

Instruction No. 10

NO. HUDA-CCF-ACCTT-II-2016/- 48281-82

DATED:- 16/8/16

To

1. All the Administrator,
HUDA (In the State).
2. All the Estate Officers,
HUDA (In the State).

Subject: Policy regarding recovery of additional price on account of enhanced compensation from allottees in case of sale or lease of land or building by allotment.

Kindly refer refer to the subject cited above.

A policy regarding recovery 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 HUDA Authority on item 111th meeting held on 27.7.2016 at Agenda item No. 22. A copy of same is enclosed herewith at **Annexure "X"** for information and further necessary action.

Encls : As above


(P.K. Sachdeva),
Chief Accounts Officer,
for Chief Administrator,
HUDA, Panchkula.

ANNEXURE "X"

Policy regarding recovery of additional price on account of enhanced compensation from allottees in case of sale or lease of land or building by allotment.

1. The landowners whose land is acquired under the Land Acquisition Act, have a statutory right to file references under Section 18 of the Act seeking higher compensation as compared to what has been determined by the Land Acquisition Collector and paid to them at the Award stage. Notwithstanding the Government Policy of minimum floor rates, scheme of Annuity payments and the R & R Policy, the amount of compensation is often enhanced by the Courts of competent jurisdiction. Finality in this behalf is a long drawn process. As such, the pricing of plots at the initial stage does not take into account any component of enhancement allowed by the Courts subsequently. It is for this reason that the enhanced cost of the land announced subsequently by the competent Courts is being recovered proportionately from the allottees separately under Regulation 10 of the Haryana Urban Development (Disposal of land and Building Regulations, 1978 by issuing demand **of additional price on account of enhanced compensation from allottees in case of sale or lease of land or building by allotment.**
2. There is a lot of litigation and queries from the plot owners about the manner of determination of additional price. A need has been felt to notify the procedure required to be followed while determining the additional price under Regulation 2(b) of Haryana Urban Development (Disposal of Land & Building) Regulations, 1978.
3. The general Principles for determination of additional price are being enclosed as **Annexure 'A'** in the form of FAQs.
4. The manner of calculation of additional price will be 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 both 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 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 at the link below:-

https://www.huda.gov.in/Financial%20Wing/Calculation_of_additional_price_on_account_of_enhancement_compensation.pdf

- (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) system.
- (viii) The allottee can view the amount of additional price required to be deposited, by logging in his 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.
- (x) For elucidation purpose, sample calculations for determination of additional price in respect of Sector 11 Fatehabad are enclosed as **Annexure 'B'**.

FAQ's on recovery of Enhancement from Plot Holder(s)

Question No.1: What are the provisions for the demand on account of enhancement is made on the allottees of the residential plots despite the fact that the entire amount as per the allotment letter has been paid by them ?.

Answer: - Plots are allotted by the HUDA on the basis of Tentative Price. This is clearly mentioned in **Clause no. 9 of the allotment letter which is as under:-**

"The above price is tentative to the extent that any enhancement in the cost of land awarded by the competent authority under the Land Acquisition Act shall also be payable proportionately, as determined by the Authority. The additional price determined shall be paid within 30 days of its demand."

Also Regulation 2(i) of the Haryana Urban Development (Disposal of Land & Buildings) Regulations, 1978 clarifies that tentative price does not include any enhancement that may be awarded by the courts on a reference made under Section-18 of Land Acquisition Act. Therefore, the prices quoted in the allotment letter were tentative and did not include any enhancement compensation.

Question No.2:- How the amount to be recovered on account of enhancement is determined?.

Answer: The enhanced compensation to be recovered from the allottees, is worked out by the Chief Administrator as per Regulation 2(b) of Haryana Urban Development (Disposal of Land & Building) Regulations, 1978. This amount is calculated sectorwise and is applicable for the full sector. The calculations are made on account of the full enhancement of compensation in the particular sector awarded by the Court.

