



## HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: [www.haryanarera.gov.in](http://www.haryanarera.gov.in)

### COMPLAINT NO. 1136 OF 2021

Rodeo Drive Welfare Association

...COMPLAINANT

VERSUS

1. TDI Infrastructure Ltd Through its Director
2. M/S Cannes Property Management Services Ltd Through its Director

....RESPONDENTS

**CORAM:**

**Parneet Singh Sachdev**  
**Nadim Akhtar**  
**Chander Shekhar**

**Chairman**  
**Member**  
**Member**

**Date of Hearing:** 08.05.2025

**Hearing:** 13<sup>th</sup>

**Present:** - Mr. Tarjit Singh, Counsel for the complainant-association through VC.  
Mr. Shubhnit Hans, counsel for the respondent no.1 through VC.

### **ORDER (PARNEET S SACHDEV- CHAIRMAN)**

1. The present complaint has been filed by the Complainant Association, a society registered under the Haryana Registration and Regulation of Societies Act, 2012, seeking, inter alia, handover of maintenance of the commercial project "Rodeo Drive - TDI City" situated at Kundli, District Sonapat, Haryana, and

the transfer of the Interest-Free Maintenance Security (IFMS) to the said Association.

2. The project “Rodeo Drive – TDI City” is a commercial complex located in TDI City, Kundli, Sonipat, Haryana. The layout plan for the project was approved by the Directorate of Town and Country Planning (DTCP), Haryana, vide memo no. ZP-127-JD(B)-2009/10245 dated 08.10.2009. The respondent company applied to the DTCP for issuance of the Occupation Certificate (OC) on 27.07.2017 under License Nos. 101-144 of 2005 dated 05.08.2005. It is stated in the pleadings that part completion certificates had already been granted and that the final Occupation Certificate was issued on 12.06.2019, although the same is not annexed with the reply.
3. The complainant association has approached this Authority under Section 31 of the Real Estate (Regulation and Development) Act, 2016, contending that despite having delivered possession of the shops, the respondent has failed to:
  - i. Provide essential services and amenities;
  - ii. Hand over the project’s maintenance to the duly registered welfare association;
  - iii. Transfer the interest-free maintenance security to the association; and
  - iv. Provide various statutory documents related to the project, including sanctioned building plans, OCs, electricity details, and agreements executed for maintenance.

4. The complainant has also pointed out several deficiencies in the project, alleging that they continue to cause significant inconvenience to the shop owners. The deficiencies flagged by the complainant can be broadly consolidated as follows:
- i. Denial of access to project documents such as OC, sanctioned layout plan, land details, maintenance agreements, and electricity supply-related details.
  - ii. Poor upkeep of the project including water-logged basements, non-functional escalators and lifts, lack of adequate maintenance staff, and general deterioration of infrastructure.
  - iii. Incomplete work such as non-provision of STP, DG sets, transformers, and unallotted parking spaces.
  - iv. Failure to allot designated vehicle parking to each shop owner.
  - v. Alleged discrepancies in calculation of basic sale price.
  - vi. Arbitrary enforcement of maintenance agreement terms by respondent no.2.
5. On the other hand, the respondent initially filed a reply dated 08.02.2022. Thereafter, pursuant to the directions issued by this Authority vide detailed order dated 01.06.2022 wherein the complaint was held to be maintainable under Section 31(1) of the Real Estate (Regulation and Development) Act, 2016, the respondent filed another reply dated 04.08.2022 raising detailed objections on merits as well as on maintainability.



6. In the said reply, the respondent has majorly challenged the maintainability of the complaint on the following grounds:
- i. That the complainant association lacks locus as it does not comprise the majority of the allottees, and that its representative is acting in personal capacity as the entire project 'Rodeo Drive' consists of 600 shops and out those 600 shops only 60 shops i.e. 10% of the shops are open. Out of these 60 shops only 1% i.e. 6 shops are part of the association, therefore, the Complainant association who has approached the I.d. Authority is not a valid Association and therefore, has no locus to file the captioned complaint.
  - ii. That Section 11(4)(c) of the Act applies only to residential projects and not commercial developments and that there exists no mandatory provision under RERA Act or the Haryana RERA Rules requiring formation of RWA in commercial projects. The Haryana Registration and Regulation of Societies Act, 2012, too, primarily governs residential societies.
  - iii. That the present complaint has been filed to advance the personal interests of a limited number of allottees and not with the consent or participation of a majority of allottees. The representative of the Complainant Association is the owner of a specific shop unit (Shop No. FF-105) and mere designation as General Secretary does not empower him to represent the collective interest of allottees without demonstrable



