



HARYANA REAL ESTATE REGULATORY AUTHORITY, PANCHKULA.

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Extract of the resolution passed by the Haryana Real Estate Regulatory Authority, Panchkula in its meeting held on 13.07.2020.

Item No. 101.9

(iii) Promoter : Maximal Infrastructure Pvt. Ltd.
Project : "Maximal" – Group Housing Colony on land measuring 48.038 acres in Sector-89, Faridabad.

Temp ID : RERA-PKL-587-2019

AND

(iv) Promoter : Zion Promoters & Developers Pvt. Ltd.
Project : "Stonecrop-II" – Group Housing Colony on land measuring 3.00 acres situated in Sector 89, Faridabad.

Temp ID : RERA-PKL-718-2019

AND

(v) Promoter : Ferrous Infrastructure Pvt. Ltd.
Project : "Ferrous City, Phase-I" – Group Housing Colony on FAR measuring 1,04,817 Sq. Mts. of a larger colony measuring 48.038 Acres situated in Sector-89, Faridabad.

Temp ID : RERA-PKL-612-2019

AND

(vi) Promoter : ORS Infrastructure Pvt. Ltd.
Project : "Royal Residency" – Group Housing Colony on FAR measuring 35,355.07 Sq.Mts. situated in Sector-89, Faridabad.

Temp ID : RERA-PKL-625-2019

AND



(vii) Promoter : Heritage Cottages Pvt. Ltd.

Project : "Ozone Square (Zone E & EWS)" Group Housing Colony on FAR measuring 21135.94 Sq. Mts. situated in Sector-89, Faridabad.

Temp ID : RERA-PKL-633-2019

1. The Haryana Real Estate Regulatory Authority, Panchkula had passed a detailed order while disposing of a large bunch of complaints with lead case No. 826 of 2018 titled as Ferrous Infrastructure Pvt Ltd Vs Maximal Infrastructure. Consequent to the order so passed, the Authority had issued Suo Motu notices to the six promoters of six different projects for filing their applications for registration of their respective project for the reason that all of them were fully and squarely covered within the definition of "On-going projects" as provided under Section-3 of RERA Act, 2016 and the Rules framed thereunder.

2. Since for facilitating registration of the project, it is absolutely essential to bifurcate the original license Nos. 34 to 36 of 2007 of the area measuring 48.038 acres, the Authority in its meeting held on 30.09.2019, vide Agenda Item No. 69.10 had passed an elaborate orders capturing therein the essence of the disputes between the partner companies. Specific directions were also given to the Town & Country Planning Department for bifurcation of the license. The directions given by the Authority in its order dated 30.09.2019 are reproduced below:-

3. *In the light of the above facts brought to the knowledge of the Authority by various parties from time to time, it is abundantly clear that the projects should have been registered so that the interests of the existing allottees could be protected and for facilitating sale of un-sold inventory of the project which in-turn would help to generate liquidate for investment in the projects. This Authority, however, cannot allow registration of projects and sale of unsold inventory without clear legal title being established over the land of the projects. All the promoters are over defaulting in the payment*



of EDC due towards the government. The licence of the project as a whole has expired. Service plan estimates of individual project have not been sanctioned, in some cases not even submitted.

In light of the aforementioned facts, the first step is to be taken for resolution of dispute is that State Government in Town & Country Planning Department should realise the fact situation and it should resolve to protect the interests of over 2000 allottees who are awaiting possession of their houses for the last nearly 10 years. Accordingly, the Department should divide the licence in five parts and grant a separate licence to each of the developer company subject to fulfilment of requisite conditions.

4. The department thereafter should determine the liabilities of each developer for payment of EDC etc. The EDC already paid should be duly credit. Each of the developer company have to sever their relationship with the original licence company completely. Fresh licence needs to be granted on the basis of facts as are available at the ground level.

5. Simultaneously, the Department should send its technical team for visiting the sites of the each of the project and independently determine whether any violations of the terms and conditions of the licences or & the approved building plans have been caused by any of the developer. If any violation is noticed by them suitable action should be taken as per law.

