

INSTRUCTION REGRDING ENHANCED COMPENSATION

HARYANA URBAN DEVELOPMENT AUTHORITY, MANIMAJRA

No.HUDA-Acctts-87/ 9660-73

Dated: 2.4.1987

To

All the Estate Officer,
HUDA (In the State).

Subject: Recovery of enhanced compensation from the plot holders.

For quite sometimes in the past it has been observed that pace of recovery of enhanced compensation from the plot holders has been slow partly because of the reason that the amount of enhanced compensation recoverable was sometimes heavy and plot holders were experiencing great difficulty to pay the amount in lump-sum. Representations from various individuals /institutions were also received in this regard for recovering the amount of enhanced compensation in some suitable instalments. After due consideration of the matter, it has been decided to recover the enhanced compensation from the plot holders in instalments as per detail given below:-

a) Where the enhancement is 10% of the original price of the plot	Payment in lump-sum within 30 days of the issue of demand notice
b) Where the enhancement is more than 10% but less then 30% of the price of the plot.	i) First 10% within 30 days of he issue of demand notice. ii) Second 10% or part thereof within 6 months of the issue of notice. iii) Third 10% or part thereof within one year of the issue of notice.
c) Where the enhancement is more than 30% out less than 60%	Payment may be made as follows:- i) First 12% within 30 days of the issue of notice. ii) Second 12% within 6 months of the issue of notice iii) Third 12% within one year of the issue of

	notice. iv) Fourth 12% within one & half year of the issue of notice. v) Fifth 12% of part thereof within two year of the issue of notice.
d) Where the enhancement is more than 60% of the original cost of plot	Payment may be made as follows:- i) First 15% within 30 days of the issue of notice. ii) Second 15% within 6 months of the issue of notice iii) Third 15% within one year of the issue of notice. iv) Fourth 15% within one & half year of the issue of notice. v) Fifth 15% of part thereof within two year of the issue of notice vi) Sixth 15% of part thereof within two & half year of the issue of notice vii) Seventh 15% with in three year of the issue of notice

Interest @ 15% per annum may be charged on the balance amount in view of the fact that HUDA is paying interest @ 15% enhanced compensation as per new Land Acquisition Act.

Accordingly you are requested to affect the recovery of enhanced compensation in suitable instructions as per details given above. These instructions may also be incorporated/or attached in the recovery notices.

Controller of Finance
for Chief Administrator,
HUDA, Panchkula.

1. All the Administrators, HUDA for information & necessary action.
2. Secretary HUDA for information.
3. DA/HUDA

HARYANA URBAN DEVELOPMENT AUTHORITY, MANIMAJRA

No.HUDA-Acctts-90/ 9778-92

Dated: 9.5.1990

To

- 1) All the Administrators, HUDA
- 2) All the Estate Officers, HUDA

Subject: Recovery of enhanced compensation from the plot holders.

Reference this office memo No HUDA Acctt S.O-I 1987 /9660-73 dated 2.4.1987 on the subject cited above.

The position of recovery of enhanced compensation has been reviewed in various meetings and it has been observed that in most of the Urban Estates the allottees got stay orders from the courts against the recovery of enhanced compensation. Consequently the recovery position of enhanced compensation far from satisfactory.

Certain writ petitions were filed in the High Court of Punjab & Haryana regarding challenging the right of HUDA to recover the additional price on account of enhanced compensation of land by various Courts. The full bench of the Hon, ble Punjab & Haryana High Court in the CWP No 13026 of 1989 Shri Chander Mani V/s HUDA has after thorough examination of the matter have disposed of the bunch of these writ petitions regarding the controversy with regard to the enhanced price by HUDA from the persons to whom it had allotted residential sites in the Urban Estates, holding that HUDA has right and authority to demand enhanced price from the allottees.

The bench however keeping in view the pleading of the opposite counsels that whereas the original price could be paid in instalments spread over a period of three or six years as the case may be but the entire amount of enhanced compensation is payable within just

thirty days desired the Advocate General Haryana to have consultation with HUDA.

As a result of discussions HUDA agreed to permit the payment of enhanced price in instalments in the manner as indicated in the judgement dated 9th March 1990 (copy enclosed) delivered in the aforesaid writ petitions which is as per instructions already issued vide our letter No 9660-73 dated 2.4.1987.

The Hon, ble Punjab & Haryana High Court has thus held that the facility extended to the plot holders to pay enhanced price demanded in this manner is obviously just and reasonable and no ground therefore, survives to challenge the mode and manner of the recovery of it.