Question No.3:- What is the legal authority to recover this additional amount on account of enhancement from the residential plot-owners.

Answer: Regulation 10(2) of The Haryana Urban Development (Disposal of Land & Buildings) Regulations, 1978 empowers the Estate Officer to recover this additional amount from the allottees on the basis of the calculations worked out by the Chief Administrator.

Question No.4: **What is the necessity on the part of HUDA to recover additional amount on account of enhancement from the allottees ?.**

Answer: The Urban Estates Department acquires the land on which the sectors are developed by HUDA. The tentative price of the plot under Regulation 4 of The Haryana Urban Development (Disposal of Land & Buildings) Regulations, 1978, for allotment is fixed by considering the cost of acquisition of land. If subsequently the land-owners are awarded higher compensation by the court in appeal procedures, the additional amount is liable to be paid by HUDA. In turn, such cost needs to be passed on to the allottees of the same sector. Regulation 2(h) of The Haryana Urban Development (Disposal of Land & Buildings) Regulations, 1978 stipulate that fixation of sale price/premium has to be done sectorwise. Similarly, additional amount of compensation to be paid after court's orders is also to be distributed over the same sector as per Regulation 2(b) of The Haryana Urban Development (Disposal of Land & Buildings) Regulations, 1978. Therefore, the cost incurred by HUDA for acquisition of land has to be distributed over the same particular sector.

Question No.5: **Why demand on account of enhancement is not made on the commercial plot-owners?.**

Answer: As per Regulation 3 (c) of the Haryana Urban Development (Disposal of Land & Buildings) Regulations, 1978, the plots are given either by allotment or by auction. The residential plots are allotted on the tentative price worked out on costing method on basis of initial acquisition cost of land, prescribed under Regulation 4 of Haryana Urban Development (Disposal of Land & Buildings) Regulations, 1978.

The procedure of allotment is by draw of lots prescribed by Regulation -5 of Haryana Urban Development (Disposal of Land & Buildings) Regulations, 1978. But in case of commercial plots, tentative price of land so determined is taken as initial reserve price of auction and allotment is to the highest bidder by auction under Regulation -6 of Haryana Urban Development (Disposal of Land & Buildings) Regulations, 1978.

Therefore, the allotment of residential plots and commercial plots are governed by entirely two separate methods. There is no legal provision to recover enhanced compensation from the plot-owners to whom allotment was made as a result of auction.

But for the purpose of calculation of additional price, the incidence on account of commercial area is not cross subsidized and passed on to the residential plot-holders. Any amount payable on account of enhanced compensation of the commercial area is born by HUDA and

is taken outside the purview of the calculations made for determining the additional price payable by the residential.

Similar issue has already been decided by the Hon'ble Punjab and Haryana High Court vide order dated 8.7. 1986 in CWP No.1270 of 1985 read with CWP No.1283,2975 and 5794 of 1985 in the matter of Urban Estate Welfare Association (Registered), Karnal sector-13, Karnal where under it was held on page-13 of the order :-

"It was next contended by the learned counsel for the petitioners that the stand of the HUDA is that they are working on the principle "no profit no loss" basis, that area has been reserved as commercial area and for nursery, that from the sale of some commercial sites, huge amount has been earned by HUDA and that the enhanced amount of compensation paid by HUDA with regard to the commercial area is also being charged from the plot holders. According to the learned counsel, the incidence of the enhanced amount of compensation regarding commercial area or for the area which has been shown as "undetermined use" cannot legally fall on the plot holders and that this incidence should be borne by HUDA itself. At the initial stage when this argument was advanced, we felt very much impressed and were tentatively of the view that the incidence of the enhanced amount of compensation regarding the commercial area should not be borne by the plot holders. Dr. Rajinder Singh, learned counsel appearing for HUDA, controverted the contention and submitted that its incidence was not falling on the plot holders and was being borne by HUDA. This argument of the learned counsel did not find any support from the pleadings as in the written statement, no specific averment had been made in this respect, with the result that Shri Rajinder Singh, prayed for time to enable him to file an additional affidavit. The prayer was allowed and written statement in the shape of additional affidavit, dated 31st march, 1986, was filled by Shri I.M. Khunger, Dy. Secretary. To the pleas taken in this written statement, detailed reference has already been made in the earlier part of the judgment. In this written statement, it has been clearly stated that for the purpose of calculation of additional price, the incidence on account of commercial area is not chargeable to the plot-holders. Any amount payable on account of enhanced compensation of the

