Research, Q1 2021 | *UoM – Unit of Measurement

Note: The above rates are exclusive of GST

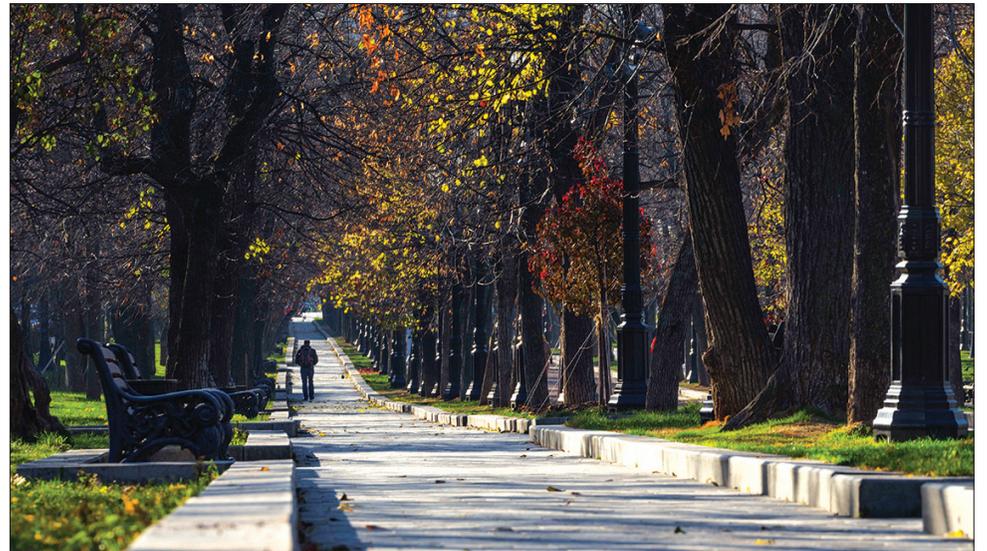
How to Transplant Old Trees Successfully?

There is no need to destroy old trees which are 10 to 100 years, plus in today's urbanisation drive as Landscape architects are providing tangible solution to preserve the nature in its pristine glory, reports V Nagarajan

Mankind destroys trees in the gross commercialism shifting towards increasing urbanisation. But the landscaping experts now have found a lasting solution to save those precious old trees and preserve them in their pristine glory for future generation. It is said that 25 million square miles of leaf surface are daily engaged in the miracle of photosynthesis, producing oxygen and food for man and beast. Of the 375 billion tons of food we consume each year, the bulk comes from plants and the remainder from animal products which in turn are derived from plants.

Is it not our duty to protect and preserve the plants with a little extra effort when technology is available to carry it forward to the deserving next generation? Says Sekar James, a well-known landscape architect based in Chennai, who has successfully transplanted over 2500 trees between the age group of 25 years and 100 years in a career spanning 35 years plus. "It is important to follow the ground rules on what to do and what not to do with the tree", he added.

Among the cities where the transplantation has been carried out by Master Plan architects include Bengaluru, Chennai, Hyderabad, Visakhapatnam and



other cities. Corporates who have sought the services of transplanting trees in their new premises include the property developer Olympia group in Chennai, IT major Infosys, etc. As regards hospitality sector, GRT Temple Bay in Mahabalipuram near Chennai needs specific mention where 250 coconut trees have been transplanted in a single location in the hotel.

"There are ground realities one should observe before transplanting such trees from one location to another. One has to be doubly careful while dealing with such exercise," cautions Sekar James.

"Perfect balance between the root pruning and shoot pruning (pruning of branches) is a must. How much you can prune away also depends on age or species of the trees. Professional approach by an expert might even end up pruning away 85% tree roots, including tap root! The balance in pruning is so important to regulate intake of water by the root system and the transpiration (out-go) of water through the leaves! Protecting the evaporation from the stem and the branches is yet another challenge. The normal practice is to burlap the stem with straw or gunny to keep it moist," says Sekar James.

How does then one go the whole exercise of trans-

planting trees? First one has to prune the branches as the volume of leaves is the main source of evaporation. However, we leave twigs on the top of the branches to see if the pumping system is still working to make sure the tree is still alive.

The pruning of the tree is done on one day and pruning of the shoot of the branches after a week or so leaving the tree to get over the shock. One has to arrest or discourage the evaporation. There are hormones which are playing a vital role which will discourage evaporation through leaves, it is said.

According to Sekar James, root promoting hormones will be injected into the earth ball of the tree to encourage quicker formation of roots for survival. New leaves will start sprouting from the fourth week. The foods stored in the stem negate growth of new leaves and the new leaves have to produce food using sun light to strike new roots. The straw burlapped stem is kept moist, for the next eight weeks by hosing water!

It is never the age or the size of the tree that matters but the standard horticultural procedures and the aftercare that matters and in the process there is no denying that 100% survival is assured, said Sekar James.

