

RECENT CLARIFICATION ON LAND POOLING IN DELHI

BACKGROUND: The Ministry of Housing and Urban Affairs vide Gazette Notification S.O.5220 (E) dated 11.10.2018, have amended chapter 19 of the Master Plan for Delhi – 2021 and approved the land pooling policy ("**Policy**"). Pursuant to the above Policy, the regulations have been notified by the DDA vide its notification S.O. 5384(E) dated 24.10.2018 for operationalization of the Policy and is called as the Land Pooling Regulations, 2018 ("**Regulations**").

ESSENTIAL FEATURES.

Applicability of the Policy:

- The applicability of the policy follows different conditions as detailed out in the Regulations. The Policy will be applicable in the urbanizable areas as notified by DDA/Government from time to time. Except certain specified lands as per the Regulations.

Eligibility:

- There are three conditions concerning the eligibility:
 - Owner of any size may be register and express its interest to participate following the application process. Then, the land can fall in the areas notified by the DDA/Government under Land Policy.
 - The land should be free from all encumbrances and the landowner shall have physical possession of the land parcel proposed for pooling.
 - It should obtain a minimum of 70% of the Developable Area pooled with contiguous pooled land parcels and the entire pooled land has to be bounded on at least one side by a road of minimum 30m ROW (existing or proposed) as per ZDP.

Planning Postulates of Land Pooling:

- The land pooling process shall be governed by the following guidelines:
 - Each landowner will surrender land proportionately then the DDA and the service providing agencies will develop city level physical infrastructure, recreational and public/semi-public (PSP) facilities on minimum 40% and the remaining 60% land will be given back.
 - Smaller landowners who own less than 2 hectares and who are not part of any DE, will only be eligible for built up space in the developed area.
 - The entire development will be as per the Development Control Norms as defined in the Regulations. The DE/Consortium shall be compensated in the form of Tradable FAR, if it is unable to utilize the entire allowable FAR. Some of

the cases where Tradable FAR could be generated are as follows:-

- There is a shortfall/reduction of plot size/land in any sector due to site conditions.
- Mandatory buffer zones near heritage sites, environmentally sensitive sites high-tension lines etc.
- Height restrictions prescribed by Airports Authority of India (AAI).

Application Process and Licenses:

- These Regulations describe the application process for the landowners who wish to participate and process to receive the provisional development license and the final development license:
 - The Policy shall be implemented simultaneously in the entire urbanizable areas of the urban extension.
 - All the process has to be executed through the online Single Window System established by DDA for this goal.
 - All eligible landowners can register and express their willingness to participate during the validity of the Application Window, by submitting the prescribed application form along with payment of a registration fee as prescribed in the Single Window System.
 - Once the pooled land is verified by the Revenue Department the 70% contiguous land is achieved within a sector then such sectors shall be considered eligible for development and DDA will issue a notice ("Notice for formation of Consortium") to the constituent landowners.
 - The Consortium (as defined in the Regulations) will then prepare an Implementation Plan as per the Regulations, with the consent of all landowners/DEs, along with the contract agreement amongst the constituent landowners/ DEs of the Consortium. This contract agreement should adequately reflect all the terms and conditions as part of the Implementation Plan and will form the basis to resolve any grievances amongst the landowners/ DEs arising at a later stage.
 - The Consortium will thereafter apply to DDA as a single entity for undertaking development within the sector, enclosing the Implementation Plan, copy of the contract and a processing fee for initiating detailed planning of the sector.
 - On acceptance of the application, there will be three further stages before the DE/Consortium undertake development of the land available with the DE/Consortium. There are :

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- Issue of provisional development license as per the Regulations;
- Issue of Final Development License; and
- Approval of layout plan and building plan by the concerned agencies.
- The DDA will prepare a plan at the sector level specifying the location of 40% land required for development of city level physical infrastructure, and the location of 60% land available for development by the Consortium. DDA will also identify site locations to be earmarked for necessary buffers, land to be taken up for acquisition, extent of tradable FAR generated and any other terms and conditions.
- Based on the above, DDA shall issue a provisional "Entitlement Certificate" to Consortium through the Single Window System, within a period of 120 days from the date of application by the Consortium.
- DDA shall enter into a development agreement with the Consortium after approving the layout plan and issue a provisional development license and as per the requirements laid down in the Regulations.
- Within (12) twelve months of the receipt of the provisional development license, DE/Consortium shall submit an application as prescribed in the Regulations for the final development license
- Based on satisfactory compliance of the application form submitted the DDA will issue the Final Development License, which shall be valid for a specific time period for development, subject to extension as per the Regulations. However, issue of FDL does not provide a sanction for actual construction, which can begin only after obtaining all the layout plan and building plan approvals, and NOCs from various Service Providing Agencies as provided in the Regulations.

Approvals:

- DE/Consortium shall be responsible for obtaining all statutory and regulatory approvals and permissions from all authorities/agencies concerned through the Single Window System and complying with the directions issued by them. DE/Consortium shall ensure that all approvals/clearances are obtained within a period of (2) two years from the date of issuance of the Final Development License and the remaining validity period is available for DE/Consortium to carry out the required construction.
- The validity of Final Development License so as to complete all development and obtain a completion certificate from DDA in accordance with law shall be (10) ten years from the date of its issuance during which period all the prescribed infrastructure development works shall be completed and certificate of completion shall be obtained.

Miscellaneous:

- The Consortium/ DEs shall register themselves under Real Estate Regulatory Authority (RERA) and shall be governed as [per provisions of the RERA Act, 2016.
- The Competent Authority may amend any terms and conditions in the forms of applications, agreements, fees, required documents and any other relevant condition as may be necessary from time to time particularly in the overall interest and efficacy of the scheme and the Land Policy.
- Stamp duty shall be charged for transfer of land/property as per prevailing law. However, no stamp duty shall be applicable on transfer of land to service providing agency / DDA by the land owners.
- There are no provisions of FAR yet.

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