



**HARYANA REAL ESTATE REGULATORY AUTHORITY, PANCHKULA.**

Mini Secretariat (2<sup>nd</sup> and 3<sup>rd</sup> Floor), Sector-1, Panchkula.

Telephone No: 0172-2584232, 2585232

E-mail: officer.rera.hry@gmail.com, hrerapkl-hry@gov.in

Website: www.haryanarera.gov.in

**Subject: Extract of the resolution passed by the Haryana Real Estate Regulatory Authority, Panchkula in its meeting held on 16.12.2019.**

**Item No. 78.14**

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

**Project : "Stonecrop" – a Group Housing Colony on an FAR measuring 29,600 Sq. Mts. situated in Sector-78, Faridabad.**

1. Background of the present case is that the license Nos. 37 to 39 of 2007 were obtained by M/s Triveni Infrastructure Development Corporation Limited for development of a group housing colony over the land measuring 37.34 Acres. Out of the total 28,00,000 sq. fts. FSI the present applicant/promoter purchased FSI equivalent to 3,18,000 sq. fts. The licensee has executed an agreement and a Power of Attorney in the years 2007 and 2010 for sale of the aforesaid FSI to the applicants/promoters. Shri Narender Hooda, promoter of the colony states that out of 302 apartments, 248 apartments have been sold and 95% of the colony is complete. Possession to about 170 allottees has been offered. A 24 meters road leading to their portion of the colony is already operational. External services of HSVP have been laid and the same can be connected, even though it has not yet been done. Regarding electricity load, Shri Hooda states that they have taken 200 KW load, which is enough to service the existing residents. Since electricity connection is in their own name i.e. M/s. Zion Promoters & Developers Pvt. Ltd., therefore, the load can be got extended from the DHBVN.

2. A question was posed to Shri Narender Hooda that since they have not been recognized as licensee-developer by the Town and Country Planning Department for development of the colony, nor beneficial



interest for the development of colony has been transferred in their favour, how will they obtain the occupation certificate and also how they execute the conveyance deed in favour of the allottees? Shri Narender Hooda had no reply on these questions. However, Shri Hooda presented the photographs of the colony which shows that the colony is near completion.

3. The Authority has considered this matter in detailed and it observes that the colony started getting developed in the year 2008 and the sale of apartments also commenced in the same year. Between the year 2008 to 2019 they never received any observation or objection from the Town and Country Planning Department. As per terms and conditions of the license of the colony, department is required to supervise development of the colony every year. The department never objected to the development or to the sale of the colony by the present developer M/s Zion Promoters and Developers Pvt. Ltd.

4. This Authority vide Agenda Item No. 51.7 (iii) in the case of M/s Dwarkadhis Projects Pvt. Ltd. had made the following observations :-

4. (vi) *"A piece of raw land becomes a project after grant of a license and approval of building plans by the State Government. Granting of license and approval of plans pre-supposes that the builders has paid all the dues and also complied with all prescribed terms and conditions as per law/ rules/ guidelines framed by the State Government from time to time. Accordingly, after receipt of license and approval of plans the developer become fully entitled and authorized to launch the project and seek booking from prospective allottees.*

*The allottees pay their hard money for the developers' licensed colony with duly approved plans. The licensed and approved plans were thus attained the status of an assurances of the State Government. This assurance given by the Town and Country Planning Department a sovereign assurance to the public. A sovereign assurance granted to the allottees cannot be amended, altered or re-structured in any manner with retrospective effect or without appropriate Authority of law of the legislature grant of license and approval of plans becomes a commitment of the State Government to the allottees that they will get*



*the apartment in terms of the agreement as per the approved plans. It also implies guarantee of the safety of their investment.*

*(vii) Now, after creation of 3<sup>rd</sup> party interests, the license and the development plan become irrevocable. It is possible that the developers become defaulters in payment of EDC, license fee etc. to the State Government but to enforce the payment of such over-dues, the State Government is entitled to adopt any lawful means to recover the said over-dues but it cannot implicitly or explicitly imply that the license of the sanctioned project would be withdrawn/withheld/ altered.*

*In other words, the State Government is entitled to recover its over-dues by attaching any property of the developers or by filing civil suit or by attaching unsold or undeveloped portion of the project third party rights are not created but the project in respect of which third party rights have been created goes out of the powers of the State Government except for the purpose of granting occupation certificates at the relevant stage or for ensuring that development has been done in accordance with the approved plans, etc. The State Government cannot withhold renewal of license of a project in respect of which third party rights have been created.*

5. The Authority observes that now third-party rights stands created in the colony which have to be protected under the RERA Act, 2016. RERA has been created by the Legislature to ensure that the housing projects are completed and rights of the allottees are protected. In this case, the right of the allottees for obtaining occupation certificate and to get conveyance of the apartments executed cannot be granted unless the promoters gets this approval as developer of the colony. In the instant case, applicant-promoter has neither applied for occupation certificate nor has he applied for transfer of beneficial interest in his favour.

6. The matter gets further complicated by the fact that the licensee company M/s TIDCO is under liquidation. They are unlikely to fulfil their obligations towards payment of EDC or fees for renewal of license etc., nor are they likely to co-operate with the applicant-promoter for transfer of beneficial interests. In these circumstances, the Authority directs as follows:-



- i) The applicant-promoter shall immediately file an application in the Town and Country Planning Department for transfer of beneficial interest in their favour as well as for grant of occupation certificate in respect of the completed apartments. Fate of the application shall be informed to the Authority on the next date;
- ii) The applicant-promoter is prohibited from selling any more apartments in the colony without getting the project registered with this Authority as well as without obtaining transfer of beneficial interest from the Town and Country Planning Department.
- iii) The Authority considers it appropriate to direct the Town and Country Planning Department to consider the application of the applicant-promoter for transfer of beneficial interest in their favour even without the consent of the landowners/licensee company because the licensee company is in liquidation and they are unlikely to co-operate with the applicant-promoter. This must be done to protect the interest of 248 allottees of the project who have purchased the apartments on the basis of license granted by the developer. It is now the responsibility of the State Machinery as well as of this Authority to protect the interests of innocent peoples who have acted on the strength of implied assurances of the State Government.

7. Adjourned to 10.02.2020.

True copy



  
Executive Director,  
HRERA, Panchkula

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

  
23/12/19 LA (Taeun)