Bank Auction Properties – Myth and Reality

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borrower is obligated to settle the entire dues, which includes, principal, interest and other cost expended by the bank. After initiation of 13(2) notice, the borrower do not have, as a matter of right to make part payment to stall/suspend the proceedings initiated, however the bank may consider accepting part payment after issuing Section 13(2) notice on a case by case basis. If the borrower is able to pay the entire dues within the said 60 days, then the charge over the property is cleared and the dispute between the bank and borrower on the said loan account is settled.

There is a statutory restraint on the borrower not to deal/transaction the property the moment 13(2) notice is issued by the bank. The bank does not need to go to court seeking for any specific injunctive relief. Issuance of notice under section 13(2) is a statutory restraint on the borrower that they should not deal with the secured asset ('property') from the date of the notice without express consent from the bank. After that the bank can decide on the next course of action. If they want to take possession of the property under section 13(4) they will send notice which is a symbolic possession and within 7 days from issuance of possession notice, the bank is obligated to cause public notice through publication in two newspapers, includ-

ing a vernacular edition in the area, which is a mandatory. Thereafter the bank can bring the property anytime to sale with a notice period of 30 days. Before bringing the property for sale, the bank is obligated to obtain valuation of the property from an approved valuer. Bank may adopt any one of the following four modes of sale;

1. One is directly offering it to the interested party who is in the same line of business and execute a contract.
2. The bank can dispose it through a tender process and offer it to the higher bidder in the auction.
3. The bank can sell it through auction (e-auction is permitted).
4. The bank can resort to private treaty. Private treaty sale can happen only with the concurrence of the borrower.

Once 13(4) notice for sale of the property is issued by bank, the borrower shall have the cause to approach the Debt Recovery Tribunal (DRT) under section 17 challenging proceedings under sec 13(4), this is the first instance, when, the borrower will get a statutory right to approach the tribunal challenging the recovery actions initiated by the bank forum challenging the actions initiated by the bank. The borrower shall also have the right to appeal against the order of DRT to the Appellate Tribunal within 30 days of



order and deposit of fifty percent of amount due, however, the Appellate Tribunal has the discretion to reduce the deposit upto twenty five percent.

The bid or auction notice shall clearly indicate the terms of sale. The reserve price will be fixed by the authorised officer based on the valuation done by approved valuer. Anybody participating in the auction needs to pay 10% by way of EMD and the participant has to be provided with the documents of title and relevant information for conduction due diligence. The successful bidder has to pay another 15% on the day of the auction or immediately the next day as per terms of sale

and the balance 75% is normally demanded within 30 days, however the same may be extended upto 90 days. Once entire auction amount is paid, sale certificate will be registered and the property will be transferred to the auction purchaser.

The law is very clear on bank auction properties. The bank has to disclose all material facts including any encumbrances which they may have become aware of. Banks cannot simply shirk their responsibility and courts have time and again held that the bank is duty bound to provide necessary information to the auction purchaser when they do the due diligence.

Unless there is any restraining order either by court or statutory authority, the bank is free to invoke the security provided and bring the property for sale, however certain statutory dues such as Income tax dues or pending dispute, even in the absence of a formal order/ direction, may question the validity of sale itself, hence, it is very important for the auction purchaser to conduct the due diligence on bank sale and ask relevant questions to the authorised officer/bank, so as to ensure all required information is available before the purchaser to take an informed decision. Ultimately, the perception of buying property through bank option guarantees good marketable title seems to be misconstrued.

Reporting by V Nagarajan

TAX PLANNING



Tax Planning and Taxation of Capital Gains in Real Estate

The Guntur chapter of the Institute of Chartered Accountants of India has organised a webinar on real estate issues recently. Dr C.A. Abhishek Murali, Secretary, SIRC of ICAI spoke on the impact of crucial provisions that have adversely hit the already fledgling real estate sector. Here are the excerpts from the session.

In the last three years, some amendments have come out in the real estate transactions which have a bearing on the developers as well as investors.

Real estate sector has been facing challenges even before the Covid-19 lockdown. Though repeated representations have been made to the government, it looks real estate continues to be hit and there is a need to understand the latest developments for those involved in promoting real estate.

1. Notional rent on stock in trade – Section 23(5) – introduced WEF AY 2018-19 and amended in AY 2019-20.

2. Conversion of stock into capital asset – Section 28(via) – Introduced WEF AY 2019-20.
3. Percentage completion method – 43CB – Introduced WEF AY 2017-18
4. Joint Development Agreement.

Notional Rent on Stock-in-Trade:

The government has brought out Sec. 23(5) where stock-in-trade will be taxed after the lapse of two years after receiving completion certificate. However, being Stock-in-trade, the general consensus is it should not be taxable under Income House Property at all, let alone being taxed Notionally when the Developer is trying to sell the same. However, Section 22 may give the Assessee some relief.

Sec 22 is the charging Section and if the notional rent u/s 23 can be levied only if Sec 22 is also amended to reflect the same. Currently, Sec 22 carves out an exclusion for Properties used for Business of the Assessee. While earlier there existed no provision on the conversion of Stock-In-Trade into Capital Asset, the same has been introduced WEF AY 2019-20. Now, there will be a notional tax levied on the conversion of the stock-in-trade into a capital asset at the Fair Market Value/ Guideline Value on the date of such conversion. Normally, the tax should be paid only at the time of sale or receipt of consideration. But this amendment brings a real outflow of tax on the notional conversion.