This Authority had appointed a local commissioner for visiting the site and pointing out deficiencies in the development of the project. Several serious deficiencies have been pointed by the local commissioner which have been discussed by this Authority while disposing off complaint case No. 826 of 2018 and other related matters. A copy of the said



order should be sent to the Department for appropriate action.

6. At this stage the Authority would neither register the project nor would it reject the applications. It would await decision of the Town & Country Planning Department in accordance with the guidelines given as above.

7. All the applicants are hereby directed to file applications in the Town & Country Planning Department for grant of a licence in respect of the project being developed by them. They should disclose all the information relating to the project, the quantum of EDC paid, the quantum of EDC still to be paid etc. The application complete in all respects should be filed by the developer company within thirty days. It is expected from the Town & Country Planning Department to expedite these decisions on applications dispose them off within a period of 60 days thereafter.

8. Learned CTP shall send a copy of these proceedings to the Principal Secretary and the Director, Town & Country Planning Department, Haryana with a request to deal with this matter expeditiously in the interest of over 2000 allottees of the projects. A copy of the orders passed by the Authority while dealing with bunch of cases No.826/2018 be also annexed.

3. Thereafter, the matter was further discussed in detail in the 84th meeting of the Authority held on 27.01.2020 vide Agenda Item No. 84.13. The Authority had made certain observations as reproduced below: -



3. Learned counsels further drew the attention of the Authority towards pleadings of Director General, Town & Country Planning Department in the above-mentioned appeal that this Authority does not have powers under the RERA Act to issue directions to the appellant department to bifurcate the licenses. The Director General, Town and Country Planning Department has submitted before the

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Hon'ble Tribunal that the Authority under the Act of 2016 has only powers to give directions to the promoters, allottees and the real estate agents but has no power to give any direction to the department.

4. *After hearing detailed arguments of all the parties, the Authority observes as follows:-*

i) *The Preamble of the RERA Act inter-alia reads that "the Act has been enacted to establish the Real Estate Regulatory Authority for regulations and promotions of Real Estate Sector.....to protect the interest of the consumers in the real estate sector..."*

Further sub Section (a) of Section 34 mandates the Authority to register and regulate real estate projects....; and Sub Section (f) of Section 34 mandates the Authority to ensure compliance of the obligations cast upon the promoters, the allottees under this Act and the Rules and Regulations framed thereunder. Further, Section 37 of the Act empowers the Authority to issue binding directions to "all concerned".

ii) *The expression "Regulate" pre-supposes regulations of real estate projects for achieving the end objective which the project is supposed to achieve, i.e. ensuring that the projects are completed in time and lawful interests of all stakeholders, especially the allottees, are protected. The expression "Regulate" also includes taking all such incidental and consequential actions as are necessary to achieve the end objectives. The Authority is of the considered view that if a project is facing any obstacle in its timely completion which in turn is adversely affecting the interests of the Allottees, the Authority not only will have the power to order removal of those obstacles, but is duty bound to do so.*



In the instant matters, for the detailed reasons given in orders dated 30.09.2019, the projects are not possible to be completed without Town & Country Planning Department bifurcating the licenses, therefore, as a part of its duties and functions the Authority is fully competent to issue necessary directions to the department concerned of the State Government.

iii) The current process of development of real estate projects in the State of Haryana is that prospective promoters first have to arrange requisite land for the project on the basis of which they could apply for grant of a license. The Town and Country Planning Department after due examination grants the license and approves various plans of the project. The department also collects External Development Charges (EDC) from the developers for financing external infrastructure, including Water Supply System, Sewerage System, Storm Water Drainage, access roads, and Power Supply System. Entire EDC is eventually paid by the allottees of the projects, though collected through the promoters.

