

HARYANA SHEHRI VIKAS PRADHIKARAN, SECTOR-6, PANCHKULA

Memo No.-HSVP-CCF-Acctt-II-2018/244966

Dated: 14/12/18

To

1. All the Administrators,
HSVP (In the State).
2. All the Estate Officer,
HSVP (In the State).
3. All the Land Acquisition Officers
Haryana (In the State).
4. All the District Town Planners,
Haryana (In the State).

Subject:- Amendment in the policy regarding recovery of additional price on account of enhanced compensation in case of sale of plots by allotment – Calculation of Additional Price.

1. A policy regarding calculation of additional price on account of enhanced compensation from allottees in case of sale or lease of land or building by allotment has been approved by the Authority in the 111th meeting held on 27.07.2016 vide Agenda item No.22. The present manner of calculation of additional price is as below:-
 - (i) Once the enhancement has been announced by the Court, the additional price shall be determined on liability basis without any condition whether payment of enhancement has been actually made or not.
 - (ii) The differential amount of enhancement shall be updated @ 15% p.a. upto the quarter in which determination is being made.
 - (iii) The approved layout in existence at the time of calculation of additional price shall be taken as the basis while determining the additional price.
 - (iv) The differential enhancement shall be proportionately off loaded on the total saleable area of the sector (sold booth by allotment or auction). This automatically implies that common (non-saleable) area shall also be proportionately off loaded on the total saleable area of the sector.
 - (v) HUDA will make an earnest effort for calculation of the additional price within one year from the date of award/court order. These


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calculations will be displayed on the HUDA website alongwith complete details.

- (vi) The additional price determined w.e.f. January, 2015 onwards are available on HUDA website.
- (vii) Immediately after display on website, the IT wing of HUDA shall upload the details in the individual plot account of the allottee on the PPM (Plot and Property Management).
- (viii) The allottee can view the amount of additional price required to be deposited, by logging in with respective plot account on the PPM system on HUDA website.
- (ix) The allottee shall update his email ID and mobile phone number in his respective plot account. This will ensure timely dispatch & receipt of notices through the electronic media.

2. The various RWAs/allottees of the plots were contesting the calculations of additional price being done on the above principles. In pursuance of the meetings were held with the RWAs on 4.5.2018, 4.7.2018, 14.8.2018 and 12.9.2018, some clarifications/additional principles were approved by the Pradhikaran in its 115th Meeting at Agenda Item No. 4. Yet, another meeting was held with All Haryana Sector enhancement Sangharsh Samiti alongwith the representatives of different Resident Welfare Associations, where some more principles were approved.

3. Thus, the following principles have now been finalized for making re-calculations of the additional price:-

- (i) Offloading the burden of pockets under litigation under Section 24 (2) of The Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 shall not be done till finalization of the matter in the Courts.
- (ii) If the enhancement awarded to the farmer/land owner in lieu of acquisition of his land, is increased/decreased by the Court at a later stage, the redetermination of additional price shall be done accordingly and the difference shall be demanded/refunded as the case may be.
- (iii) The burden of land used for EDC works shall not to be offloaded to the sectors allottees in respect of sectors where EDC has been charged separately while calculating tentative price (under Regulation 4 of Haryana Urban Development (Disposal of Land &

Buildings) Regulations, 1978 of at the time of floatation of the sector.

- (iv) Burden of un-acquired land shall not be offloaded on sector allottees.
- (v) The land utilized for internal development works which are sector specific, shall be charged to the same sector, whereas if they cater to more than one sector, they shall be charged proportionately on all the corresponding sectors.
- (vi) Presently no interest is charged if additional price is paid in lump sum within a period of 30 days of the demand. Thereafter simple interest is charged @ 15% p.a. under Regulation 10 (2) of Haryana Urban Development (Disposal of Land & Buildings) Regulations, 1978, if payment is done in 3 or 5 or 7 installments (six monthly) as per policy dated 02.04.1987 (available on page 304 of HSVP Policies and Instructions). The existing practice is being modified and now delayed interest shall be charged as per following in respect of the fresh demands of additional price to be issued in future:-

Sr. No.	Period during which payment is done from the date of demand.	Interest @ % p.a. simple	
		Existing	Proposed
1	30 days	0	0
2	6 months	15	7
3	1 year		9
4	2 years		10
5	3 years		11
6	Beyond 3 years		12

- (vii) While calculating the additional price on liability basis, the total burden should not be more than the actual payment made to the farmers/land owners. If the enhancement awarded to the farmer/land owner in lieu of acquisition of his land, is increased/decreased by the Court at a later stage, the redetermination of additional price shall be done accordingly and the difference shall be demanded/refunded as the case may be.