The Hon, ble Punjab & Haryana High Court has therefore ordered that the petitioners are liable to pay the enhanced price demanded from them but they shall be at liberty to pay it within 30 days of the date of judgement or in instalments as per the mode accepted and agreed to by HUDA.

In view of above you are requested to recover the enhanced compensation from the plot holders strictly in accordance with the said judgement.

In case, the plot holders in any Urban Estates has not or gets the stay orders from the Court against the recovery of enhanced compensation the case may be defended vigorously in view of the above judgement and the stay orders got vacated on the earliest interalia quoting this judgement.

Please ensure that the provision of paying the amount of enhanced compensation in instalments as indicated in the judgement is incorporated in the demand notice sent to the plot holders. These instructions may be strictly followed.

DA/ as above

Chief Administrator
Haryana Urban Development Authority
Manimajra

HARYANA URBAN DEVELOPMENT AUTHORITY

No.HUDA-Acctts-96/ 1906-11

Dated: 18.1.1996

To

The Land Acquisition Collector,
Urban Estate Haryana
At Panchkula Hissar, Gurgaon & Faridabad

Subject: Payment of enhanced compensation adjustment of amount.

In continuation of this office Memo No DDA-94/20953-20956 dated 24.10.1994 on the subject cited above.

The Legal Remembrance, HUDA has advised that Hon'ble Supreme Court of India in Mathuni mathal case has categorically held that if the notice required under rule 2 and 3 is not served by the judgment debtor then the decree holder would be at liberty to adjust the amount remitted accordingly to his wishes. The payment of awarded amount has to be paid in accordance with order 21 of CPC as re-iterated by the Hon'ble Supreme Court of India in the aforesaid judgment.

You are requested to serve notice to all the land owners (decree holder) in your jurisdiction regarding adjustment of remitted (1st towards principle then towards interest & then cost) in the execution as contemplated under order 21 Rule 1 of CPC to avoid any further litigation.

Accounts Officer
for Chief Administrator,
HUDA Panchkula

CC:

1. Legal Remembrancer, HUDA w.r.t. his order dated 4.1.1996 please.
2. Account Asstt-I at H.Q. for information please.

HARYANA URBAN DEVELOPMENT AUTHORITY

HUDA-Acctts-Acctt-11- 194-196

Dated : 31.1.1999

To

The Administrator
HUDA Panchkula, Faridabad, Hissar.

Subject: Payment of Enhanced Compensation.

Please refer to C.A /HUDA endst No Auth 99/1979 dated 20.1.1999 on the subject cited above.

All the Zonal Administrators HUDA have been delegated the powers to sanction the payments of enhanced compensations of their respective jurisdictions vide above referred orders. For the convenience of your office copies of important decisions/instructions are being sent herewith for your guidance and necessary action as per detail given below :-

- 1 The copy of the policy of HUDA to release the payments of enhanced compensation in instalments duly approved by Hon'ble C.M Haryana.
- 2 The copy of letter issued by L.R HUDA vide his memo No DDA/94/20953-56 dated 24.10.1994 regarding payment of solatium and interest on the claims in which awards are prior to 30.4.1982.
- 3 The copy of this office letter No HUDA Acctts-Acctt-II-96/1906-11 dated 18.1.1996 vide which it was instructed to LAO's to adjust the paid amounts first towards principal then towards interest and then cost etc.
- 4 The copy of this office letter No 36593-96 dated 19.12.1996 vide which it was instructed to deduct income tax at source. The rates are liable to be changed from time to time as per Income Tax Act.
- 5 The copy of Additional Director Urban Estate letter No 37902-05 dated 27.12.1993 vide which instructions were issued to all the LAO's for submitting the claims in

proformas prescribed for the purpose (copies of proformas are also enclosed for ready reference.)

- 6 The copy of this office D.O No 4259-62 dated 9.2.1998 vide which LAO's were instructed to submit all the cases of a single judgment collectively and not to submit the cases in piecemeals.
- 7 The copy of the decision to release payments upto 50% of the claims in which judgement is one year old and LAO is not able to intimate the status of stay applications. However in case where court has ordered to auction of Govt. /HUDA property or issue contempt notice of the officer payment may be made in full in one instalment.

