

Project – SS Cendana and SS Kiavasa
RERA-GRG-1347-2023
Hearing brief for registration of Project u/s 4

S.No.	Particulars	Details	
1.	Name of the project	SS Cendana and SS Kiavasa	
2.	Name of the promoter	M/s A&D Estates Pvt. Ltd.	
3.	Nature of the project	Group Housing	
4.	Location of the project	Sector- 83, Gurugram	
5.	Legal capacity to act as a promoter	(Collaborator)	
6.	Name of the license holder	M/s Growmore Buildtech Pvt. Ltd. and Others	
7.	Status of project	Ongoing	
8.	Whether registration applied for whole	Whole	
	Phase no.	N/A	
9.	Online application ID	RERA-GRG-PROJ-1347-2023	
10.	License no.	195 of 2008 dated 22.11.2008.	valid up to 21.11.2025.
		15 of 2023 dated 30.01.2023.	valid up to 29.01.2028.
11.	Total licensed area	12.6118 acres	Area to be registered 12.6118 acres
12.	Projected completion date	31.03.2029	
13.	QPR Compliances (if applicable)	N/A	
14.	4(2)(I)(D) Compliances (if applicable)	N/A	
15.	Statutory approvals either applied for or obtained prior to registration		
	S.No	Particulars	Validity upto
	i)	License Approval	21.11.2025
		195 of 2008 dated 22.11.2008.	29.01.2028
		15 of 2023 dated 30.01.2023.	
	ii)	Zoning Plan Approval	-
		DTCP – 8980 dated 06.02.2023	
	iii)	Building Approval plan	04.06.2028
		ZP-637/PA(DK)/2023/169070 dated 05.06.2023	
	iv)	Environmental Clearance	29.06.2033
		SEIAA/HR/2023/318 dated 30.06.2023	
	v)	Airport height clearance	06.12.2030
		AAI/RHQ/NR/ATM/NC/2022/939/5 034-5037 dated 07.12.2022	
	vi)	Fire scheme approval	
		Applied on 08.06.2023	
	vii)	Service plan and estimate approval	
		Applied on 23.06.2023	
16.	Fee Details		
	Registration Fee	Resi- 1,77,740.36 * 3.5 * 10 = Rs 62,20,913/- Comm- 893.17 * 3.5 * 20 = Rs 62,522/- Nur. School – 1214.06 * 1.5 * 20 = Rs 36,422/-	

		Prim. School - 3035.15 * 1.5 * 20 = Rs 91,054/- Resi + Commercial + Nur. School + Prim. School = Rs 64,10,911/-
	Processing Fee	1,82,882.730 * 10 = Rs 18,28,827/-
	Late Fee (For License no. 195 of 2008) -	
	Area - 11.418 acres	1,61,724.66 * 3.5 * 10 = Rs 56,60,363/- (Calculated only for calculation of late fee)
	Late Fee	(500% of Registration fee) 56,60,363 * 5 = Rs 2,83,01,815/-
	Total Fee	Rs 3,65,41,553/-
17.	DD amount	Rs 35,81,655/-
	DD no. and date	000465 dated 03.06.2023.
	Name of the bank issuing	Kotak Mahindra Bank.
	RTGS Amount	Rs 46,58,083/-
	RTGS no. and date	KKBKR52023062300792692 dated 23.06.2023
	Name of the bank issuing	Kotak Mahindra Bank.
	Deficient amount	Rs 2,83,01,815/-
18.	File Status	Date
	File received on	08.06.2023
	First notice Sent on	22.06.2023
	First hearing on	26.06.2023
	Second hearing on	03.07.2023
	Third hearing on	10.07.2023
19.	Case History:	
	<p>The Promoter M/s A&D Estates Pvt. Ltd. who is a collaborator applied for the registration of real estate group housing colony namely "SS Cendana and Kiavasa" located at Sector-83, Gurugram under section 4 of the Real Estate (Regulations and Development) Act, 2016 vide central receipt no. 24933 dated 08.06.2023 and RPIN-625. The Temp I.D. of REP - I (Part A-H) is RERA -GRG-PROJ-1347-2023. The project area for registration is 12.6118 acres same as the licensed area i.e., 12.6118 acres granted under License no - 195 of 2008 dated 22.11.2008 which is valid upto 22.11.2025 and 15 of 2023 dated 30.01.2023 which is valid upto 29.01.2028.</p> <p>The application for registration of group housing colony was scrutinized and 1st deficiency notice vide notice no. HARERA/GGM/RPIN/625 dated 22.06.2023 was issued to the promoter with an opportunity of being heard on 26.06.2023.</p> <p>The promoter has submitted a reply on 23.06.2023 which is scrutinized and the remaining deficiencies were conveyed to the promoter.</p> <p>On 26.06.2023, Sh. Ashish Kush, Planning Executive and Ms. Asha, Chartered Accountant briefed about the facts of the case. Sh. Ashok Jaunapurja (Director), Sh. Manoj Shukla (AR) and Ms. Himani Sharma (AR) are present on behalf of the promoter. It is clarified by the promoter that the name of the project is SS Cendana and SS Kiavasa and they have corrected the same in DPI as well as other documents submitted in the Authority. The promoter shall submit the BG of Rs. 25 lakhs each for submission of the approved service plan and estimates and fire scheme approval within three months</p>	