The license, inter-alia, stipulates that Town & Country Planning Department would monitor the progress of the project from time to time. Promoters of the projects are supposed to file periodic returns including submission of information regarding sale of plots/apartments as well as progress of construction and development of the project. The purpose of filing periodic returns by the promoters with the Town and Country Planning Department is that the project is developed in accordance with approved plans and other conditions of the license. District Level officials of the department are supposed to inspect the site also of the project periodically. Such periodic inspection are absolutely necessary to stop violations of any kind by the promoter. In



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the face of the facts captured by the Authority in its order dated 30.09.2019, it is quite evident that the officials of the department either never inspected the project or completely ignored the violations being committed by the promoters. It is inconceivable that the department officials were not aware of the facts that the licensee company has sub-divided the project into five sub promoters. It is to be resumed that the department officials were fully aware of the facts situations on the ground.

iv) This Authority has repeatedly ruled that the act of granting a license for development of real estate project is a sovereign guarantee to the prospective investors and allottees of the project that their money is safe and secure and they will get their houses/apartments in a timely manner in accordance with the approved plans. Allottees of the projects invests their life's savings on the basis of this sovereign assurance given by the State. The conditions of the license as well as the provisions of the State laws specifically stipulates that in case a licensee/promoter does not develop the colony in accordance with the law/rules/directions/conditions of the license, the said license will be revoked and the department is empowered to take over the said colony and complete its development at its own level.

(v) In the instant cases, detailed observations have been made by the Authority in its order dated 30.09.2019, as well as order dated 02.09.2019 passed in complaint No. 826 of 2018. In both these orders, which should be read as part of this order, the Authority has clearly pointed out several serious violations committed by the promoters including violation of building plans as well as division of development works amongst the sub developers. All those violations were in the notice of Town and Country Planning Department all



the time. The department, however, chose not to exercise its power to stop those violations and to revoke the license to take over the project. The resultant situation now is that, if the licenses are not bifurcated it will be impossible to develop the project. The main licensee company has already divided the projects into five sub promoters and has sold the entire project to the sub-developers. Even common areas of the project have been sold to the third parties. Each Sub-developer has independently launched and sold the apartments in their portion of the project. Two of those sub-developers in fact are facing liquidation proceedings. Now either the fact situation has to be realized by the department or this project involving nearly 2000 allottees and thousands of crores worth of investment will never be completed. This will be a colossal national waste. More importantly, by exercising a small executive discretion by division of licenses, the project can be saved. The department has been using its discretion in the past.

Alternatively, the Town and Country Planning Department should exercise its powers to cancel the license on account of various violations having been committed, and take over the project and complete the same itself.

vi) The end objective behind granting the license for development of the real estate projects is to meet the requirement of housing for the public. The very logic, the purpose and spirit of both the RERA Act as well as the Haryana Development and Regulations of Urban Areas Act, 1975 are to meet the requirements of housing for the public. For mere technicalities, the allottees cannot be left to suffer massive losses, in fact loss of their life time savings. Housing is a dream for ordinary citizen in which usually savings of three generations are invested. The law is not a mere



technicality to be followed by its executing agencies. The law has a purpose and unless that purpose is achieved the law will lose its meaning.

vii) In the instant case, Town and Country Planning Department has preferred an appeal before the Hon'ble Tribunal citing the technicality that RERA Authority has not been specifically empowered by the Act to give directions to the State Government. The question, however, to be addressed is that if a project is impossible to be developed without removing certain obstacles, then can RERA Authority ignore its responsibility by not issuing directions to the State Government? In the process of discharging its regulatory duties, the Authority is bound to issue all such directions as are necessary for protecting the interests of the projects and of the Allottees of those projects. The directions issued by the Authority does not offend any law of the land. The Town and Country Planning Department has been dividing the licenses in the past, and even in the case of one of the respondent companies in this instant case.

