

HARYANA REAL ESTATE REGULATORY AUTHORITY, PANCHKULA

Office Order

**Subject: Policy/ procedure for refund of the amount deposited by the Appellant with the Haryana Real Estate Appellate Tribunal pursuant to Section-43(5) of the RERA Act, 2016.
(As amended vide Agenda Item No. 114.05)**

As per Section-43(5) of the Real Estate (Regulation & Development) Act, 2016, any person aggrieved by any direction or decision or order made by the Authority or by the Adjudicating Officer under the RERA Act, 2016 may prefer an appeal before the Haryana Real Estate Appellate Tribunal having jurisdiction of the matter. Further, where a promoter files an appeal with the Tribunal, it shall not be entertained without the promoter first having deposited with the Appellate Tribunal at least 30% of the penalty or such higher percentage as may be determined by the Appellate Tribunal, or the total amount to be paid to the allottee including interest or compensation imposed on him, if any, or with both, as the case may be, before the said appeal is heard.

2. In a few cases, the Tribunal while dismissing the appeals, has inter-alia ordered that such pre-deposit amount be transferred to the Authority for transferring the same to the appellant/ allottee, as the case may be.


3. In this regard, the Authority has opened a separate dedicated bank account with Axis Bank, Sector-10, Panchkula. The amount so received from the Tribunal shall be deposited in the said account of the Authority and shall be dealt in the following manner:

- i. After receipt of the amount from the Tribunal, a report shall be called from the concerned Law Associate as to whether or not any execution petition is pending for implementation of the orders of the Authority or the Adjudicating Officer, as the case may be, against which appeal was filed.
- ii. In case it is revealed that such execution petition is pending and the amount received from the Appellate Tribunal can be utilized for satisfaction of the execution petition wholly or partially, the Authority or the Adjudicating Officer shall pass appropriate orders in the execution petition for utilization of the amount for satisfaction of the decree.
- iii. If it is ultimately revealed that no execution petition is pending, the concerned Law Associate, in that eventuality will institute a suo-motu complaint and issue 15 days' notice to both the parties to appear before the Authority or the Adjudicating Officer, on the date mentioned in the notice for taking decision about the disbursement of the amount.



- iv. A person claiming him as entitled for refund of the amount shall be entitled to file application in **Proforma- P-1**, for disbursement of the amount. Such person in his application shall furnish bank account details, PAN No. and proof of identity. On receipt of **Proforma-P1**, the concerned Law Associate shall register a suo-motu complaint and issue notice to both the parties, if not already issued earlier.
- v. The Authority/ Adjudicating Officer will take up the matter for passing an appropriate order regarding disbursement of the amount after hearing the parties on the date for which notice to the parties were issued.
- vi. The disbursement of the amount will not be withheld merely on the ground that a party intends to file an appeal against the order of the Hon'ble Appellate Tribunal. Such disbursement can be opposed by the party concerned only on showing a copy of the order passed by the competent court staying the operation of the order of Hon'ble Appellate Tribunal or disbursement of the amount.
- vii. In case the period of filing an appeal against the order of Hon'ble Appellate Tribunal has not lapsed on the date, the Authority passes an order regarding disbursement, the amount shall be disbursed to the person adjudged entitled to, on furnishing a bond to the extent of the amount of disbursement for indemnifying the person having a right of appeal against the order of Appellate Tribunal.
- viii. On receipt of the orders of the Authority or the Adjudicating Officer in suo-motu complaint/ execution petition, the Accounts Section shall proceed further and release the amount to the complainant through the RTGS, as per orders of the Authority or the Adjudicating Officer.

Date: 02.11.2020
Place: Panchkula



Executive Director
HRERA, Panchkula

Endst. No. HRERA-PKL/ED/2020/4362-69

Dated: 02.11.2020

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

- i. Adjudicating Officer, HRERA, Panchkula
 - ii. AO (P), HRERA, Panchkula.
 - iii. JC (B&A), HRERA, Panchkula.
 - iv. All Law Associates, Complaint Section, HRERA, Panchkula.
 - v. PS to Hon'ble Chairman.
 - vi. PS to Hon'ble Member-I.
 - vii. PS to Hon'ble Member-II.
 - viii. Programmer, HRERA Panchkula.
- (for uploading on the Web Portal of the Authority)
- } for information of Hon'ble Chairman and Hon'ble Members.


Executive Director
HRERA, Panchkula.



Proforma P-1

Before the Haryana Real Estate Regulatory Authority, Panchkula/ Adjudicating Officer

Subject: **Application for refund of the pre-deposit amount received from Haryana Real Estate Appellate Tribunal pursuant to Section 43(5) of the Real Estate (Regulation & Development) Act, 2016.**

Kindly release the pre-deposit amount transferred by the Hon'ble Haryana Real Estate Appellate Tribunal to the Haryana Real Estate Regulatory Authority, Panchkula vide its orders dated _____ passed in the appeal case as per details given below:

- i. Appeal No: _____
- ii. Title of the Appeal: _____
- iii. Name of the Applicant/ Claimant: _____
- iv. Address: _____
- v. E-mail: _____
- vi. Date & Order of the Haryana Real Estate Appellate Tribunal _____
- vii. Amount claimed by the applicant: _____
- viii. Date and Order of the Authority/ Adjudicating Officer _____
- ix. Pre-deposit amount deposited with RERA Tribunal: _____
- x. Bank Details of the Applicant/Recipient:
 - a) Name of the Bank: _____
 - b) Branch Address: _____
 - c) Account No: _____
 - d) IFSC Code: _____
- xi. PAN No. of the Applicant/Recipient: _____

Place: _____

Date: _____

Documents to be attached:

APPLICANT

- i. Copy of board resolution/ letter of authority to file the present application.
- ii. Copy of orders of the Hon'ble RERA Tribunal.
- iii. Copy of the orders passed by the Authority.
- iv. Copy of PAN card.
- v. Copy of ID/ Aadhar Card of the applicant.
- vi. Cancelled cheque of the applicant/ recipient.