



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 23.02.2022.

Item No. 166.12

(ii) **Promoter : Zion Promoters & Developers Pvt. Ltd.**

Project : "Stonecrop-II" – Group Housing Colony on land measuring 3.00 Acres (FAR 21246 Sq. Mtrs.) (part of 48.038 acres) in Sector-89 Faridabad.

Temp ID : RERA-PKL-718-2019

1. In furtherance of orders of the authority dated 29.11.2021, Directorate of Town and Country Planning Department Haryana has submitted a reply, the same is reproduced below:

Sr.no	Clarification sought by Hon'ble HRERA, Pkl	Comments of the Department
1.	Whether M/s Zion Promoters & Developed the project as per approved building plans and as per approved FAR.	A committee of STP, Faridabad and DTP, Faridabad was constituted for providing the said information. Vide this office memo & email dated 10.01.2022, STP, Faridabad and DTP, Faridabad were directed to get the site inspected and sent their report in compliance of orders of Hon'ble HRERA. As per report of DTP, Faridabad received vide emails dated 17.01.2022 and 03.02.2022 and report of STP, Faridabad dated 01.02.2022, the agreement dated 10.03.2008 was executed between Ferrous Infrastructure Pvt Ltd. (FIPL) and M/s Zion Promoter Pvt Ltd. Out of total FSI of 11,28,204 sqm of Zone-A, FSI of 2,28,690 sqft. Inclusive of Proportionate FSI of EWS/Club was sold to Zion Promoters Pvt Ltd by FIPL. In this agreement this FSI is identified as Tower P, Q & R. However, as per representation dated 14.01.2022 submitted by FIPL on 18.01.2022, Tower P, Q & R are Tower A1, A2 & B1 mentioned in the approved plans of Zone-A.



Towers A1, A2 & B1 mentioned in the approved plans of Zone-A are constructed by M/s Zion Promoter Pvt Ltd at site in the name of S1, S2, S3 & S4. As per site reports, M/s Zion Promoters Pvt Ltd has constructed 19614.487 sqm. FAR against approved FAR of 19320.78 sqm which is 293.707 sqm. more than the approved FAR. Further the company has also increased the number of dwelling units at site from 126 to 171 which are 45 nos. more than the approved dwelling units.

As per site report, the location of Tower B2 & Convenient Shopping has been shifted from the approved location which is constructed by FIPL. Further, regarding the towers raised by Zion Promoters (S1 to S4) {1154.129 (achieved) – 1076.79 (approved)}, 77.339 sqm. excess ground coverage has been achieved by Zion Promoters Pvt Ltd. however, the location of same is as per the approved Ground location of approved towers namely A1 to A3. All the setbacks from the boundary walls and inter-se distances of the building are as per norms except inter-se distance between constructed tower S1 & convenient shopping which is 13.20 m.

In view of the facts given above, it is submitted that M/s Zion Promoters Pvt Ltd, has constructed 45 nos. more dwelling units which are not sanctioned in the approved building plans. As per composition policy dated 28.08.2007, extra dwelling units in case of group housing colony are not compoundable. Further, the applicant has also achieved excess ground coverage and not provided proper inter-se distance between construction tower-S1 & convenient shopping.

2. Whether M/s Zion Promoters & Developers Pvt Ltd executed a lawful agreement with FIPL authorising them to develop the project?

Regarding the said query of Hon'ble HRERA, the comments of the legal branch of the department are as follows:

The agreement has been executed M/s Ferrous Infrastructure Pvt Ltd and m/s Zion Promoters & Developers Pvt Ltd vide this agreement 228690 sqft of FSI is stated to be sold to Zion by the FIPL. pertinently, licence no. 34 to 36 of 2007 were granted to TFIPL, ferrous alloys forging Pvt Ltd and Sumit Mittal for area measuring 48.038 acres in Sector 89, Faridabad. This agreement is shall recite that, FIPL had purchased FSI rights over 1128204 sqft out of license land covered under licence no 34 to 36 of 2007. The development right is being regulated by the Act, 1975 and/or policy made thereunder. The development