viii) It is noteworthy that in this case, the Town & Country Planning department had sanctioned the site plan/building plans of the project in such a manner that the entire licensed land could be viewed as five different independent projects. Further, the five sub-developers separately and independently have launched and marketed their projects. Each one has been developing and selling their portions of the project for the several years. Local official of the Town and Country Planning Department for nearly 10 years never objected to the same. For this reason, the State Government agencies should be deemed to have accepted the development of the project by five independent entities. Now at this late stage the Town and Country Planning Department cannot



raise technical objections and refuse bifurcation of license for facilitating its completion. More importantly, even if the objections being raised by the department are accepted and their views are agreed that this Authority does not have powers to give binding directions to them, then what alternative the department would suggest to complete the project and to protect the interest of the allottees. Mere raising technical objection to the directions issued by the Authority, without suggesting any alternative for completion of the project will not achieve the purposes of law.

ix) The Authority has repeatedly given its findings that it will be impossible to complete this project without bifurcation of the licenses amongst the sub promoters. The only other option is that the department itself take over the project and complete the same. If, however, they are not willing to do so, then the licenses must be bifurcated. The Authority re-iterates that the purpose of the law is to protect the interests of the Allottees; to regulate the real estate sector; and to protect the interest of the project. For achievement of these objectives, lawful directions can be given by the Authority to the department.

4. Against the original orders dated 30.09.2019 passed in agenda item no. 69.10 by the Authority, Director General, Town and Country Planning Department had filed an appeal before the Hon'ble Haryana Real Estate Appellate Tribunal, Chandigarh. In their appeal, the department had contested the jurisdiction of this Authority to issue any binding direction to the Town and Country Planning Department for bifurcation of the license.

5. This matter had come up for hearing before the Hon'ble Tribunal in Appeal Case No. 1461 of 2019 on 15.01.2020, when the Hon'ble Tribunal was pleased to pass the following orders:-



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"Office report perused.

The appeal be registered.

Ld. Govt. Pleader states that though the appellant State of Haryana was not party to the complainant filed before the Ld. Real Estate Regulatory Authority, Panchkula but the appellant is aggrieved of the directions given by the Ld. Authority in the impugned order dated 01.10.2019. He pleaded that the Ld. Authority has given direction for bifurcation of the licence which is not permissible under the Haryana Development and Regulation of Urban Area Act, 1975.

Let notice of the present appeal be issued to the respondents for 28.01.2020 on filing the copies of paper book and registered cover etc. within two days. Notice be sent through post, email and dasti as well."

6. In furtherance of the said order dated 15.01.2020 passed by the Hon'ble Tribunal, matter was considered by the Authority in its 84th meeting held on 27.01.2020, when the aforesaid order as reproduced in above para was considered by the Authority, inter-alia and it passed the following orders:-

5. *The objections of the department are also not acceptable for the reason that they have already divided the license in respect of the one company M/s TIDCO. How is it that the department is following the directions of the official liquidators of M/s TIDCO for division of license but refusing to bifurcate the license in respect of rest of the projects?*

6. *In view of the above observation, Director General, Town and Country Planning Department is directed to file his reply and submit his plan of action for completing the project. Chief Town Planner will send a copy of this order to the Principal Secretary, Town and Country Planning Department, Haryana also with a request to get this matter*



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considered at the level of the State Government and send their considered views to this Authority before the next date of hearing.

7. *Adjourned to 02.03.2020.*

7. Thereafter, the matter was listed before the Hon'ble Tribunal on 25.02.2020, when the following orders were passed:-

"Vakalatnama alongwith Board Resolution has been filed on behalf of the respondent No. 2, which is taken on record. The written communication has also been received from the respondent No. 1, the Haryana Real Estate Regulatory Authority, Panchkula, which is also taken on record.

Memo. of appearance has been filed by Shri Sutaksh Saini on behalf of the Official Liquidator respondent No. 7 and he undertakes to file the vakalatnama on the next date of hearing.

As per the information given by the parties the Hon'ble Apex Court has not yet pronounced the order in the contempt petition No. 34 of 2016, through the arguments have been heard on 09.01.2020. So, the case is adjourned and now to come up on 19.03.2020 for awaiting the further orders of the Hon'ble Apex Court."