authorization or consent from the majority. No credible documentation has been submitted to show that the complainant is acting on behalf of at least two-third of the total allottees. In this regard, reliance was placed on para 3 at page 6 of this Authority's previous Order dated 04.08.2022, which clearly states that the maintenance can be handed over to the Association only when it comprises the majority of the allottees.

- iv. That several of the reliefs sought do not fall within the purview of this Authority, particularly those related to construction and service provisions.
- v. That the complainant has not provided credible documentation to show authorization from the majority of allottees.

7. Authority has carefully considered the submissions of both parties and perused the documents placed on record. At the outset, it is necessary to address the preliminary objection raised by the respondent regarding maintainability. The respondent has argued that Section 11(4)(c) applies exclusively to residential projects. However, this contention is misconceived. The relevant portion of Section 11(4)(c) is reproduced hereunder for reference:

*"11.*

*(4) "The promoter shall -*

*(e) enable the formation of an association or society or co-operative society, as the case may be, of the allottees, or a federation of the same, under the laws applicable:*

*Provided that in the absence of local laws, the association of allottees, by whatever name called, shall be formed within a period of three*



*months of the majority of allottees having booked their plot or apartment or building, as the case may be, in the project."*

A plain reading of Section 11(4)(c) shows that the promoter is required to enable the formation of an association of allottees without distinguishing between residential and commercial projects. The provision explicitly uses the phrase "plot or apartment or building," with no limitation restricting its scope to residential developments and therefore applies equally to commercial projects. Hence, the respondent's objection is rejected.

8. Further, vide a detailed order dated 01.06.2022, this Authority has already held that the complainant is a duly registered association as per the certificate issued by the District Registrar, Haryana on 25.11.2020, and is competent under Section 31(1) of the Act to file the present complaint. The relevant part of order dated 01.06.2022 is reproduced below:

*"After hearing both parties and perusal of records of the case, Authority observes that complainant is a registered association which was duly registered by District Registrar, Department of Industries and Commerce, Haryana on 25.11.2020 as per Annexure - C-11. As per Section 31(1) and the Explanation thereto, the Complainant Association, being a registered association of allottees, can file a complaint with the Authority in case it is aggrieved on account of any violation or contravention by the promoter of the provisions of the RERA Act, 2016 or the rules and regulations made thereunder. Therefore, Authority observes that the present complaint is maintainable and decides to proceed on merits of the complaint."*

Therefore, the issue of maintainability stands conclusively settled.



9. Regarding the Interest-Free Maintenance Security (IFMS), i.e., relief no. (x), the Authority hereby directs both parties to mutually appoint a neutral and independent third party, preferably a Chartered Accountant (CA), who shall:
- i. Examine the financial records including IFMS received from shop owners,
  - ii. Verify the expenditure incurred on maintenance,
  - iii. Calculate the corpus currently available under IFMS, if any.

This exercise shall be carried out in the presence of representatives from both parties, and the Chartered Accountant shall certify the actual amount, if any, recoverable or refundable after adjustment of verifiable maintenance expenses. The said process shall be completed within 90 days from the date of uploading of this order. The cost of engaging the Chartered Accountant shall be borne equally by both parties.

10. With respect to the numerous reliefs claimed by the complainant from point no. (iii) to (xix), this Authority observes that these relate to infrastructural, service, and construction-related deficiencies, such as:
- i. Completion of construction works (e.g., basement, STP).
  - ii. Provision and functioning of DG sets, transformers, escalators, and lifts.
  - iii. Providing project documents, maintenance agreements, and utility details.
  - iv. Allotment of parking.
  - v. Calculation of basic sale value.
  - vi. Non-cooperation in transferring statutory responsibilities.