It is intimated that as per normal procedure after decision given by any Court, advice of L.R Haryana is obtained by the respective LAO whether any appeal is to be filed against such decision or not. In case, L.R Haryana gives advice that the case is not fit for filing appeal, in such cases, departmental decision is also required which is dealt by Distt. Attorney, Urban Estate. In case the department decision also not to file appeal payment in such cases be released accordingly. But in the cases in which either L.R Haryana gives the advice for filing appeal or Department decides to file appeal. In such cases, LAO's may be asked to intimate the status of appeals as well as stay applications being filed by the respective LAO's. In such cases the payments are released on the basis of decisions passed by Hon, ble High court on stay applications LAO's are to be asked to pursue to get the stay applications decided so that payments are released accordingly.

The requisite funds are being placed at your disposal for payments through budget allocation. You are requested to direct the Accounts Staff working under you to maintain complete record of these payments so that excess payment /double payments are avoided and the record is readily available for recovery of enhanced compensation from the plot holders. The following columns of the sector wise registers are required to be maintained as per detail given below.

1. LAC/RFA No.
2. Execution No/date
3. Name of the claimant
4. Original Award No/ date
5. Sector with Urban estate
6. Area of the claim
7. Rate awarded by LAO
8. Rate awarded by the courts
9. Name of the court giving the judgment.
10. Date of Judgment.
11. Advice of L.R Haryana whether to file appeal or not. In case of appeal filed, status of appeal /stay application.
12. Amount paid.
13. Signature of Sr. A.O.

The weekly utilization of the amounts in the above columns may be sent to this office for record so that further funds can be provided.

Chief Administrator
HUDA, Panchkula

Endst No HUDA Acctts-Acctt-II/182

Dated

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

1. Administrator, HUDA, Gurgaon in continuation to this office letter No spl-177 dated 20.1.99 alongwith copies above instruction.
2. Additional Director, Urban Estate, Haryana.
3. District Attorney, Urban Estate, Haryana.
4. All LAO's. They are advised to send claims in future to there respective Administrator as per delegations. They are also advice to submit cases in seriatim of execution No. and date of judgment unless there is specific reason. They are also directed to maintain the above registers.

Chief Administrator
HUDA Panchkula

HARYANA URBAN DEVELOPMENT AUTHORITY

NO. HUDA-Acctts. Acctt-99/- 17069-109

Dated: 14.5.1999

To

1. All the Administrators,
HUDA (In the State)
2. The Chief Engineer
HUDA Panchkula
3. The Chief Town Planner,
HUDA Panchkula
4. All the Senior Town Planners
(In the State)
5. All the Superintending Engineers
HUDA (In the State)
6. The Distt Attorney,
HUDA Panchkula
7. The Land Acquisition Officers,
Urban Estate Haryana
8. All the Distt Town Planners
(In the State)

Subject: Acquisition of land for the development of various Urban Estate of HUDA.

Please refer to the subject cited above.

It has been decided that in future for the acquisition of lands a committee under the chairmanship of Administrator may be constituted at the Zonal level consisting of the following officers.

1. Superintending Engineer.

2. Senior Town planner
3. Distt. Town Planer
4. land Acquisition officer
5. Deputy Distt. Attorney
6. One representative of Distt Administrator.

The above committee will examine the viability of the land for which notification under section 4 & 6 is to be published and in case section 4 & 6 have already been announced the committee will examine the same before award. This committee will submit its detailed report to the committee to be constituted at Head Office level under the Chairmanship of Additional Director Urban Estate, Haryana consisting of the following members:-

1. Chief Controller of Finance, HUDA, Panchkula.
2. Chief Engineer, HUDA, Panchkula.
3. Chief Town Planner, HUDA, Panchkula.
4. Distt. Attorney, Urban Estate.
5. Chief Town Planner, Haryana in case the necessity arise.

The above committee will submit their final report to Chief Administrator HUDA-cum Director, urban Estate for final decision on the matter.

The land may only be acquired in case the scheme is found financially viable otherwise acquisition proceedings may not be started. In such case the committee constituted under the Chairmanship of the respective Administrator, HUDA may examine the viability of the scheme and send their recommendations to Head Officer which may be examined

by the committee at HQs. After examining the financial viability of the scheme fresh notification of the areas may be issued.

In case of other areas which have already been notified under section 4 and 6 of the Land Acquisition Act, the same procedure may be followed and recommendation in this regard may also be submitted by the committees so that the decision to acquire/not to acquire the land are taken immediately without waiting for the last date of the notification.

Chief Controller of Finance
for Chief Administrator,
HUDA, Panchkula.

Endst No HUDA Acctts-Acctt-II-99/17110 dated 14.5.1999

A copy of the above is forwarded to the Additional Director Urban Estate Haryana for information and necessary action please.