8. Now a further order dated 19.06.2020 passed by the Hon'ble Tribunal has been received, which is reproduced below:-

"Shri Gaurav Chopra, Advocate, Ld. Counsel for the respondent No. 3 has joined the proceedings through whatsapp Video Conferencing.

Respondent No. 3 has made an application for taking on record the copy of the order dated April 24, 2020 passed by the Hon'ble Apex Court in Contempt Petitions (Civil) Nos. 34/2016, 257/2016 and 889/2017.



In view of the reasons mentioned in the application, the application is allowed and the copy of the order dated April 24, 2020 passed by the Hon'ble Apex Court in the aforesaid contempt petition is taken on record.

Ld. Counsel for the appellant states that in view of the judgment of the Hon'ble Apex Court dated April 24, 2020, in the aforesaid contempt petitions, the present appeal has been rendered infructuous. The same may be dismissed as such.

Ordered accordingly.

File be consigned to the records."

9. To understand the implications of the aforesaid orders on fate of the six projects in question, the matter was considered by the Authority today. It observes as follows:-

- i) The Town and Country Planning Department in Para Nos. 10 and 11 as reproduced below have filed an affidavit before the Hon'ble Tribunal that bifurcation of the license is not permissible: -

10. *That it will not be out of place to mention here that in the year 2007 (as is clear from the communication of Official Liquidator) the licensees transferred the development rights in favour of Triveni Infrastructure Development Company Pvt Ltd (TIDCO), which was not permissible at the relevant time.*

The Official Liquidator represented the Department that the Hon'ble High Court of Delhi has directed the Official Liquidator to get the license bifurcated qua the development rights acquired by TIDCO. As such at the time of renewal of licence in 2015, the Department calculated the outstanding dues separately for 14.80 acres falling under the share of TIDCO and balance for the land measuring 33.238 acre. The bifurcation of the licence is not permissible though



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permission for change in beneficial interest or joint development is allowed as per provisions of policy dated 18.02.2015.

11. That the Department considering the communication of Official Liquidator (TIDCO) as mandatory binding, bifurcated the entire licensed land of 48.038 acres (license no 34-36 of 2007) in 14.80 acres (TIDCO) and 33.238 acres (TFIPL) for calculation of pending dues and the same were conveyed to Official Liquidator as well as to licensee vide this office memo no 4959 dated 27.03.2015 (copy enclosed as Annexure A-5) with a request to deposit the license renewal fee and pending dues with respect to their shares.

- ii) In the Contempt Petition (C) No. 34 of 2016 in Writ Petition (Criminal) No. 5 of 2015 along with certain other contempt petitions, Hon'ble Supreme Court vide its order dated 24.04.2020 in Para 10, (iii) & (iv) have ordered as under:-

“(iii) The Mittal Group is hereby further directed to renew the license Nos. 34, 35 and 36 of 2007; to execute GPA by TFIPL (as per Clause 5.3), Board Resolution by TFIPL for availing benefit under EDC Relief Policy (as per Clause 1.2.1), NOC without any conditions (as per Clause 8) to the Seth Group.

(iv) Thereafter, the DTCP to bifurcate the Seth Group's portion of the land in accordance with law and as per the policy and/or the rules and regulations, if any. It is also observed that it will be open to the respective parties to avail the benefit of the applicable EDC Relief Policy, which may be considered by the DTCP in accordance with the applicable EDC Relief Policy, if any.”



