

## Order

Whereas, license No. 148 of 2014 dated 04.09.2014 granted for setting up Affordable Group Housing Colony over an area measuring 5.00 acres in Sector 108, Gurugram, which is valid upto 03.09.2019. Inter-alia, one of the terms and conditions of the license was that the licensee shall comply with the provisions of Haryana Development and Regulation of Urban Areas Act, 1975 and Rules framed thereunder and the terms and conditions of the agreement/ bilateral agreement executed with the Director, but it was noticed that licensee had failed to pay the External Development Charges alongwith interest update as per the schedule issued by the Department and an amount of Rs. 592.29 lac on account of EDC was outstanding as on 31.08.2017. Moreover, service plan estimates of the colony have also not been got approved and has not submitted the documents in compliance of Rule 24, 26(2), 27 & 28 of Rules 1976, NOC from MOEF and ultimate power load requirement. Therefore, notice under Rule 18(1) of Rules 1976 was issued vide this office memo No. 26628 dated 24.10.2017 with the directions to set aside the deviations/deficiencies pointed out therein within 15 days.

2. On non-receipt of any reply/response, show cause notice under Rule 18(2) of Rules ibid was issued vide this office memo No. 7721 dated 06.03.2018 to the licensee with the direction to rectify the deficiencies conveyed vide notice dated 24.10.2017 within 30 days and also appear in person on 09.04.2018 to explain its position. Sh. Anil Bansal, Director, from developer company appeared on the said date of hearing and submitted a detailed reply to the notice dated 6.03.2018. Further, the representative has apprised that the Hon'ble Punjab & Haryana High Court has granted the stay on the possession of the licensed land and requested for grant of some additional time for compliance of the deficiencies conveyed vide notice dated 6.03.2018. The request was accepted and the hearing was adjourned to 21.07.2018.

3. The reply submitted by the developer company was examined and found that although the Hon'ble Punjab & Haryana High Court has granted the status quo on the possession of the licenced land due to litigation filed by RMS Estate Pvt. Ltd. against the land owner of the licenced land due to sale agreement executed by the land owners prior to collaboration agreement executed with developer company. But the Hon'ble Punjab & Haryana High Court has not restrained the developer company to deposit the outstanding dues of EDC and IDC pending against the aforesaid licence.

4. The representative of the company appeared on the date of hearing 25.07.2018 and reiterated the stand submitted in the representation dated 5.04.2018 submitted on the last date of hearing 9.04.2018. The representative of the company requested for grant of more time to clear the outstanding dues and rectification of the other deficiencies. Sh. Lakhmi Chand and Hari Ram, land owners / licensee also appeared on the hearing and apprise that the developer company is not abiding with the terms and condition with the agreement executed with them and they have made request for cancellation of collaboration agreement and GPA.

5. Since, a reasonable time/ opportunities already stands granted to the company for payment of outstanding EDC dues as elaborated above and company has failed to fulfil its commitment every time, therefore, it will not be appropriate to grant further time for payment of the said dues. Hence, the licence No. 148 of 2014 dated 04.09.2014 is hereby cancelled under section 8 of Act 8 of 1975 and Rules framed thereunder as the colonizer has contravened the conditions of the licence and the provisions of Act/Rules *ibid*.

6. Now it is directed to proceed under Rule 19 after cancelation of licence. The Rule 19 prescribes following:-

*19. Development works to be carried out by the Director in the colony [Section 8].— (1) After cancellation of the licence or permission the Director shall by notice in form LC-XI call upon the colonizer to furnish within a specified time an audited statement of accounts duly certified and signed by the chartered accountant showing the amount actually recovered by him from each plot-holder and the amount he has actually spent on development works in the colony. (2) The Director shall also ascertain from the plot-holders the amount, paid by them to the colonizer and the balance amount, if any, to be paid by each of them to the colonizer. (3) The Director shall intimate to the colonizer and the plot-holders the charges he may have to incur on development works in the colony and shall call upon the colonizer and the plot-holders in form LC-XII and LC-XIII to pay these charges within thirty days. In case they fail to pay these charges, the Director, may recover these charges as arrears of land revenue.*

Further, the provisions of Section 10A are independent of procedure to be followed in accordance with Rule 19. The Section 10A provides for recovery of outstanding dues, which is reproduced below:-