commercial area is debited to HUDA and is taken outside the purview of the calculations made for determining the additional price payable by the plot holders, as is clear from the statement of account attached with the additional written statement filed. With regard to the area shown as "undetermined use", it is averred that wherever an area gets shown as "undetermined use", as it happened in the case of Sector-14, Gurgaon (which is presently maintained as an open space), the land use may not be changed and the area will not be utilized for any other purpose till the plan is modified and approved by the State Government. In view of this specific averment made in the written statement, no merit is left in the contention of the learned counsel for the Petitioner is concerned, so far as the area which is shown as "undetermined use" the same has to remain as it is till the plan is modified and approved by the State Government. In this situation for this area the incidence of compensation must fall on the plot holders. So far as the commercial area is concerned, it has been brought out clearly in the written statement that the amount of enhanced compensation payable in respect of the commercial area is debited to HUDA and is taken outside the purview of the calculation made for determining the additional price payable by the plot holders. In view of this specific averment it cannot be justifiably argued that incidence of the enhanced compensation of the commercial area is falling on the plot holders. Consequently, the contention of the learned counsel has no force."

Question No.6: **What is the rate of interest applicable on the period of delay in payment of additional price by the plot-owners?**

Answer: - In Civil Appeal No.4436 of 2008(arising out of special leave petition No.13644 of 2005) titled as HUDA V/s Raja Singh Riana, the question of charging of interest on the delayed payment of instalment was challenged in the Hon'ble Apex Court of India. In this regard, attention is invited to this office letter No.HUDA-CCF-Actt-1/2008/3654/7-78 dated 25.10.08 vide which the details of the case and charging of interest on the delayed payment of enhancement of compensation were conveyed.

In this case, the Hon'ble Supreme Court of India observed that the concept of levying of interest is applicable in almost all statutes involving financial deals and commercial transactions. Therefore, HUDA is entitled to charge interest on the balance dues of enhancement of compensation at a rate which is different from the rate of interest stipulated in the allotment letter. Under these circumstances, the Hon'ble Supreme Court of India allowed to charge simple interest on the basis of prevailing current rate of interest as defined under section-3 of the Interest Act, 1978. Therefore, charging of 15%p.a. rate of interest as defined on the delayed payment of enhancement of compensation is as per the judgement of Hon'ble Supreme Court of India in the case of Sh. Raj Singh Rana V/s HUDA as the same rate of interest is provided in the Land Acquisition Act, 1894.

Question no. 7: There is delay on the part of HUDA in payment of enhanced compensation to the land owners/farmers. This results to payment of interest to the land-owners/farmers and in turn this leads to increase in demand from the plot-owners. Why HUDA does not pay the amount to the land-owners immediately?.

Answer: - *Payment of enhanced compensation is made by HUDA out of its own resources and no assistance from the State Government or financial institutions is available to the Organization for this purpose. Since this amount is to be subsequently recovered from the allottees from over a period of times, it becomes difficult to make payment immediately after the announcement of the enhanced amount of compensation by the District Courts/High Courts. The investment made by HUDA towards the payment of enhanced compensation from its own resources further strains the commitment or development works in other areas. Consequently, a certain amount of delay is inevitable.*

This issue has already dealt by the Hon'ble Punjab and Haryana High Court vide order dated 8.7. 1986 in CWP No.1270 of 1985 read with CWP No.1283,2975 and 5794 of 1985 in the matter of Urban Estate Welfare Association (Registered), Karnal Sector-13, Karnal under page-9 of the order .

