

From

The Chief Administrator,
Haryana Urban Development Authority,
Sector-6, Panchkula.

To

1. All the Administrator(s), HUDA.
2. All the Estate Officer(s), HUDA.

Memo No.UB-A-5-2016/ 46608-09

Dated: 11.08.2016

Subject: Settlement of oustees claims-terms and conditions thereof

With the prior approval of the 'Authority' accorded in its 111th meeting held on 27.07.2016 vide agenda item no. 111th (18), the present instructions are being issued with a view to implement the judgment dated 25.04.2012 passed in LPA No. 2096 of 2011 titled as HUDA V/s Sandeep and others which has been upheld by the Hon'ble Supreme Court in SLP No. 27256 of 2012 filed by HUDA which was dismissed vide order dated 06.03.2014 and further the order dated 26.04.2012 passed by the Hon'ble High Court in CWP No. 10941 of 2010 titled as Bhagwan Singh & Others vs State of Haryana & Others which has been upheld by the Hon'ble Supreme Court when SLP No. 13375-388 of 2013 filed by HUDA was dismissed vide order dated 24.11.2015 by the Hon'ble Supreme Court. Therefore, in order to ensure implementation of the aforesaid direction and to ensure settlement of oustees claims, it has been decided to issue instruction with following terms and conditions for eligibility:

1. An oustee shall have to submit an application for allotment of plot under the oustees quota along with earnest money in pursuance of advertisement inviting claims for such allotment.
2. An oustee shall be entitled to seek allotment of plot in the same sector for which land has been acquired for residential/ commercial purpose. However, where the land has only been acquired for any non-residential purpose such as industrial, institutional, group housing sites, completely commercial sector etc., then such an oustee shall be entitled to seek allotment of plot in the adjoining sector. Adjoining sector for this purpose shall mean the sector with boundaries abutting to the said sector. Where there are more than one sectors adjoining to the sector for which land has been acquired, in that case, an oustee shall be entitled to make an application in any one sector of his choice. However, where any such application is made in more than one sector then only his one application in any such sector at the discretion of the HUDA Authority shall be considered and earnest money in respect of other applications shall automatically stand forfeited and no claim for such forfeiture shall lie in future.

3. The application of an oustee shall be considered against the plots determined under oustees quota as per the instruction issued vide memo no. UB-A-6-2016/2213 dated 04.12.2015. The number of plots shall be determined on basis of total available plots advertised.
4. An oustee shall have the right to make such application only till the plots are available for oustees in the sector as per condition no. 2 and 3 above.
5. The allotment of plot to the oustees will be made through draw of lots.
6. An oustee should have been the owner of the land as on the date when the notification under Section 4 of the Land Acquisition Act, 1894 is issued. Any subsequent purchaser of land after said notification has been issued will not be entitled to make such application. Any application made by such purchaser shall entail automatic rejection of application and forfeiture of earnest money. However, the forfeiture of earnest money will be done only after giving opportunity of hearing to the defaulting applicant.
7. An oustee shall be eligible to make such application only if 75 % or more of his total land in the concerned revenue estate is acquired. For this purpose, the total land to be considered for such determination will mean the land comprised in the same revenue estate(s) where the concerned sector is situated.
8. The eligibility of each co-sharer for allotment of plot under oustees quota shall be determined on the basis of his individual holding i.e each co-sharer will be entitled to seek allotment of plot on basis of his own individual holding.
9. An oustee who satisfies other conditions will be entitled to be allotted the plot in proportion to his holding at the time of award. For purpose of determining the size of plots, criteria laid down in the policy as was in force at the time when notification under Section 4 of the Land Acquisition Act, 1894 was issued, shall be followed. However, as regards the cases where awards have been announced on or after 05.03.2005 but prior to 07.09.2010, the government notification of Rehabilitation and Resettlement dated 07.12.2007 will be applicable and size of plot will be allotted in such cases as per notification dated 07.12.2007. Similarly, where the awards have been announced on or after 07.09.2010, the size of plots will be allotted as stipulated in Government Notification of Rehabilitation and Resettlement dated 09.11.2010. An oustee may submit his application for lesser size plot than his entitlement. However, in such an eventuality he will not be entitled for further allotment of plot in future.