Chief Controller of Finance
for Chief Administrator,
HUDA, Panchkula

HARYANA URBAN DEVELOPMENT AUTHORITY

NO. HUDA-Acctts. S.O-III-2001/-29495-515

Dated: 10.11.2005

To

1. All the Administrators,
HUDA (In the State)
2. All the Estate Officer's
HUDA (In the State)

Subject: Decision of the Hon, ble High Court in CWP No 1033 of 2003 in the case of Mahabir Singh Yadav V/s State of Haryana.

Please refer to the decision of the Hon, ble High Court in CWP No 1033 of 2003 (copy enclosed)

This writ petition relates to the recovery of enhanced compensation. The Hon, ble High Court has ordered that in case the enhanced compensation payable to the land owners, on the basis of which the instant enhancement has been demanded from the petitioner, was not taken into consideration while fixing the tentative price, in that case the petitioner is liable to pay the enhancement in terms of clause-9 of the allotment letter. The Hon'ble High Court has also considered the petitioner view that HUDA has earned huge profit by carving out commercial areas and that the profit earned from the commercial areas should be taken into consideration while making the demands of enhancement over & above the tentative price. The court has decided that if the Master plan has been altered after the determination of the tentative price so as to earn further profits, in that case the contention of the petitioner is justified. But in cases where no such alternation has been made it is not possible to accept the instant contention of the petitioner.

This judgement may be quoted in all the cases of recovery of enhanced compensation where such points are raised by the allottees.

This is for your information and further necessary action please.

DA/ As above

Chief Controller of Finance
for Chief Administrator,
HUDA, Panchkula

CWP No 1033 of 2003

Raised by the learned counsel for the petitioner is, whether or not, the enhancement in the tentative price demanded by the respondents based on enhancement of compensation payable to the land owners was taken into consideration when the respondents determined the tentative price payable by the petitioner. In case the enhanced compensation was not taken into consideration then it most certainly can be taken into consideration to claim an enhanced price. But if it has already been taken in the consideration it would most certainly be unfair to claim enhancement on the basis of the same factors over again. Not only in the original written statement filed by the respondent, but also in an affidavit filed in response to directions issued by this court, it has clearly and unequivocally been asserted on behalf of the respondents that the enhancement in compensation payable to the land owners on the basis of which the instant enhancement has been demanded from the petitioner, was not taken into consideration when the tentative price payable by the petitioner (in terms of clause 9 of the allotment letter) was fixed.

In view of the above, we are satisfied that the demand made by the respondents, which is based purely on the enhanced cost payable by the respondents to land owners, is fully justified.

The second contention advanced by the learned counsel for the petitioner is that the respondents have earned huge profits by carving out commercial areas and that the profits earned from commercial areas should be taken into consideration while making demands of enhancement over the tentative price originally fixed. The instant contention of the learned counsel for.

CWP No 1033 of 2003

MAHABIR SINGH YADAV V/S STATE OF Haryana ETC.

Present Mr. Jai Vir Yadav, Advocate
 For the petitioner

Mr. Harish Rathee, Senior Deputy Advocate
General Haryana for respondent No-I

Mr. Aman Chaudhary, Advocate for respondents
No 2 and 3

J.S KHEHAR J (ORAL)

The solitary contention of the learned counsel for the petitioner is that the respondents cannot claim enhancement of the price of the plot allotted to the petitioner on account of an enhancement in the compensation payable to land owners as a consequence of an order passed by a Reference Court or by any other Court, before the date on which the allotment was made in favour of the petitioner. In this behalf, learned counsel for the petitioner has relied on clause 9 of the allotment letter dated June 12, 2002. The same is being extracted here under for facility of reference.

“9 The above price is tentative to the extent that any Enhancement in the cost of land awarded by the competent Authority under the Land Acquisition Act shall also be payable proportionately as well be determined by the authority. The additional price determined shall be payable within thirty days of its demand.”

The only question to be examined while determining the contention.

CWP No 1033 of 2003

the petitioner, would be justified if the master plan has been altered after the determined of the tentative price so as to earn further profits from the respondents. Since that is not the case in the pleadings filed by the petitioner or the submissions advanced by the learned counsel on behalf of the petitioner, it is not possible for us to accept that the profits earned by the respondents from commercial areas ear-marked in the master plan, have not fully taken into consideration while fixing the tentative price. It is, therefore not possible for us to accept the instant contention of the learned counsel for the petitioner.

No other submission was advanced

Dismissed

HARYANA URBAN DEVELOPMENT AUTHORITY

No.HUDA-Acctts-Acctt-II-2006/37651-72

Dated : 18.10.2006

To

1. All the Administrators,
HUDA (in the State).
2. All the Estate Officers,
HUDA (in the State)

Subject : Disbursement of amount of interest as per direction of Hon'ble Punjab and Haryana High Court, Chandigarh.

