

# Directorate of Town & Country Planning, Haryana

SCO No. 71-75, Sector-17C, Chandigarh,  
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Regd.

To

1. Soma New Towns (P) Ltd.,  
L-11, Green Park Extension,  
New Delhi.

**Memo No. LC-2041-PA (SN)-2016/ 21385**

**Dated: 06-10-2016**

**Subject: Rejection of renewal application of Licence No. 202 of 2008 dated 13.12.2008 to develop a Residential plotted colony on the land measuring 54.775 acres in the revenue estate of village Basti Bhiwan Sec-4, Fatehabad-Soma New Towns Pvt. Ltd.**

Please find enclosed herewith the speaking order dated 23.08.2016 passed by Director General, Town & Country Planning Department, Haryana in compliance of directions dated 06.01.2016 of Hon'ble Punjab & Haryana High Court in CWP No. 27397 of 2015 titled as Soma New Towns (P) Ltd. V/s State of Haryana & others. Since, the renewal of licence application dated 07.12.2012 and 30.11.2015 stands rejected vide above order, you are therefore, requested to deposit an amount of Rs. 79.19 Lacs to the Engineer -in- Chief Irrigation Department, Haryana under intimation to this office.  
DA/As above.

*Sd/-*

**(Sanjay Kumar)**

District Town Planner (HQ)

O/o Director General, Town & Country Planning  
Haryana, Chandigarh

**Endst. No. LC-2041-PA (SN)-2016/ 21386**

**Dated: 06-10-2016**

A copy of above alongwith order dated 30.08.2016 is forwarded to Engineer-in-Chief, Irrigation Department, Haryana Sichai Bhawan, Sector 5, Panchkula, Haryana with request to take necessary steps to recover the aforesaid amount as per provisions of Act/Rules.

*Sd/-*

**(Sanjay Kumar)**

District Town Planner (HQ)

O/o Director General, Town & Country Planning  
Haryana, Chandigarh

**Endst. No. LC-2041-PA (SN)-2016/ 21387-21389**

**Dated: 06-10-2016**

A copy of the above is also forwarded to the following:

- 1 All Senior Town Planners in the Department.
- 2 All District Town Planners in the Department.

*Sd/-*

**(Sanjay Kumar)**

District Town Planner (HQ)

O/o Director General, Town & Country Planning  
Haryana, Chandigarh

## ORDER

This order is being passed in compliance of the directions dated 06.01.2016 passed by the Hon'ble High Court of Punjab & Haryana in CWP No. 27397 of 2015 titled as M/s Soma New Towns Pvt. Ltd. Vs. State of Haryana & Others. Vide above said order, directions were issued to the Director General, Town & Country Planning, Haryana to take into consideration reply dated 20.12.2015 filed by the petitioner to the show cause notice dated 17.12.2015 issued by the office and pass an appropriate order, in accordance with law. It was also observed that the said exercise shall be completed within a week from the date of receipt of certified copy of this order. Till then, the recovery of the amount shall remain in abeyance.

This order is also being passed in reference to the notice issued by the office vide letter no. 19240 dated 06.10.2015 to M/s Soma New Towns Pvt. Ltd. (hereinafter referred to as the company) regarding various lapses committed by the company with regard to licence no. 202 of 2008.

Brief facts of the case are that Licence No. 202 of 2008 dated 13.12.2008 was granted in the name of some individual land owners, who had entered into collaboration agreement, with M/s Soma New Towns Pvt. Ltd., for setting up of residential plotted colony on the land measuring 54.775 acres, falling in the revenue estate of village Basti Bhiwan, Sector 4, District Fatehabad. Inter-alia, one of the condition for grant of licence was that the conditions of the agreements already executed by the above said company with the Director are dully fulfilled and the provisions of Haryana Development and Regulations of Urban Areas Act, 1975 and the Rules of 1976 made there under are duly complied with. It was also stipulated in the conditions of licence that the licensee shall obtain NOC from Irrigation Department regarding execution of culvert on 24 meters wide road before approval of zoning plan. The licence no. 202 of 2008 dated 13.12.2008 was further transferred in favour of the company from the original licensees vide office order no. 5DP-V-LC-2041/2010/4875-85 dated 16.04.2010 on the same terms and conditions as already mentioned in the licence and the LC-IV and Bilateral Agreements.

As per conditions of the LC-IV agreement executed by the company with the Director, Town & Country Planning, Haryana, the licensee was required to pay proportionate External Development Charges of Rs. 1419.73 lacs in eight six monthly installments and also to submit bank guarantee equal to 25% of the External Development Charges as security for payment of External Development Charges. However, the company failed to comply with the terms and conditions of the licence, Rules of 1976 & also to deposit due amount of External Development Charges as per schedule fixed in the LC-IV agreement despite issue of notices dated 02.05.2013 & 20.02.2015.