11. After carefully examining the record available and perusal of file, Authority observes that no sanctioned service plan or approved cost estimates have been placed on record by the complainant in support of the contention that any of the aforementioned facilities or services are not in conformity with the sanctioned layout or approved technical requirements. In the absence of any such material, it would be beyond the competence of this Authority, which is primarily a regulatory and quasi-judicial body under the Real Estate (Regulation and Development) Act, 2016, to engage in a technical fact-finding exercise regarding the adequacy or inadequacy of services such as STP, DG sets, escalators, lifts, transformer load, or basement structure. However, the respondent is directed to ensure that all such provisions are made strictly as per the sanctioned layout and approved service plans.
12. Authority is not vested with technical advisory or infrastructure planning functions nor can it issue directions for execution of specific construction works unless there is a demonstrated deviation from sanctioned plans or violation of the terms and conditions of registration of the project under the Act. The proper authority to examine such issues remains the Directorate of Town and Country Planning (DTCP), Haryana, which grants approval of layout plan, building plan sanctions, service estimates, and Occupation Certificates. As regards issues related to electricity supply, transformers, DG sets, and metering, these fall within the domain of Uttar Haryana Bijli Vitran Nigam





(UHBVN) and are governed by separate sectoral regulations including those issued by the Haryana Electricity Regulatory Commission (HERC).

13. Further, insofar if the complainant seeks, compensation, it squarely fall within the exclusive jurisdiction of the Adjudicating Officer under Section 71 of the Act, who is empowered to adjudicate upon claims of compensation. This Authority under Section 34 is primarily empowered to issue directions to ensure compliance with obligations under the Act and cannot assess or award compensation for alleged losses or damages.
14. Therefore, while the complainant's grievances may be genuine and may warrant redress, the remedy lies before the appropriate forum or regulatory authority. The complainant is accordingly at liberty to approach:
  - i. The DTCP, Haryana, for any structural, layout-related, or OC-related non-compliance;
  - ii. The Adjudicating Officer, under the RERA Act, for compensation in respect of loss or suffering caused by alleged deficiencies;
  - iii. The UHBVN or HERC, for redressal of grievances related to electricity metering, billing, and supply issues.
15. Accordingly, all such reliefs prayed for from clause (iii) to (xix) in the complaint are held to be outside the scope of this Authority's adjudicatory jurisdiction under the RERA Act, 2016. However, it is clarified that this order does not prejudice the right of the complainant association or any individual



allottee to seek appropriate relief before the competent authority in accordance with law.

16. In view of the continued non-compliance by the respondent and in the absence of any credible or competing claim from any other association, and further considering that the complainant is a duly registered association under the Haryana Registration and Regulation of Societies Act, 2012, with a valid certificate of registration annexed with the complaint, this Authority is constrained to presume the present Complainant Association to be the valid body for the purpose of maintenance. The same is also supported by the Association's active interest and willingness to assume maintenance responsibilities.
17. Accordingly, the respondent is hereby directed to handover the maintenance of the project "Rodeo Drive – TDI City, Sonipat" to the Complainant Association within a period of 45 days from the date of uploading of this order. This direction is being passed in view of the failure of the respondent to comply with its statutory duty to facilitate the formation of an association and to furnish relevant records, and in the absence of any other association currently shown to be in existence.
18. This direction is without prejudice to the rights of any other allottee or group of allottees, who may at a later stage approach this Authority for appropriate relief, including in relation to the composition or conduct of the Complainant Association or any grievance related to the maintenance of the project.



19. Moreover, it is pertinent to note that the respondent has failed to pay the cost of ₹50,000/- imposed vide this Authority's earlier order dated 05.03.2024. The respondent is hereby once again directed to pay the said cost within a period of 15 days from the date of this order, failing which the Authority shall initiate suo motu proceedings for non-compliance and may impose further coercive measures in accordance with the provisions of the Act.
20. In view of the above directions, the complaint stands **disposed of**. File be consigned to the record room after uploading of this order on the website of the Authority.

  
CHANDER SHEKHAR  
[MEMBER]

  
NADIM AKHTAR  
[MEMBER]

  
PARNEET S SACHDEV  
[CHAIRMAN]