	<p>from the grant of registration. Further, the promoter shall submit the undertaking regarding the submission of approved environmental clearance and electrical load availability within one month. Further, the promoter applicant has requested for waiver of late fee on the ground that no development, marketing, advertisement or creation of 3rd party rights have been created on the subject land as the sector plan for the said land was under litigation and was finally approved by the DTCP in 2022 and building plans for the project were approved on 05.06.2023. An affidavit in this regard is being submitted. The matter to come up on 03.07.2023.</p> <p>The promoter has submitted a reply on 27.06.2023 wherein the promoter has submitted a no sale affidavit and other documents which is scrutinized and the remaining deficiencies were conveyed to the promoter.</p> <p>On 03.07.2023, Sh. Ashish Kush, Planning Executive and Ms. Asha, Chartered Accountant briefed about the facts of the case. Sh. Ashok Jaunapurja (AR), Sh. Manoj Shukla (AR) and Sh. Himani Sharma (AR) are present on behalf of the promoter. The office has submitted the file for taking a decision on applicability of late fee in the above project in view of revision in the sectoral plan and holding of approval of zoning plan and building plan by DTCP which have been approved only on 06.02.2023 and 05.06.2023 respectively and due to which promoter has not undertaken development works and neither created third party rights till date of application for registration. An undertaking to this effect be submitted by office on file. The advice of the AG Haryana received in similar matter be also annexed on file. The matter to come up on 10.07.2023.</p> <p>The promoter has submitted a reply on 03.07.2023 wherein the promoter has submitted an affidavit stating that the promoter has not advertised, marketed, booked, sold or offered for sale, or invited persons to purchase in any manner and no development has taken place in the project till the date of application for registration. Further, two Bank guarantees amounting to Rs 25 Lakhs each have submitted. The status of the documents is mentioned below:</p>	
20.	Present compliance status as on 10.07.2023 of deficient documents conveyed in last hearing dated 03.07.2023.	<ol style="list-style-type: none"> 1. Deficit Fee- Rs 2,83,01,815/- (late Fee). Status: Representation submitted for waiver. 2. The annexures in the online application are not uploaded as well as correction needs to be done in the online (A-H) application. Status: Submitted but needs to be corrected. 3. Online DPI needs to be corrected. Status: Submitted but needs to be corrected. 4. Environment Clearance needs to be submitted. Status: Submitted, approved vide memo no. SEIAA/HR/2023/318 dated 30.06.2023. 5. Fire Scheme approval needs to be submitted. Status: Applied on 08.06.2023. Submitted an undertaking to submit within 3 months from grant of registration. 6. Approved Service plan and estimates needs to be submitted. Status: Applied on 23.06.2023. Submitted an undertaking to submit within 3 months from grant of registration. 7. Electrical load availability NOC for the whole area needs to be submitted. Status: Submitted an undertaking to submit within 1 month from grant of registration.
21.	Remarks	<ol style="list-style-type: none"> 1. Deficit Fee- Rs 2,83,01,815/- (late Fee). 2. The annexures in the online application are not uploaded as well as correction needs to be done in the online (A-H) application.

3. Online DPI needs to be corrected.
4. Fire Scheme approval needs to be submitted - **The promoter has submitted a BG vide no 0175IGF231017999 dated 30.06.2023 amounting Rs 25 lakhs as a security amount to submit the approval within 3 months from the date of issuance of registration certificate.**
5. Approved Service plan and estimates needs to be submitted - **The promoter has submitted a BG vide no 0175IGF231018001 dated 30.06.2023 amounting Rs 25 lakhs as a security amount to submit the approval within 3 months from the date of issuance of registration certificate.**
6. Electrical load availability NOC for the whole area needs to be submitted- Submitted an undertaking to submit within 3 months from grant of registration.

Recommendations:

The application submitted by the promoter for registration of real estate project under section 4 of the Act of 2016 as per details given above is complete and all the requisite documents as required u/s 4 of Act of 2016 and Haryana Rules, 2017 have been submitted and found to be in order except the Deficit Fee - Rs 2,83,01,815/- (late fee), corrections in online DPI, corrections in online (A-H) form, Electrical load availability, Fire Scheme approval and Approved service plan & estimates.