- (iii) The Town & Country Planning Department has been expressing their views including by way of affidavits filed before the Hon'ble High Court as well as Hon'ble Supreme Court of India that as per law/views/policy, bifurcation of the license is not permissible. In this regard the relevant portions of the affidavit dated 13.4.2018 filed by the Chief Town Planner, Haryana before the Hon'ble High Court of Delhi in CA No.2568/2015 and 33278/2015 Dinesh Mittal and ORS Versus Triveni Infrastructure Development Company Ltd. is reproduced below:-

"that in view of the above, it is reiterated that in Haryana Development and Regulation of Urban Areas Act, 1975 and its rules, 1976 there is no provision of bifurcation of license. Further, license no. 34-36 of 2007 is not renewed after 22.01.2016. Department of Town and Country Planning, Haryana will examine the request for allowing the development and marketing rights in favour of 3rd party only when licensee along with concerned parties apply for the same strictly as per the policy dated 18.02.2015 after getting the license renewed. "

Further, the department has sworn before the Hon'ble Supreme Court of India in Contempt Petition No.34 of 2016 and in Writ Petition (Crl.) No.5 of 2015 has stated that **"Bifurcation of the license is not permissible unless permission under the policy dated 18.2.2015 if granted"**.

The Town & Country Planning Department, Haryana in appeal No.1461 of 2019 titled State of Haryana through Director Town & Country Planning Versus Real Estate Regulatory Authority, Panchkula again deposed on affidavit that bifurcation of the license is not permissible. The relevant portion of the para 10 of the said affidavit filed before the Hon'ble Tribunal are reproduced below:

10. *That it will not be out of place to mention here that in the year 2007 (as is clear from the communication of*



Official Liquidator) the licensees transferred the development rights in favour of Triveni Infrastructure Development Company Pvt Ltd (TIDCO), which was not permissible at the relevant time.

The Official Liquidator represented the Department that the Hon'ble High Court of Delhi has directed the Official Liquidator to get the license bifurcated qua the development rights acquired by TIDCO. As such at the time of renewal of license in 2015, the Department calculated the outstanding dues separately for 14.80 acres falling under the share of TIDCO and balance for the land measuring 33.238 acre. The bifurcation of the license is not permissible though permission for change in beneficial interest or joint development is allowed as per provisions of policy dated 18.02.2015.

11. That the Department considering the communication of Official Liquidator (TIDCO) as mandatory binding, bifurcated the entire licensed land of 48.038 acres (license no 34-36 of 2007) in 14.80 acres (TIDCO) and 33.238 acres (TFIPL) for calculation of pending dues and the same were conveyed to Official Liquidator as well as to licensee vide this office memo no 4959 dated 27.03.2015 (copy enclosed as Annexure A-5) with a request to deposit the license renewal fee and pending dues with respect to their shares.

In the context of the aforesaid affidavits filed by the Town & Country Planning Department before the Hon'ble Supreme Court, Delhi High Court and the Real Estate Appellate Tribunal, Haryana, Rule 17 of the Haryana Development and Regulation of Urban Areas Rules, 1976 is reproduced below:



“17. Transfer of license— [(1) The colonizer may transfer the license granted to him under rule 12 to any other person with the approval of the Director by making an

application to the Director along with administrative charges at the rate of ten percent of the fee prescribed under rule 3 for issuance of such license, as applicable at the time of making an application for transfer of license:

Provided that in case part of licensed area is proposed to be transferred, the administrative charges shall be levied on only such part of licenced area, which is proposed to be transferred.

- (iv) The provision of the above Rule 17 is very categorical that part of the license can be transferred. Transfer of part of area is nothing but division of the license are amongst multiple developers. It is surprising that the Town & Country Planning Department is swearing affidavits before the Hon'ble Supreme Court, High Court and Appellate Tribunal that bifurcation of the license is not permissible. The affidavit filed by the department are patently incorrect and are in violation of the express provision of the Rules. The Repeated stand taken by the department therefore amounts to filing of incorrect affidavits.

The Rules are categorical and specific that part of the licensed area can be transferred to another person subject to payment of leviable and administrative charges. This Rule is meant to protected a very important public interest. This Rule is meant to facilitate completion of the project by way of part transfer of licenses in case the original licensee is not in a position to complete the project. Therefore, the views taken by the Town & Country Planning Department runs contrary not only to specific provision of the Rule but also contrary to the public interest and the public policy that it is supposed to be served by the Rule 17. The reasons for taking stand so contrary to the express provision of the Rules is not understood.