		rights are not ordinary chattel and therefore cannot be sold/purchase as has been done in present case. It is also settled legal preposition that no one can pass better title than he has (nemo dat quod non habet). The agreement in question was executed in 10.03.2008 and on that day FIPL was neither the licensee not a developer recognized by this department. Therefore, in my opinion M/s Zion promoters and Developers could not have executed a agreement with FIPL authorizing it to develop the project as the development right over the licence land cannot be granted/ sub delegated.
3.	Whether a proper application has been filed by M/s Zion Promoters & Developers Pvt Ltd. for granting then rights of a sub license/beneficial rights for development of the project	Vide order dated 29.11.2021. Hon'ble HRERA directed Zion Promoters and Developers Pvt Ltd. to submit fresh application to Director, Town & Country Planning Hr. for transfer of beneficial interest in their favour. In this regard, it is intimated that no fresh application from Zion Promoters & Developers Pvt Ltd has been received in compliance of said orders. However, applications for change in beneficial interest were received from Zion Promoters & Developer Pvt Ltd on 08.12.2020, 18.03.2021 & 08.11.2021 alongwith applicable administrative charge & documents. But the application was not considered by the Department since the agreement for joint development rights was not executed with the licensee company i.e. Maximal Infrastructure Pvt Ltd as required under policy dated 18.02.2015 and also because Hon'ble Supreme Court of India has already directed to assign rights of the said area (and other additional area) to Seth group. As per the agreement dated 10.03.2008 executed with FIPL, the development rights to develop the area identified under P, Q & R Tower is 2,28,690 Sq ft out of total FSI of 11,28,204 sq mt of Zone-A. therefore, the amount against 40% of administrative charges comes out to be Rs. 3,95,533/-. The applicant has also not submitted No-Objection-Certificate from existing 'Developer' as well as from the 'land-owner licencees', to the proposed change/assignment. Requisite undertakings regarding payment of administrative charges were also not submitted.

		Moreover, the part of FAR under agreement executed between Zion Promoters & Developers Pvt Ltd and Ferrous Infrastructure Pvt Ltd is part of area already considered land i.e 10.27 acres for joint development rights and beneficial interest in favour of ferrous infrastructure Pvt Ltd in compliance of orders of Hon'ble Supreme Court of India. Further, the Department has already submitted the status of final approval for assignment of joint development rights/marketing rights in favour of FIPL for the area measuring 10.27 acres, including part claimed by Zion Promoters & Developer Pvt Ltd., before the Hon'ble Apex Court on 09.02.2022 in contempt petition no. 836 of 2021 in contempt petition no. 34 of 2016 in writ petition (Crl) no.5 of 2015. The case was listed for hearing before the Hon'ble Supreme Court of India on 11.02.2022 and as per the orders passed by Hon'ble Apex Court, the Hon'ble Court thus observed that no further order is required to be passed in present proceedings. In view of above, it is submitted that the request of the Zion Promoters & Developers Pvt Ltd stands rejected by DTCP, Haryana vide order dated 09.12.2021, since the area measuring 10.27 acres (FSI measuring 14.80 acres) for which final permission for change in beneficial interest stands granted to FIPL on 08.02.2022 in compliance of directions of Hon'ble Supreme Court.
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2. The Authority upon consideration of the reply of DTCP is of the view that as per reply of the DTCP M/s Zion Promoters Pvt Ltd, has constructed 45 nos. more dwelling units which were not sanctioned in the approved building plans. As per composition policy dated 28.08.2007, extra dwelling units in case of group housing colony are not compoundable. Further, the applicant has also achieved excess ground coverage and not provided proper inter-se distance between construction towe-S1 & convenient shopping. This is a very serious violation of building laws and building plans.



3. In view of the information received from Town& Country Planning Department, Authority decides as follows:

- (i) That the applicant promoter has committed serious violations of building plans and building laws. He has committed several non-compoundable offences. As such their project cannot be registered.

Authority accordingly decides to issue a show cause notice as to why their application for registration of the project be not rejected.

- (ii) Town & Country Planning Department has categorically stated that promoter has committed non-compoundable offences and also violated the building law and building plans. As such, department now needs to take the matter to its logical end by way of either demolishing part of the building by which laws have been violated, or take any other appropriate decision to bring the construction within ambit of law, or to demolish the same. The matter cannot be left in suspension because it is adversely affecting rights of allottees.

Authority would direct Director Town & Country Planning Department to take necessary action on this account urgently.

- (iii) The Authority also recommends to the Director, Town & Country Planning Department to fix responsibility of officials concerned who failed to notice commission of non-compoundable offences by the promoter. Director may also have a fresh look at the system of monitoring construction work of the building project to ensure that such offences are not committed by promoters in future which bring pain and anguish to allottees as well as leads to wastage of precious natural resources.

Adjourned to 16.05.2022 awaiting reply of the applicant promoter and directorate Town and Country Planning.

True copy



LA(Indn)


Executive Director,
HRERA, Panchkula

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