

Instruction No.63

HARYANA SHEHRI VIKAS PRADHIKARAN, SECTOR-6, PANCHKULA

Memo No.-HSVP-CCF-AO-II-2019/ 152/00

Dated: 22/8/19

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 or lease of plots/land or building by allotment- Calculation/re-calculations of additional price.

Please refer to the instruction No. 58 dated 14.12.2018 issued under Memo No. HSVP-CCF-Acctt-II-2018/244966 on the above cited subject.

1. The report of committee of Hon'ble High Court Judges (Retd.) constituted vide notification No. 197601 dated 01.10.2018 regarding loading of enhancement of common areas has now been received.
2. The matter has further been re-considered and it has now been decided that following principles shall be adopted for re-calculations/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

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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	Existing rate of interest	Proposed rate of interest
1	30 days	0	0
2	6 months	15	7
3	1 year	15	9
4	2 years	15	10
5	3 years	15	11
6	Beyond 3 years	15	12

- (vii) 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/land owners on the enhanced amount for the period intervening between date of award to the date of enhancement awarded by the Court. In such cases, interest was not liable to be paid to the farmers/land owners. 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.
- (viii) 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.
- (ix) Proper care shall be taken at the time of determination to ensure that no enhancement is recovered more than once from the allottees.
- (x) Full pocket of Commercial area (comprising of Saleable as well as Common area of commercial pocket) shall be taken as saleable area. The load of commercial pocket shall be increased to 150%. The increased component of 50% shall be reduced

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from the common areas without changing the total area of the sector.

For illustration purpose, if a 300 Acre sector has layouts as below:

Sr. No.		Area (in acres)
1.	Residential (Total plot area)	146 (48.67%)
2.	Commercial pocket area, though net saleable area will be 4 acres i.e. 33% of commercial pocket)	12 (4.00%)
3.	Common area	142 (47.33%)
	Total sector area	300 (100%)

The corresponding area layouts calculations for offloading enhancement shall be taken as below:-

Sr. No.		Area (in acres)
1.	Residential (Total plot area)	146(48.67%)
2.	150% of area of Commercial pocket	12 x 1.5 = 18(6.00%)
3.	Common area	142- 6 = 136 (45.33%)
	Total sector area	300.0 100%)

(xi) **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).

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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 Flootation 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.

- (xii) The enhancement on the EWS shall be offloaded by taking 10% of allotted area as saleable and balance 90% as common area. Henceforth, any vacant site reserved for EWS in excess of 20% of the area for residential purpose, which has not been allotted so far, shall be re-planned and sold at full rate. Such area shall be considered as sale able area.
- (xiii) As the Religious sites are allotted at subsidized rates @ 35% of rates applicable for general rates, the 35% of area of religious site shall be taken as saleable and remaining 65% shall be treated as common area.
- (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 by HSVP to the allottees. The burden on this account will be born by the Government/HSVP.

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

- a) In respect of the following facilities, the enhancement compensation shall **not** be offloaded upon the allottees/ plot holders whether residential or non residential, commercial or upon lessess of saleable area :-

Sr. No.	Facility
1.	Creche
2.	Nursery School
3.	Primary School
4.	High/Higher Secondary School
5.	Dispensary
6.	Police Post
7.	Police Station
8.	College
9.	Hospital
10.	Veterinary Hospital
11.	ESI Hospital
12.	Clinics-Nursing Homes
13.	Polyclinics
14.	Club
15.	Milk Booth
16.	Housing Board and Ashianas
17.	offices of the State Govt. including various Boards
18.	Corporation Offices
19.	Mini Secretariats/ Judicial Complexes and Govt. Residences
20.	Green Belts along National Highway
21.	High Tension Line area
22.	Sites for Petrol Pumps
23.	CNG-PNG Stations
24.	Gas Godown
25.	Plot In transport nagar and Auto Markets/ specialized Market
26.	Shopping complex carves out of the area made for parking
27.	Govt. Communication Zones
28.	Farmer Day Market
29.	Taxi Stand
30.	Ghaggar River
31.	Herbal Park
32.	Land Transferred to Delhi Metro Rail Corporation
33.	Land sold to NHAI for construction of Bahadurgarh Bye Pass
34.	Rocky, Deep Gorges and Mountainous Areas
35.	Town level facilities in the nature of Public Library
36.	Cremation/ Burial Ground, Stadium/ Sports Complex

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37.	Cattle Pound
38.	Old Age Home
39.	Working Women Hostel
40.	Slaughter house
41.	Fire station
42.	Grid Sub-Station
43.	Auditorium

- b) In respect of the following facilities, the enhancement compensation shall be offloaded upon the allottees/ plot holders whether residential or non residential, commercial or upon lessess of saleable area :-

Sr. No.	Facility
1	park
2	green belt
3	roads
4	tube wells
5	open spaces
6	water works/ boosting station
7	sewerage treatment plant
8	underground sewerage
9	Storm Water Drainage
10	Solid Waste Transfer site
11	Bus queue shelter and children park
12	Community Centre and Janj Ghar

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

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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.

The draft calculations shall be forwarded to the empanelled Chartered Accountants for concurrent audit already appointed and they shall submit their report within 15 days to the respective Zonal Administrator.

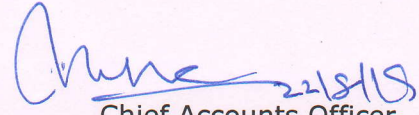
7. The draft calculations shall be forwarded to the following empanelled Chartered Accountants for concurrent audit. The respective Chartered Accountant shall submit concurrent audit report within 15 days to the jurisdictional Zonal Administrator :-

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. 011-23313495-6-7.	Faridabad, Gurugram and Rohtak	Rs. 8,555/-
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.

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10. These instructions and the consequent recalculation shall not apply to those who have availed the One Time Settlement Scheme and Full and Final Settlement Scheme of the HSVP.

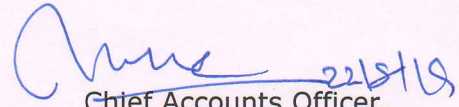

Chief Accounts Officer,
for Chief Administrator,
HSVP, Panchkula.

Endst No.: HSVP-CCF-AO-II-2019/152129-30

Dated: 22/8/19

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.


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for Chief Administrator,
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