10. No commercial site will be allotted to the oustees.
11. An oustee, any portion of whose land and/ or constructed house/ factory etc. notified under section 4 of the Land Acquisition Act has been released will not be eligible for availing benefit of the plot under oustees policy even if otherwise 75 % of the total land has been acquired. This will help in ensuring that benefit of oustees policy is available only to those oustees who have no house, so that purpose of rehabilitation is achieved. It is clarified that release for this purpose shall mean the case where the notification under Section 4 of the Land Acquisition Act, 1894 has been issued in respect of the said land.
12. An oustee who has already got the benefit of allotment of plot from Haryana Urban Development Authority in any reserved category including under oustee policy shall not be eligible to seek allotment of plot under oustees quota.
13. A co-sharer in the land will not be eligible to claim allotment of plot if he had given a no objection certificate in favour of his co-sharer and on account of submission of such no objection certificate, a plot was allotted to such co-sharer in any previous floatation of plots for oustees.
14. An oustee who has already been allotted a plot under the oustees policy on any previous occasion as a co-sharer shall not be entitled to stake claim for allotment of plot under oustees quota.
15. An oustee who has made an application for allotment of plot under oustees policy on any previous occasion and said application either is pending for decision or was rejected on any ground and said rejection order was impugned before any court of law or Authority or forum of any nature and matter has been remanded back to the Authority for fresh decision, shall be informed of the decision in Bhagwan Singh's case and Sandeep's case and may be advised to apply for allotment of plot in fresh advertisement which will be issued after determination of reservation and their earnest money may be refunded along with interest @ 5.5 % per annum from date of deposit till date of payment. However, where litigation is pending then the court of law or authority or forum where it is pending may be informed of the aforesaid decision and efforts may be made to get the litigation disposed off in terms specified herein.
16. The applications of the oustees as received shall be put in draw of lots and eligibility of only those oustees who are successful in draw of lots shall be determined. Mere submission of such application or success in draw of lots shall not create any vested right for such allotment as eligibility will be determined only after oustee is declared successful in draw of lots.

17. The list of applicants shall be compiled within a period of 15 days of closing of the scheme and draw shall be held within a period of 30 days of closing of scheme for advertised plots. The eligibility of the oustees who are successful in draw of lots shall be determined within a further period of one month. If any oustee who is declared as successful in draw of lots is found ineligible as per policy, then his draw shall be cancelled. The plot which will become available on account of such cancellation of draw may again be put to draw of lots out of remaining oustees who were earlier unsuccessful in the same draw. The earnest money of unsuccessful applicants may be refunded thereafter. No interest shall be payable on said amount if it is refunded within a period of 6 months from closing of the scheme otherwise interest @ 5.5 % per annum may be paid on earnest money after expiry of 6 months till date of payment.
18. An oustee shall have to submit with his application:
- a. A certificate from the District Town Planner of Urban Estate concerned with regard to the sector for which land has been acquired. Where the land has been acquired for non-residential purposes, certificate regarding the adjoining sector as per development plan shall be submitted. He will also give report as to whether any self occupied house was in existence at the time when notification under Section 4 of the Land Acquisition Act, 1894.
 - b. A certificate from Land Acquisition Officer with regard to detail of his acquired land i.e khewat/ khatauni/ khasra no, area of acquired land, detail of released land if any, i.e area of released land, khasra no., ownership. He will also report regarding co-sharers giving name and number of co-sharer (s) with their share (s). He shall also report about the area of self occupied residential house if said self occupied residential house was in existence at the time when notification under Section 4 of the Land Acquisition Act, 1894 was issued and was acquired. He shall further report that no litigation is pending in respect of any court of law in respect of acquisition of this land except a reference made under Section 18 of the Land Acquisition Act.
 - c. A certificate from Tehsildar of the District concerned with regard to oustee's ownership of total land in the same revenue estate as on date when notification under Section 4 of the Land Acquisition Act, 1894 was issued and also at time when award was passed. He will give the certificate of the percentage of acquired land of oustee in regard to said oustee's total land.
 - d. An oustee shall submit a duly certified copy of jamabandi with respect to proof of ownership of land as on date when notification under Section 4 of the Land Acquisition Act, 1894 was issued and also when award was passed.
 - e. An affidavit containing all the elements of this policy.



You are therefore requested to take further action accordingly & the same may be complied in letter & spirit. These instructions may be brought to the notice of all concerned. This will be made applicable with immediate effect.


Administrator, HQ,
For Chief Administrator HUDA


11/8/16

Endst. No. UB-A-5-2016/46610

Dated: - 11.08.2016

A copy is forwarded to the following for information a strict compliance.

1. The Chief Controller of Finance, HUDA, Panchkula.
2. The Chief Town Planner, HUDA, Panchkula.
3. The Chief Engineer, HUDA, Panchkula.
4. The Senior Architect, HUDA, Panchkula.
5. The Secretary, HUDA, Panchkula.
6. The General Manager (IT), HUDA, Panchkula. He is requested to host it on HUDA website.
7. The District Attorney, HUDA, Panchkula.
8. The Enforcement Officer, HUDA, Panchkula.
9. The Dy. ESA, HUDA, Panchkula.
10. Supdts./Dy. Supdts./Assistants/ clerks of Urban Branch, HQ, HUDA, Panchkula.


Administrator, HQ,
For Chief Administrator HUDA


11/8/16