Further, the company has submitted application for renewal of licence no. 202 of 2008 dated 13.12.2008 for further period from 13.12.2012 to 12.12.2014. However, it was observed that there were following deficiencies/lapses committed by the company:

- i. Bank Guarantee against IDW and EDC submitted at the time of grant of licence stands lapsed.
- ii. An amount of Rs. 1201.68 lac is outstanding against the above said licence on account of EDC as on 28.01.2015.
- iii. Compliance of Rule 24, 26 (2), 27 & 28 of Rules, 1976 have not been submitted.
- iv. Status of allotment of EWS plots has not been submitted.

- v. Request for further renewal of licence for period upto 12.12.2016 as required under Rule 13 of Haryana Development and Regulation of Urban Areas Rules, 1976 was not submitted.

Accordingly, a notice was issued to the company vide office memo no. 19240 dated 06.10.2015 to explain its position and also to appear for personal hearing on 19.10.2015 before the Director General, Town & Country Planning, Haryana. Though, Sh. Rohit Kalra appeared on behalf of the company but requested for grant of next hearing. Accordingly, the case was adjourned to 30.11.2015, but nobody appeared on the behalf of the company on the said date. The case was further adjourned to 16.12.2015.

In the meantime, it was brought to the notice of the Department by the Govt. that the company has constructed two nos. of culvert without seeking any approval/sanction of the Irrigation Department and has encroached upon the land of the Irrigation Department by constructing two nos. culvert/bridges in violation of condition no. 11 of the grant of licence. Accordingly, a show cause notice was also issued by this office to the company for violating the provisions of the licence and also directed to deposit Rs. 79.91 lacs on account of supervision charges etc. and loss of revenue to the Irrigation Department within 15 days vide office memo no. 25003-04 dated 17.12.2015.

Further, at the time of hearing of the case on 16.12.2015, Sh. V. K. Mangla appeared on behalf of the company and requested for some more time for depositing the deficit fee. The representative of the company was also apprised regarding the Govt. order on construction of bridges in their township. On the request of the representative of the company, the case was adjourned to 04.01.2016.

The petitioner company submitted reply to the show cause notice dated 17.12.2015 vide letter dated 21.12.2015.

However, the company without waiting for further action to be taken by the Department on its reply, filed CWP No. 27397 of 2015 before the Hon'ble High Court challenging the show cause notice dated 17.12.2015. This petition was disposed in limine by the Hon'ble High Court vide order dated 06.01.2016 directing the undersigned to take into consideration reply dated 20.12.2015 filed by the petitioner company to the show cause notice and to pass an appropriate order in accordance with law.

However, at the time of personal hearing of the case on 04.01.2016, Sh. Gaurav Katoch, authorized signatory of the petitioner company submitted written statement regarding observations conveyed for renewal of their licence and show cause notice dated 17.12.2015 for constructing two bridges without proper approval of the Irrigation Department and requested for three months time to complete the compliance of the directions regarding renewal of licence and to submit permission from Irrigation Department to construct two culverts. Accordingly, the case was adjourned to 04.04.2016.

That in the reply dated 20.12.2015 submitted by the petitioner company in response to the show cause notice dated 17.12.2015, it was stated that their company has submitted a request to Executive Engineer, W/S Division, Fatehabad for seeking permission to construct the proposed bridges in the year 2009. The Executive Engineer, Irrigation Division, Fatehabad recommended the construction of two bridges under reference and forwarded it to the Deputy Commissioner, Fatehabad for seeking his permission, vide letter no. 71/28-W dated 17.03.2009. After obtaining reports from Tehsildar, Fatehabad and Sub Divisional Officer, Civil, the

Deputy Commissioner, Fatehabad accorded approval for construction of two bridges on the minor in the township, vide letter no. 535/Misc. dated 05.05.2009. Thus, according to them, permission for construction of culverts has been obtained by them.

After examining the reply dated 20.12.2015, it was observed that the entire matter relates to Irrigation Department, Panchkula and policy/Rules framed there under. The matter was also sub-judice in the court of ACJM, Fatehabad. Therefore, any further decision regarding recovery of 79.91 lac could be taken by this department only after taking comments from the Engineer-in-Chief, Irrigation Department, Panchkula. The case was adjourned to 06.06.2016. Engineer-in-Chief Irrigation Department was also requested vide letter dated 29.04.2016 to send his comments on the reply dated 20.12.2015 submitted by the company.

On 06.06.2016, a written request was received from the applicant company to adjourn the hearing for some other date. Therefore, the case was adjourned to 19.07.2016 and then to 23.08.2016. However, neither any representative of the company appeared on the said date nor any request for adjournment of the case has been received. Accordingly, the case is being decided on merits and on the basis of submissions made in the reply to the show cause notice.