- v) In the instant case of the six companies, while deciding a bunch of complaints in lead case complaint No.826 of 2018 this Authority had also observed as follows: -

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"The Town & Country Planning Department has consciously approved the colony to be developed in five distinct zones because each zone has its own independent lay out plan, drawings, design etc in respect of the buildings as well as in respect of the internal infrastructure to be laid in the Zone. Separate plans for development of infrastructures within each zone has been prepared. Separate FAR has been approved by the department of each zone. It has been agreed and approved that essential services of each zone shall be independently connected with the external services to be provided by the State agencies.

It is thus abundantly clear that right from the beginning the whole project was conceived as five separate and distinct zones/colonies within the same licensed colony. It was implied as well as express understanding while approving the Plans that the colony will be developed in five zones and by five separate individuals. The intention of the colony to be developed by five distinct entities was abundantly clear right from the beginning.

Now the only way forward for resolution of this complex dispute is to formally treat them as five independent, separate and standalone colonies, which are factually being developed by five different promoters-developers. These five independent promoters have floated five independent colonies and have executed agreements for sale of apartments separately with different sets of Allottees. The most important thing now to be achieved is that the Town & Country Planning Department must upfront recognise this fact, which has impliedly been accepted repeatedly at the time of the approval of the plans etc."



In this case the department had knowingly and consciously sanctioned plans of the project that it will be developed as six different projects. If the entire project was intended to be developed together as one project, then

their lay out plans, their development plans and infrastructure plans should have been sanctioned together as one integrated plan. In this case the plans itself were bifurcated in six parts for facilitating development as six projects .

More importantly the licenses No.34-36 were granted in the year 2007. Six different developers marketed their own portions of the colonies by putting in separate advertisements. The Town & Country Planning Department at no stage raised any objection or took any step to cancel the license for the reason of its bifurcation by six different developers. Now at this late stage when 2000-3000 allottees have invested their life earnings in the project, the department is refusing to facilitate completion of the project by taking patently wrong and illegal stand that the licenses cannot be bifurcated. The fact of the matter is that the project is being developed by six different promoters. Two promoters are facing liquidation proceedings. In respect of one promoter, the department has already divided the license. The Authority observes that the stand taken by the department is without consideration of the overall fact situation and in utter disregard to the provisions of Rule 17 of the Rules *ibid*.

10. In the light of the above facts and circumstances, this Authority once again reiterates its directions to Director, Town & Country Planning Department for taking appropriate action for bifurcation of the license in terms of the order already passed by the Authority as well as similar directions given to them by the Hon'ble Supreme Court in Contempt Petition No.34 of 2016. *Ld.* CTP shall write to the Director, Town and Country Planning, Haryana accordingly.

11. The Authority also decides that a recommendation be made to the State Government of Haryana, in pursuance of the provisions of Section 32 of the Real Estate (Regulation & Development) Act, 2016, for issuing a clarification to the Director, Town & Country Planning Department that the stand being taken by the Director before the Hon'ble Supreme Court, the Hon'ble Delhi High Court and the Hon'ble Appellate Tribunal, Haryana is incorrect. It amounts to contempt of the Hon'ble courts and it violates the express provision of Rule 17 of the Rules *ibid*.



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The Principal Secretary to the Government of Haryana, Town & Country Planning Department should be requested to get the matter examined at the level of the State Government of Haryana in consultation with the Legal Remembrancer, Haryana, so that such illegal stand are not taken by the department in any more cases and the interest of the projects is protected. Much more importantly interest of thousands of allottees deserves to be protected which at present is under serious jeopardy on account of incorrect affidavits filed by the department. The Executive Director of the Authority shall forward a copy of this decision to the Principal Secretary, Town & Country Planning Department for resolving the matter.

Adjourned to 07.09.2020.

True copy




Executive Director,
HRERA, Panchkula

A copy of the above is forwarded to CTP, HRERA Panchkula, for information and taking further action in the matter.


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LA (Tarun)

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