Question no.8. Whether the enhancement of common areas like roads, parks, schools, dispensaries, police posts, tubewell/water supply etc. is also passed on the commercial areas?

Answer: - Yes. The enhancement of common areas is proportionately divided between the residential as well as commercial areas as per their respective saleable areas. For example, if total area of sector is 100 acres as below :-

Sr. No.		Area (in acres)
1.	Residential plots	30.00
2.	Commercial plots	10.00
3.	Common area	60.00
	Total area	100.00

		Area (in acres)
1.	Load of enhancement of common area on commercial areas	15.00
2.	Load of enhancement of common area on residential plots	45.00

If total enhancement to be paid is Rs.100.00 lacs. Then the residential plots have to bear enhancement load of only Rs.75.00 lacs. The remaining load of Rs.25.00 lacs will be loaded on the commercial areas.

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HARYANA URBAN DEVELOPMENT AUTHORITY, PANCHKULA.

No. HUDA-CCF-Acctt-II-2015/

2774-75

Dated:

9/2/15

To

The Estate Officer,
HUDA, Hissar.

Subject: Recovery of Enhanced Compensation in respect of Sector-11, Fatehabad.

Please refer to the subject cited above.

In pursuance of the reference filed by land-owners under section-18 of the Land Acquisition Act, the Hon'ble Additional District Judge vide order dated 24.12.2013 in case No. RBT-161-LA of 2008 titled as Smt. Shanti Devi Vs. State, has enhanced the compensation and ordered to pay compensation @ Rs. 965/- per sq. yd. in respect of land acquired under Award No. 2 dated 31.03.2008.

Now, additional price of Rs. 4437.24 per sq. yd. (Rs. 5306.94 per sq. mtr.) for General Category and Rs. 257.47 per sq. yd. (Rs. 307.93 per sq. mtr.) for EWS Category on account of this enhancement has been determined by Chief Administrative under Regulation 2(b) of Haryana Urban Development (Disposal of Land & Building) Regulation, 1978, which shall be payable by the plot-holders of Sector-11, Fatehabad.

As the plots for this Sector are still under flotation and draw of plots have not been held so far. You are advised to issue advertisement in the news paper that in addition to the tentative price notified in the scheme broucher, the final allottees shall also be required to pay the above additional price also.

This is for your information and necessary action please.

DA/as above.

CC:

Manohar Lal
(Manohar Lal)
Sr. Accounts Officer,
for Chief Administrator,
HUDA, Panchkula

The Administrator, HUDA, Hissar alongwith calculation sheet for information & necessary action please. He is requested to take necessary action in the matter immediately under intimation to this office.

CALCULATION OF SECTOR-11, FATEHABAD

	Rate Per sq.yd as per the Additional District Judge order		965.00	
	Rate Per Acre as per the Additional District Judge order i.e. 965 x 4840		46,70,600.00	
Add:	30% Solatium	(Section 23(2) of LA Act, 1894)	14,01,180.00	
Add:	12% additional interest w.e.f. 04.07.2006 to 31.03.2008 (1 Year 8 Months & 28 Days)	(Section 23 (IA) of LA Act, 1894)	5,60,472.00	(1 Years)
			3,73,648.00	(8 Months)
			42,995.00	(28 Days)
		Total	70,48,895.00	
Less:	Rate of land per acre accounted for at the time of tentative price fixation on basis of amount of award announced by LAO, Hisar in award No.2 dated 31.03.2008		17,06,937.00	
		Balance	53,41,958.00	
Add:	9% additional interest w.e.f. 01.04.2008 to 31.03.2009 (1 Year)	(Section 28 of LA Act, 1894)	4,80,776.00	1 Year
Add:	15% Interest w.e.f. 01.04.2009 to 31.12.2014 (5 Years 9 months)	(Section 28 of LA Act, 1894)	40,06,469.00	(5 Years)
			6,00,970.00	(9 Months)
		Grand Total	1,04,30,173.00	
Less:	Interest @ 15% w.e.f. 01.04.2008 to 31.12.2011 has already been included at the time of tentative price fixation of land. (3 Years 9 Months)		9,60,152.00	
		Net Enhancement Per Acre	94,70,021.00	
	Enhancement of 132.75 Acres 132.75 x 94,70,021/-		1,25,71,45,287.75	