- (viii) In some cases while announcing the enhancement the Hon'ble Court has not directed the collector to pay interest @ 15% p.a. to the farmers on the enhanced amount for the period intervening

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between date of award to the date of enhancement awarded by the Court. In such cases, such interest was not liable to be paid to the land owner/farmer. If the LAO office working under Urban Estate Department has interpreted the enhancement order in a wrong way and has paid the interest to the farmer wrongly, the same shall not be recovered from the residential plot owners. HSVP shall not charge interest @ 15% p.a. for the intervening period while calculating the additional price.

- (ix) As stipulated under Regulation 2 (b) of Haryana Urban Development(Disposal of Land & Building) Regulations, 1978, the determination of additional price shall be done by treating the complete sector as one unit even if the sector has not been floated in one go i.e. has been floated in more than one scheme.
- (x) Proper care shall be taken at the time of determination to ensure that no enhancement is recovered more than once from the allottees.
- (xi) The enhancement of common areas shall be divided between the residential as well as commercial areas as per their respective saleable areas in the ratio 1:1.5. The commercial (Saleable) plotted area shall bear the load of common areas by the factor 1.5 as compared to the factor of 1 in case of residential (Saleable) plotted area.

For a 300 Acre sector (say), the areas are typically:

Sr. No.		Area (in acres)
1.	Residential (Total plot area)	146.00 (48.67%)
2.	Commercial (Total plot area)	4.00 (1.33 %)
3.	Common area	150.00 (50.0%)
	Total sector area	300.00 (100%)

Commercial 2.66% of total saleable area

Residential 97.34% of total saleable area

If total enhancement to be paid is Rs. 300.00 lacs, the residential plots have to bear enhancement load of only Rs. 288.16 lacs $((146 \times 300) / 152)$ whereas the commercial plots shall bear load of Rs. 11.84 lacs $((6 \times 300) / 152)$ - i.e. Commercial bear nearly 4% of the enhancement and Residential around 96%.

(xii) **Recovery of enhancement awarded by the Courts prior to floatation of the scheme:-**

The "**Tentative price**" as defined under section-2(i) of the Haryana Urban Development (Disposal of Land and Buildings) Regulations, 1978. For brevity, the relevant provisions of law are as below:-

*"Tentative price" or "tentative premium" means such price/premium as may be determined by the Authority in terms of Regulation 4 for disposal by allotment in which the cost of land included is based on the compensation **awarded by the Collector** under the Land Acquisition Act, but does not include any enhancement that may be awarded by the court on a reference made under Section 18 of Land Acquisition Act, 1894 or, thereafter in RFA & SLP by the High Court or Apex Court.*

The allotment of plots at the time of floatation is done on this Tentative price. The Tentative price is always fixed on the basis of compensation **awarded by the Collector** under Land Acquisition Act. As per its definition, tentative price may not include any additional price on account of enhancement of compensation.

The "**Additional Price**" and "**Additional Premium**" as defined under section-2(b) of the Haryana Urban Development (Disposal of Land and Buildings) Regulations, 1978, as such sum of money which shall be payable by the allottee on account of enhancement of compensation of any land in the same sector as awarded by any court (ADJ, HC & SC are courts).

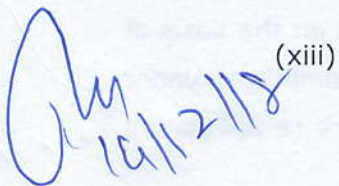
As per orders of Hon'ble High Court in RSA No. 1860 of 2009 (O&M), HSVP shall be entitled to recover the same in the manner illustrated below:-

Date of Award 01.01.2002

Date of Floatation 01.01.2010

For example if, the enhancement awarded by ADJ Court is 01.01.2007 then the interest between intervening period from 01.01.2007 to 01.01.2010 will be born by the Government/HSVP.

Cross subsidization of additional price of EWS plots from general allottees shall be continued -The enhancement of any vacant land of EWS Category (not allotted till date) in HSVP Sectors will be born by the Government. Further, in case of EWS plots that

 (xiii)

have been allotted, for the loading of cross subsidized position of enhancement on account of EWS plots, subsidy up to a maximum of Rs. 100 per sq. yd will be born by the government and the cross subsidy burden in excess of Rs. 100 per sq. yd, will be born by the Non-EWS allottees.