The promoter has submitted an undertaking to submit the electrical load availability within 1 month from the grant of registration. Further, the promoter has submitted two BG vide no **0175IGF231017999** and **0175IGF231018001** dated 30.06.2023 amounting Rs 25 lakhs as a security amount to submit the Fire Scheme approval and Approved service plan & estimates approval within 3 months from the date of issuance of registration certificate.

As per the directions of the Authority dated 03.07.2023, the advice of AG is reproduced below:
The Advocate General, Haryana gives advice in two project cases namely "GH 63" and "TRL Residential Plotted Colony" stating that

In case of "GH 63" the advise of AG as under:

Para 26 (ii) *"The requirement of registration kicks in, the moment when the promoter is ready to start developing a real estate project because section 4 also refers to a project which is "proposed to be developed". When definition of "real estate project" is read along with the word "proposed" as used in section 4, it definitely implies that "proposed real estate project" which has come ahead of the stage of conceptualization is covered within the ambit of registration. This garners support from definition of "sanctioned plan" provided in section 2(s) which itself states that the approvals are required "prior to start of real estate project" and from the requirements given in section 4(2) which the promoter is required to fulfill in order to get the project registered. Therefore, as a logical corollary, all such projects wherein a promoter had obtained all relevant permissions and was in a position to initiate development along with such project which were already at development stage and have not been granted a completion certificate, are included within the ambit of "ongoing" project as used in section 3 proviso."*

Para 28 *"In the opinion of undersigned, the objection raised by the authority is not sustainable in view of the legal position summarized in para 25 because it is not possible to say that as on 01.05.2017, promoter was in a position to start development of project because the building plans were not prepared what to talk of sanctioned. Equally, speaking, even without requisite permissions as provided in section 4(2) of the Act of 2016, the authority was not in a position to grant registration. There, arises no occasion to ask for late fees for late registration of the project because as on 01.05.2017, the project of promoter/ applicant could not have been categorised*



as "ongoing" because with only license for developing group housing colony without even a building plan, the applicant could not have start developing the proposed real estate project".

In case of "TRL Residential Plotted Colony" the advise of AG as under:

Para 12 "Once the Act in its entirety talks about and envisaged about "proposed development", the undersigned finds it difficult to carve out an exception in favour of one of the promoters who has allegedly taken the completion certificate first and then is introducing project in the market. It would mean reading in the statute which is not so provided. Even otherwise, the undertaking given by the promoter is deficient as its only talks about "no sale" having been made, whereas requirement of section 3 is that No promoter shall advertise, market, book, sell or offer for sale, or invite persons to purchase in any manner without registration. These aspects needs to be ascertained as well whether any such steps have been undertaken by way of fact finding inquiry. Suffice to mention that it is to avoid such predicament that registration is necessary at the development stage only in the manner discussed above. Therefore, the Authority is advised to take decision in the matter at hand after taking into account the aforesaid position of law and the facts of the case".

Keeping in view of the situation of the above said case as well as the advice of the AG in the project namely "GH63" where the building plans were approved recently, and no development took place. In this specific case, the building plans were approved on 05.06.2023 and the promoter applied for the registration on 08.06.2023. The promoter stated that the building plans were not approved due to revision in sectoral plan and holding of approval of zoning plan and building plan by DTCP which have been approved only on 06.02.2023. The promoter also submitted an affidavit that the promoter has not advertised, marketed, booked, sold or offered for sale, or invited persons to purchase in any manner and no development has taken place. Hence, registration without sanctioned plans would not be possible. In view of the above, the matter is similar to the case of the project namely "GH 63" where the development has not taken place nor the building plans were approved and as per the advice of the AG, Haryana in that case. Accordingly, the late fee may not be imposed in this case.

It is recommended that the Authority may consider the grant of registration after deciding the applicability of late fee and subject to the submission of above.


Asha

Chartered Accountant


10/7/23

**Ashish Kush
Planning Executive**

Day and Date of hearing

Monday and 10.07.2023

Proceeding recorded by

Ram Niwas

PROCEEDINGS OF THE DAY


Proceedings dated: 10.07.2023.

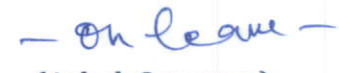
Sh. Ashish Kush, Planning Executive and Ms. Asha, Chartered Accountant briefed about the facts of the case.


Ms. Himani (AR) is present on behalf of the promoter.

The matter to be heard in full bench. The matter to come up on 17.07.2023.


(Sanjeev Kumar Arora)
Member, HARERA


V.1-3
(Vijay Kumar Goyal)
Member, HARERA


- On leave -
(Ashok Sangwan)
Member, HARERA


(Arun Kumar Gupta)
Chairman, HARERA