0.08.2011:-

Sector-11, Fatehabad

Sr No	Area of Sector-11, Fatehabad	
1	2	3
		(Area in Acre)
1	Total area under scheme	151.79
2	Area under released Structure	4.14
3	Area under C.L.U. Granted	2.90
4	Area under sector road	12.00
5	Net planned area	132.75
Details of planned area of the sector		
1	Area under plots	48.60
2	Area under commercial use	5.23
3	Area under Electric Sub-Station	3.44
4	Area under Taxi Stand	0.48
5	Area under Community Centre	2.03
6	Area under Dharmshala	0.43
7	Area under primary/Crèches/Nursery Schools	2.12
8	Area under religious building	0.62
9	Area under N.H./Clinic	0.89
10	Area under Police Post	0.50
11	Area under EWS Housing	26.00
12	Area under Roads Green belts and open spaces, parking	42.41
	Total Area	132.75

Sector-11, Fatehabad

NO		Total Saleable	Proportionate Area of Saleable / Common Area	Total (3+4) (In Acres)	Total Chargeable / Common area	Common Facility for other sectors
1	2	3	4	5	6	
1	Area Under residential Plots	48.60	28.61	77.21		
2	Area under EWS Housing	26.00	15.31	41.31		
3	Area under Commercial area	5.23	3.08	8.31		
4	Area under Dharmshala				0.43	
5	Area under Primary/Creche/Nursery	1.06	0.62	1.68	1.06	
6	Area under Religious building				0.62	
7	Area under taxi stand	0.00	0.00	0.00	0.48	
8	Area under Clinic/N.H.	0.89	0.52	1.41		
9	Area under community centre				2.03	
10	Area under Police Post				0.25	0.25
11	Area under electric substation (3.00 Acre/4=.75) <i>3.00 Acre ÷ 4</i>				0.86	2.58
12	Area under road, Green Belt, open spaces, Boosting Station, Parking				42.41	
	Total Area	81.78	48.14	129.92	48.14	2.83

1	Total liability	1,25,71,45,287.75			
2	Total Land acquired	132.75			
3	E.C. per Acre	94,70,021.00			
4	Total Land as per layout plan	129.92			
5	Proportionate Enhancement for 129.92 acres	1,23,03,45,128.00			
6	Tentative Price of General Category at time of flotation of Sector as per Regulation 2 (i)	8,617.00	Per Sq.yd		
7	Tentative Price of EWS Category at time of flotation of Sector as per Regulation 2 (i)	500.00	Per Sq.yd		
8	Proportionate Ratio				
i)	General Category	(A)	(55.78x8617 x4840)	2,32,63,76,298.00	
ii)	EWS Category	(B)	(26.00x500 x4840)	6,29,20,000.00	
		(C)	Total	2,38,92,96,298.00	
9	Amount for EC (General Category)	(A/C* 1230345128)		1,19,79,45,080.00	
10	Amount for EC (EWS Category)	(B/C* 1230345128)		3,24,00,048.00	
11	Additional Price for General Category as per Regulation 2 (b)	(1197945080/ 55.78/4840)		4,437.24	Per Sq.yd
12	E.C. for EWS Category as per Regulation 2 (b)	(32400048/26.00/ 4840)		257.47	Per Sq.yd