



**HARERA**  
**GURUGRAM**

**HARYANA REAL ESTATE REGULATORY AUTHORITY**  
**GURUGRAM**

हरियाणा भू-संपदा विनियामक प्राधिकरण, गुरुग्राम

**AGENDA OF THE MEETING**

**MEETING OF THE AUTHORITY: NINETEENTH MEETING**

**DATED: 26.03.2019**

<b>ITEM NO.</b>	<b>19.11</b>
<b>SUBJECT</b>	<b>Enforcement of the orders of the authority under Rule 27 of Haryana Real Estate (Regulation and Development) Rules, 2017 read with section 40 of the Real Estate (Regulation and Development) Act, 2016</b>
<b>DETAILS</b>	<p>The matter raised before this Authority by the counsel regarding enforcement of orders, directions or the decisions of the Adjudicating Officer, Authority or the Appellate Tribunal.</p> <p>Section 40(2) of Real Estate (Regulation and Development) Act, 2016 provides for enforcement of orders or directions issued by the Adjudicating Officer or the Authority or the Appellate Tribunal as the case may be as under:</p> <p><b>Section 40 recovery of interest or penalty or compensation and enforcement of order, etc</b></p> <p><b>"(1)</b> .....</p> <p><b>(2)</b> <i>If any adjudicating officer or the Regulatory Authority or the Appellate Tribunal, as the case may be, issues any order or directs any person to do any act, or refrain from doing any act, which it is empowered to do under this Act or the rules or regulations made thereunder, then in case of failure by any person to comply with such order or directions, the same shall be enforced, in such manner as may be prescribed."</i></p> <p>Rule 27 of the Haryana Real Estate (Regulation and Development) Rules, 2017, prescribes regarding enforcement of orders, directions or the decisions of the Adjudicating Officer, Authority or the Appellate Tribunal as under:</p>





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***Rule 27 Enforcement of order, direction or decision of adjudicating officer, Authority or Appellate Tribunal read with section 40 of the Real Estate (Regulation and Development) Act, 2016***

“(1) Every order passed by the adjudicating officer or the Authority or the Appellate Tribunal, as the case may be, under the Act or rules and the regulation made thereunder, shall be enforced by an adjudicating officer **of** the Authority or Appellate Tribunal in the same manner as if it were a decree or a order made by a civil court in a suite pending therein; and it shall be lawful for the adjudicating officer or the Authority or the Appellate Tribunal, as the case may be, in the event of its inability to execute the order, send such order to the civil court to execute such order.

(2) .....

The word of after the word, adjudicating officer and before the word Authority in the rule is irrelevant as is seemingly typographical error. For the following purpose /reason

- (i) Nowhere in the Act or rules, the word adjudicating officer of the Authority has been used. The word used in the Act rules or regulations are adjudicating officer or the Authority or the Appellate Tribunal;
- (ii) As per rules of judicial interpretation, the interpretation which further the objective for which the Act has been enacted is to be preferred then the interpretation which give rise to absurdity. It is very clear that orders passed by the adjudicating officer shall be enforced by the adjudicating officer, orders passed by the Authority shall be enforced by the Authority and the orders passed by the Appellate Tribunal shall be enforced by the Appellate Tribunal.
- (iii) The enforcement of the orders is done normally by the court/tribunal or authority who has passed it. It is normal judicial policy adopted in most of the statutes.
- (iv) Even in the first line itself, the word adjudicating officer or the Authority have been used nor the word adjudicating officer of the Authority.
- (v) If **of** is not read as **or** and this typographical error is not taken notice then it will lead to harassment of complaints and delay in justice delivery.





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From the above discussion it leaves no doubt that this is a typographically error and the word of is to be read as or which make it sensible interpretation.

Accordingly, the Authority has already written to the Government of Haryana for correcting this typographical error and in the meanwhile, the authority would be taking up enforcement as per above interpretation.


The matter is placed before the authority for approval


**Assistant Secretary**  
**HARERA, Gurugram**



ITEM NO.	19.11
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DECISION OF THE AUTHORITY	
APPROVED	

  
**Subhash Chander Kush**  
Member, HARERA, Gurugram

  
**Samir Kumar**  
Member, HARERA, Gurugram

  
**Dr. Krishana Kumar Khandelwal**  
Chairman, HARERA, Gurugram

**No. HARERA, GGM /Meeting/2019/Agenda 19.11/Proceedings/26<sup>th</sup> March,2019**

Copy of the above is forwarded to the Principal Secretary, Town and Country Planning Department, Haryana