*10A. Recovery of dues.—All dues payable under the Act, which have not been deposited within the time specified, shall be recovered as arrears of land revenue.*

7. Accordingly following actions be taken after cancellation of licence as the land of the licensee shall deem to vest with the Government:-

- i) STP, Gurugram should take over the Administration of this licenced colony today itself on behalf and should put up a 'Board' at site indicating that the Administration of this licenced colony has been taken over by the Directorate of Town and Country Planning Department, Haryana.
- ii) A public notice may be issued in the newspapers which should be released by the CTP, Haryana indicating above fact.
- iii) The licensee should be directed under Section 10A of the Act, 1975 to deposit all outstanding dues on account of EDC, IDC etc. and also to give the information of sold and unsold properties within a period of 15 days from today i.e. information in terms of rules 26(2) and 28 of Rules 1976 so that the unsold properties can be disposed to recover the government dues. The outstanding dues should be calculated till the date of cancellation of licence.
- iv) A communication may be sent to the collector, Gurugram for declaring the dues as arrears of land revenue which may be recovered from them under the provisions of relevant Act either by sale of property or by resorting to other permissible methods including arrest of the licensees. In order to restrict 3<sup>rd</sup> party right on the instant licenced area Deputy Commissioner and Sub-Registrar may be directed not to register any sale deed against the licence land. Regarding cut of date for registration of properties same may be taken as today i.e. the date on which Department has imposed an embargo on sale of property.

- v) The details of Accounts of the allottees to be maintained at the level of STP, Gurugram. An account may be opened in the name of Director in this regard. All the allottees if any, may deposit the balance installment with STP, Gurugram who will maintain the account of each and every plot holder.
- vi) A committee may be constituted under the Chairmanship of Administrator, HSVP Gurugram, STP, Gurugram will be Member Secretary and DTP, Gurugram, XEN, HSVP, Gurugram will be the Members of the Committee who will take over the colony for carrying out further necessary action.
- vii) A file may be separately submitted for debarring the present Directors of all the companies for grant of any further licence in this State of Haryana. The desirability of issuing Show Cause Notices for cancellation of their existing licences, if any, may also be examined.

Place: Chandigarh  
Dated:25.07.2018

Sd/-  
(K. Makrand Pandurang)  
Director,  
Town and Country Planning,  
Haryana, Chandigarh

Endst No. LC-3062-JE(MK)/2018/22647-656

Dated:-30.07.2018

A copy is forwarded to the following for information and further necessary action:-

1. Sh. Laxmi S/o Sh. Tej Ram and others, C/o Shyam Kirpa Infrastructure Pvt. Ltd. 1013, 10<sup>th</sup> floor, New Delhi House, Barakhamba Road, New Delhi-110001 (email ID [ajayibd@gmail.com](mailto:ajayibd@gmail.com) ) with the direction under section 10A of the Act, 1975 to deposit all outstanding dues on account of EDC etc. and also to give the information of sold and unsold properties within a period of 15 days from today i.e. information in terms of Rule 26(2) and 28 of Rule 1976 so that unsold properties can be disposed to recover the Government dues.
2. Chief Administrator, HSVP, Sector-6, Panchkula.
3. Administrator, HSVP, Gurugram,
4. Deputy Commissioner, Gurugram with the request to recover the above said outstanding dues as arrears of the land revenue in accordance with the orders as above. In order to restrict third party rights on the instant licensed area, it may be ensured that no sale deed against the licensed land may be executed/registered in future.
5. Chief Engineer, HSVP, Sector-6, Panchkula.
6. Senior Town Planner, Gurugram with the request to take over the administration of the licensed colony with immediate effect on behalf of DTCP and take all necessary action as per above orders of DTCP, Hr.
7. District Town Planner, Gurugram.
8. Executive Engineer, HSVP, Gurugram.
9. Chief Account Officer of this Directorate with the request to communicate update outstanding dues against the license to the licensee as well as STP, Gurugram.
10. Website Administrator with the request to update the status on Departmental website and upload these orders for information of General Public.

-Sd/-  
(Sanjay Kumar)  
District Town Planner (HQ)  
For Director, Town & Country Planning  
Haryana, Chandigarh