The Income tax department prefers the % of completion as ideal due to its scientific nature and revenue becoming taxable early. However, numerous decisions have held that project completion method is acceptable. However, WEF AY 2017-18, it is now required that Real Estate Developers have to follow the % of completion method has to be followed. This is line with the ICAI Guidance Note issued for accounting for Real Estate Transactions.



Joint Development Agreement

The following are the various types of agreement.

1. Outright sale of land.
2. Grant of development rights with revenue sharing agreement.
3. Grant of development rights with sharing of profits.
4. Grant of development rights with sharing of area/flats.

As regards JV, there are important factors a developer should take into consideration. A water-tight MoU/agreement should be the norm with the landowner. The developer should have the right to mortgage if going to loan to a bank. He should have the vision for the surrounding areas and the likely development that may impact the project. With the enactment of RERA, a developer should be wary while determining terms with the landowner.

For the landowner, he should be careful while assigning rights of development/construction clause. He should protect himself against mid-way exit/stoppage of construction by including a clause to have the option to change the developer (arbitration clause).

There are instances where the JV projects

have been stuck midway in many cities.

Impact of Taxation on Joint Development

In the case of outright sale of land, it becomes liable for capital gains tax. In the case of grant of development rights with a share of area/flats, capital gain arises only at the time of issue of completion certification (CC). Whatever be the fair market value or guideline value of the flat will be applied for tax.

As regards grant of development rights with revenue sharing agreement/profits, on a plain reading of the section, it amounts to whether it is in the nature of capital transaction or is it in the nature of revenue transaction. It can be a business transaction also. If a landowner is there, the department will always take a stand as business only. The taxability is at 30 per cent whereas capital gains is subject to 20% rate. There are instances where it has been considered as AOP, a new entity taxed at 30%. It is necessary that one should ensure that the agreement is drafted properly to avoid all the slippages.

There is another option called Development Management Agreement (DMA). Here the developer acts like a service provider, offering supervisory services in DMA. The landowner becomes the developer. The advantage is that there are significant savings in GST. However, there are larger ramifications in terms of finance and agreement with the owners.

Excerpts from the Webinar on Comprehensive approach of Income-tax and GST on Real Estate Transactions by Dr CA Abhishek Murali.

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Significance of Main Door Frame

The statue or image of the elephant or even a round granite ball on either sides of the entry or pathway is said to hold back auspicious energy, says **SBS Surendran**

The compass direction east has a lot of significance as it is the direction of sun rise and represents the quintessence of all beings which provides benefits such as generating ultra violet rays triggering production of Vitamin D in the body when the skin is exposed to the morning sun. It acts as a purifier, killing germs and disease carrying bacteria

Understanding the science of Feng shui and Vaastu, adapting it in the design of homes calls for precision combined with tasteful aesthetics. When we look at a building the first impression we derive determines the kind of energy existing within it and you get a feel about the lifestyle of the occupants too.

Designing and placing the main door and frame is an essential part of a building construction hence adapting the right dimensions, material and position ensures that the house is not deprived of good energy which would in turn affect the occupants over a period of time.

Main door is the most important area in a building; both Vaastu and Feng Shui attach great importance not just for the position but also for the auspicious time to place the frame and door during construction. The main entrance holds a unique position in relation to the rest of the doors in the house hence; additional care is required in attending to the requirements of this door.

The position of the main door is quite critical as each compass direction has exalted or positive direction or debilitat-



ed or negative directions. Hence one needs to take extra care while designing the home to ensure that the main door is in the exalted position.

The Front door is considered as the Mouth of the "Vaastu Purusha" (the protecting deity in Vaastu) the mouth is the largest orifice in human body hence the front door in a home should be large and inviting the same philosophy holds good in feng shui too.. The ideal height for a door should be approximately three times the width of the door. If the shortcoming is noticed in the door, the imme-

diately need is not to go for replacement right away, Instead the remedy lies in giving an artful decorative treatment along the margin zone around the main frame to make it stand out and speak for itself as most prominent.

The main door frame must be provided with a threshold (door sill) at the bottom. This serves as a safety measure against the trespassing insects, rodents and reptiles which are otherwise invited by the passage lurking in the space, howsoever small, between the shutter and the floor where the sill is not provided. The

missing fourth side of the frame which rests firmly on the floor represents the element composed of fulfilment, wholeness and stability so a main door frame which is four sided is considered very good and is even better if it has a windows on either side.

It is considered auspicious if the entrance to the property and the main door of the house are on the same side and it is inauspicious if the main door to the house is on the opposite side to the entrance of the property. Water body or underground tank, septic tank (sewage tank), or canal under the main entrance is a taboo and is said to cause loss of wealth and triggers sickness to the occupants.

Most homes adapt symbols around the main door to ward off bad luck and usher in protection and good energy into the homes. The statue or image of the Elephant or even a round granite ball on either sides of the entry or pathway is said to hold back auspicious energy from rolling out of the home and protecting the main door and house from negative afflictions.

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