(xiv) **Rate of interest on "Less conveyed" additional price in the past.**

*The rate of interest, currently, being charged @ 15% p.a. is reduced to 8% p.a. simple, to be adopted as **time value of money**" and further subjected to the ceiling of total interest not exceeding the principle amount of less conveyed .*

(xv) **Charging of proportionate additional price on the private colonizer/licensee in respect of the land released/not acquired in a particular sector :-**

The colonizer is issued license by the DGTCP office. The saleable area norms which is approximately 55% maximum, are same for colonizer as well as HSVP and are as per the applicable Act & Rules. As a result, the colonizer is also bound to leave common areas in his pocket. As HSVP allottees are not burdened with any cost pertaining to common areas of colonizer similarly, on reciprocal basis, the colonizer or its dwellers/buyers cannot be burdened with the cost pertaining to the common area of HSVP land(s).

(xvi) **The charging of interest @ 15% p.a. for the period intervening date of court's enhancement order and date of calculation of additional price:-**

No interest will be charged from the plot owners for the intervening period of court's order (ADJ, HC and SC) and date of communication of additional price. The burden on this account will be born by the Government/HSVP.

(xvii) **Loading of Enhancement of common areas :-**

This issue is still under consideration before a committee of Hon'ble High Court Judges (Retd.) constituted vide notification no. 197601 dt. 01.10.2018. However, allottees shall be free to deposit the revised enhancement amount arrived at after re-calculation on the basis of the above (xvi) principles. The concerned Zonal Committee under the chairmanship of Zonal Administrator shall get the re-calculation done at the earliest possible.

4. The re-calculation on the basis of the above principles for arriving at additional price shall be made for all cases as below:-
- (i) Re-determination of additional price based on the representation received from Resident Welfare Associations/allottees of the sector.
 - (ii) The cases where the writ petitions were filed by the allottees before the Hon'ble High Courts challenging/disputing the calculation made by HSVP, where Hon'ble High Courts have referred the cases back to HSVP for passing of speaking orders after considering the representations made by petitioners before the Hon'ble High Courts.
 - (iii) Fresh cases for calculating the additional price of enhancements in respect of the different sectors.
5. As per the existing practice in terms of the para 6 of Head Quarter's Instructions No. 15, dated 08.11.2016, Zonal Administrators are required to refer proposal to the H.Q. for calculation of the additional price in the prescribed format alongwith the copies of original award and enhancement order passed by the respective court and approved layout showing the present land usages in the sector.
6. The existing practice is also being changed and now the draft calculation of additional price shall be done after **holding discussions with Resident Welfare Association/allottees/petitioners** at the zonal level by committee under the Chairmanship of Zonal Administrator, comprising of the following :-
- i. Estate Officer of the concerned Urban Estate.
 - ii. Land Acquisition Officer of the concerned Zone.
 - iii. District Town Planner of the Urban Estate.
7. The draft calculations shall be forwarded to the following empanelled Chartered Accountants for concurrent audit. The respective Chartered Accountant shall submit concurrent audit report within 15 days to the jurisdictional Zonal Administrator :-

Sr. No.	Name of the Firm	Name of Zones	Remuneration to be paid to the Chartered Accountant for concurrent audit per sector per calculations (Inclusive of all taxes)
1	S.P. Chopra & Company, 31-F, Connaught Place, New Delhi-110 001. Phone No. 011-	Faridabad, Gurugram and Rohtak	Rs. 8,555/-

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2.	S. Tandon & Associates, SCO 201-203, 3 rd floor, Sector-34A, Chandigarh-160022. Phone No. 0172-5098370, 99150-35539, 98155-50301	Panchkula and Hisar	Rs. 11,000/-

8. Thereafter, the Committee will reconsider the draft calculations of additional price in view of the concurrent audit report. The final calculations of the additional price shall be submitted by the Zonal Administrator to Chief Administrator, HSVP for approval in terms of Regulation 2(b) of Haryana Urban Development (Disposal of Land and Building) Regulations, 1978.

9. The Committee will start calculation/re-calculation of Additional Price immediately.

[Signature]
14/12/18
Chief Accounts Officer,
For Chief Administrator,
HSVP, Panchkula.

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Dated: 14/12/18

A copy of the above is forwarded to the following :-

1. S.P. Chopra & Company, 31-F, Connaught Place, New Delhi-110 001.
2. S. Tandon & Associates, SCO 201-203, 3rd floor, Sector-34A, Chandigarh-160022.

[Signature]
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Chief Accounts Officer,
For Chief Administrator,
HSVP, Panchkula.