The comments on the reply submitted by the company regarding construction of two culverts have been received from the Engineer-in-Chief, Irrigation & W. R. Department, Haryana vide letter dated 23.06.2016. It has been explained by the Irrigation Department that no doubt, the case for permission was applied by the company during January, 2009 but company constructed the two bridges without obtaining approval from the competent authority and without getting the design/drawing countersigned by the competent authority/obtaining NOC from Irrigation Department, thus violating the basic clause of the agreement/licence. It was further explained that taking concurrence of Deputy Commissioner is a pre-requisite for sending permission/Administrative approval for construction of bridges on the channels to Government. Obtaining Deputy Commissioner's concurrence did not empower the company to construct the bridges without taking permission/NOC from the parent department. No permission of the Irrigation Department has been obtained by the developer company. It has been further explained that approval of draft policy is a subject matter between the Department and the Govt. Nobody is authorized to encroach the land of the Department for carrying out any activity/permanent construction on its assets. The land in question needs to be acquired first and the payment regarding the same is to be made to the owner of land. Accordingly, the Department has requested the company to deposit Rs. 79.91 lac. Even FIR has also been lodged against the company which is pending in the Court of A.C.J.M. Fatehabad.

Regarding compliance of the terms and conditions of the licence and the Act of 1975 and Rules of 1976, in its reply dated 04.01.2016, the company has stated that it had applied for renewal of licence and also requested the bankers for issue of bank guarantees. They hope to submit the bank guarantees in the first week of April 2016. Regarding payment of EDC, it is said that they would like to avail the EDC relief policy. However, it has been brought to my notice by the office that though the company has applied for renewal of licence upto 12.12.2016, but the same is not in accordance with the prescribed Rules. The bank guarantees furnished by the company amounting to Rs. 3,47,87,000/- on account of IDW and Rs. 3,54,86,000/- on account of EDC have not been got renewed by the company after 08.06.2012 and the same has not been got revalidated till the passing of this order. Similarly, the company

has not deposited the due amount of EDC as per the fixed schedule with the result that as on 14.08.2016, a sum of Rs. 1399.076 lacs on account of EDC was outstanding against the petitioner company. The company has not submitted any application for availing benefit under EDC relief policy. The application for renewal of licence is also not complete as no justification for not completing the development works or the detail of the works already executed have been given. In view of the above said position, it is clear that the company has not complied with the terms and conditions of the licence and failed to clear the outstanding dues on account of EDC and to get the bank guarantee revalidated.

Regarding show cause notice dated 17.12.2015, the comments received from the Irrigation Department reveal that the company has not obtained necessary permission from the Irrigation Department before construction of the culverts at site as required under conditions of the grant of licence no. 202 of 2008. In condition no. 11 of the licence, it has been specifically stated that the company shall obtain NOC from Irrigation Department regarding execution of culvert on 24 meters wide road. Therefore, permission of Irrigation Department was necessary before construction of the culverts. Further, the letter dated 05.05.2009 issued by the Deputy Commissioner is only addressed to the Executive Engineer, W/S Division, Fatehabad and not to the company. This letter cannot be construed as permission to the company for construction of culverts. Irrigation Department has also clarified that obtaining concurrence of the Deputy Commissioner is only a pre-requisite for sending permission/Administrative approval for construction of bridges on the channels to Govt. Therefore, grant of concurrence by the Deputy Commissioner, Fatehabad does not mean that the company was granted permission for construction of the culvert. The Govt. has already taken notice of this fact and request of the company for waiving off the amount of Rs. 79.91 lacs has already been rejected. In the circumstances, I have no hesitation in coming to the conclusion that the company has violated the terms and conditions of the licence and as intimated by the Irrigation Department also caused financial loss of Rs. 79.91 lacs by encroaching upon the Govt. land and also constructing two culverts without permission of the competent authority.

In view of the above said discussion, it is clear that the company has not only failed to fulfill the terms and conditions of the licence regarding payment of EDC, revalidation of the bank guarantees beyond 2012, but has also violated condition of the licence regarding seeking prior approval of the Irrigation Department for construction of the culverts in the licence area. Therefore, request of the company for renewal of licence beyond 12.12.2012 is hereby rejected. The company is also directed to pay Rs. 79.91 lacs to the Engineer-in-Chief, Irrigation Department as already intimated to the company by the above said Department.

Copy of the above said order may also be forwarded to the Engineer-in-Chief, Irrigation Department for further necessary action.

Date: 23.08.2016

*Sd/-*  
(Arun Kumar Gupta)  
Director General,  
Town and Country Planning  
Haryana, Chandigarh