

CLARIFICATIONS ON QUERIES ABOUT 3RD LEC

1. In spite of exhaustive details of the proposed 3rd LEC payment being published repeatedly, the same queries keep coming up in different forms from the same set of members. Ironically, there were no queries when the 2nd LEC was demanded or for deferment / delaying of 3rd LEC, which resulted in the massive interest element we have to pay now.
2. All the questions which have been asked on different fora are being answered once again.

Question 1. Why must we pay?

3. The payment demanded by HUDA is a legal award by the High Court at the behest of the original owners of the land. HUDA is the mechanism through which the award is calculated, collected and paid to owners. It carries an interest of 15% per annum from the date of demand (Jan 2016). Therefore, no one is in hurry to pressurize us for payment for the time being. However, the time will come when the award will be legally enforced and at that time, the payment will be exorbitant.

Question 2. Can we pay individually?

4. No. HUDA only deals with AWHO and on their behalf through the RWA. (Society)

Question 3. What happens to members who do not pay?

5. Payment of all members who pay at this time will be deposited with HUDA. The remaining liability will be borne by those who do not pay, progressively increasing, with addition of interest. When legal action is initiated by HUDA, or contempt proceedings are launched for not complying with the High Court judgment, (which is inevitable, because the proceeds have got to go to the original owners), the defaulters will be individually accountable.

6. Till such time, members who do not pay will not be able to get registration / transfer / succession of their Flats done unless they clear their dues in entirety. Further, their membership will be deemed to be suspended and they will not be entitled to privileges of membership, which includes voting. In accordance with the decision of the AGM held on 12 Nov, such members will not be permitted to hire out their Flats.

Question 4. Will HUDA accept part payment from the Society?

7. Yes. They will also provide us with a statement of account after the payment.

Question 5. Who will keep track of those who make payment?

8. Members making payment are being issued with a special set of receipts. Consolidated details will be retained in the Society. The same will also be forwarded to HUDA and AWHO for updating their records.

Question 6. Is the calculation by HUDA correct?

9. Far from it. Errors have been pointed out in writing by the management to Chief Administrator HUDA during the meeting on 22 Nov 2017. While conceding merit in our stand, he expressed his inability to amend the Speaking Order (the basis for the demand) because after pronouncement it became an order of the court and could be amended only on orders of the High Court. He advised us to seek legal remedy, if we felt strongly on the issue.

Question 7. Why don't we go to Court and wait for the outcome of the case?

10. Because by the time the case is finalized, the interest burden will be intolerable. In case of no relief / partial relief, we will still end up paying considerable interest. It must be remembered that at present we are not and nor have we been, a party to any case. Also that there is no representation pending before HUDA after April 2016. We will go before the High Court after thorough preparation, in conjunction with similarly placed Societies.

Question 8. Why don't we go to court and get a stay?

11. We have no case before any court where we can ask for a stay. A new case will take its own time and interest will keep on increasing. Even if we were to go before the High Court, would it give a stay against its own order?

Question 9. Are there any cases pending by other Societies which offer immediate hope for us?

12. There is no court case pending (and there never was), in which we are a party. Some cases, where there is an adverse judgement for HUDA (like GH 24), are pending before the Supreme Court. There is only one pending issue before HUDA where a Speaking Order is to be passed by 30 Nov. This case has come up because the Society went before the High Court stating that it was not given an opportunity to be heard, as per the Court directions. There is unlikely to be any change in the original Speaking Order on the basis of compliance with this formality. However, in case there is an amendment, we will have time to take a call before depositing the dues. Here it must also be noted that the immediate application will be to the Society in the case. Our redress will follow later after our representations.

Question 10. What will happen if there should be reduction at a later stage?

13. If there is reduction in the demand notice after we pay, the excess will be refunded with 15% interest per annum to the Society and in turn to the owners, as had happened in case of 2nd LEC. Remember, even then, we paid first and got the refund at a later date with interest. This time our cardinal sin has been the long delay in making payment. We should have paid first and fought later.

Question 11. There is a statement on Google / WhatsApp Groups that good news will be coming soon. Is it a fact?

14. This statement is not substantiated by facts. "Soon" is an ambiguous term. We have been waiting for it for the "soon" for two years now.

Question 12. Why we were not informed in Jan 2016 when the demand was received?

15. Yesterday, a very agitated lady came all the way from Jaipur to demand the same explanation. She explained that as a widow, she was not in a position to pay the interest and

someone should be held responsible. We had no answer for her. She is still staying in the Society (and added to WhatsApp), if someone should wish to clarify her doubt.

Question 13. Why is the management undertaking this exercise?

16. This exercise is not being undertaken to relieve AWHO of its responsibilities. We entirely agree that AWHO has defaulted on its duty. In case it did not want to suffer financial loss due to nonpayment, it should at least have undertaken the collection and payment exercise. However, since they have refused to get involved, this opportunity is being provided to law abiding members to clear their dues without any further loss of interest. Concerted efforts are being made to inform every member by Email / Google Group / WhatsApp or by post at the last available address so that they can take an informed decision. This management would then have performed its duty and cannot be accused of inertia leading to interest loss at a later stage.

Question 14. A committee should be formed for the issue of the 3rd LEC.

17. Don't we already have a managing committee with faith in their competence imposed by an overwhelming majority of members? They are also authorized by the Society Bye Laws and the HRRRA to coopt other members if required.

Question 15. Why has AWHO not initiated action against the 12 defaulters who have not paid the 2nd Land Enhancement?

18. AWHO has commenced the procedure for imitating legal action against the defaulters. The commitments made in writing as a condition of allotment, the Haryana Apartment Owners Act 1983 and the judgement of the High Court make it only a matter of time before they are made to pay in full.

Question 16. (Just received). The Society should collect payment and transfer to AWHO for further payment to HUDA.

19. The Society is collecting payment and depositing to HUDA on behalf of AWHO. AWHO will also be depositing its share of LEC with the Society. However, records of payments and future liability will continue to be maintained by AWHO.

20. Payments are now in full flow. You can imagine how busy we are reconciling every payment and confirming receipt to the members. There will be no more media clarifications after this. You are welcome to come to the office or ring up at the number provided if you still have any doubts.

The Management