Please refer to this office letter No.A-11-87/5657-64 dated 25.02.1987 vide which the procedure/ policy guidelines regarding permission for transfer of Residential/Commercial plots were circulated. As per policy guidelines "under clause-VI" it is stated that all arrears upto date shall be cleared by the allottee before making an application for transfer and "under clause-VII" it is stated that in case of any pending dispute, the amount as per HUDA's demand shall be paid with the stipulation that if subsequently it is found that any excess payment was made by the allottee, it will be refunded to the person who actually made such excess payment.

However, in case of CWP No.5533 of 2005 titled as Jaimal Singh and other Vs HUDA, the Hon'ble High Court of Punjab & Haryana has passed the orders on dated 05.04.2005 in favour of petitioner and disposed - off the petition with the direction that if the relief is grantable, the same shall be granted to the petitioners within 15 days. As a follow up to the orders of Hon'ble High Court and provisions laid down in the policy guidelines dated 25.02.1987, the excess amount if any is to be refunded to the original allottee who actually made such excess payment but the petitioners and Resident Welfare Association made the representation with the request that the excess amount should be refunded to the present allottee/ transferee.

Keeping in view the instructions dated 25.02.1987 the excess amount if any is to be paid to the original allottee who actually made such excess payment whereas as per direction of Hon'ble High Court excess

amount may be refunded to the petitioner. In few cases enhanced compensation was deposited by the allottees but they are not the petitioner in civil writ petition. In other cases petitioner have sold the plots and now it is to be decided as to whether the refund is to be made to the petitioners or to the present allottees.

The case has been examined and it has been decided that after the sale of property purchaser gets all the rights and duties which includes that if any payment is asked for by HUDA, the new allottee shall pay the same. Similarly, if there is any case of refund, the refund should be allowed to the purchaser of the property at the time the refund become payable. However, while refunding the amount an Indemnity Bond/ Undertaking from the person who is receiving the payment, be obtained that in case of any dispute the amount shall be refundable.

The above said decision is subject to expost facto approval of Authority. You are, therefore, requested to take action as per above direction. This also dispose off Estate Officer, HUDA, Karnal letter No.13358 dated 25.09.2005.

Sr. Accounts Officer,
for Chief Administrator,
HUDA, Panchkula.

HARYANA URBAN DEVELOPMENT AUTHORITY

No.HUDA-Acctts-Acctt-II-2006/44451-55

Dated : 21.12.2006

To

All the Administrators,
HUDA (in the State)

Subject: Payment of Enhanced Compensation.

Please refer to this office letter No HUDA –Acctts-Acctt-II 2006/37920-34 dated 19.10.2006 vide which instructions to release the payments of enhanced compensation were issued as under:

- a) In case of enhancement once the rates are finalized and no appeal of HUDA is pending the entire enhanced compensation should be disbursed in one go. The LAO should not wait for execution proceedings. After receiving the communication that the rates of enhanced compensation have attained the finality and no further appeal is being filed, LAO's will process all such communication and submit the same to the concerned Administrator who shall sanction the payment within 10 days of the receipt.
- b) In case where HUDA has preferred appeal before higher court against enhancement but no stay has been granted 2/3rd payment of enhanced compensation will be released to the land owners within one month balance 1/3 will be released after finalization of rates in the appeal.

The matter has now again discussed in the review meeting of officers held under the Chairmanship of Worthy Chief Administrator HUDA on 20.11.2006 and has been decided that with reference to 'b' above the following amendment may be made:-

“That in case where appeal has been filed in the High Court against enhanced compensation and no stay has been granted 100% payment may be release subject to furnishing of adequate security or bank guarantee from the land owner so that in the event of reduction in the rates of enhanced compensation by the higher Courts; the excess amount could easily be recovered”

You are requested to make the payment of enhanced compensation accordingly. The other instructions applicable in payment of enhanced compensation cases shall remain the same.

Sr. Accounts Officer
for Chief Administrator,
HUDA Panchkula

Endst No HUDA-Acctt/Actt-II/2006/44456-61 dated 21.12.2006

A copy pf above is forwarded to the following for information and necessary action.

1. The Additional Director, Urban Estate, Panchkula
2. Distt. Attorney urban Estate Panchkula
3. All the Land Acquisition Officer's in the state.

Sr. Accounts Officer
For Chief Administrator,
HUDA Panchkula