

**SANDEEP VIHAR (AWHO) WELFARE & MAINT SOCIETY, GHS 79, SEC 20, PKL**  
**READJOURNED SPECIAL GENERAL MEETING HELD ON 31 DEC 2017**

**MINUTES OF THE PROCEEDINGS**

**Attendance**

1. Total of 95 members attended the Readjourned Special General Meeting. The Quorum for the Readjourned Meeting was 15 % of members, ie. 83 members
2. The President, Col R S Rathee, (Retd) welcomed all present and highlighted that the Special GBM was being held to discuss only two Agenda Points.

**Agenda Point No 1.**

**Initiation of Court Case against HUDA regarding Land Enhancements and Allied Matters.**

3. There are two aspects to this point.
  - (a) Initiation of Court Case against HUDA.
  - (b) Schedule of deposit of 3<sup>rd</sup> LEC collection with HUDA.

**Initiation of Court Case against HUDA**

4. Detailed examination of the payments made to HUDA right from the initial land cost till the demand for 3<sup>rd</sup> LEC indicate that, the demand for 3<sup>rd</sup> LEC indicates gross infirmities in their calculations. Some of these have been pin pointed in the Writ Petitions/Arbitration Awards of other Societies. Some more have been raised by us. In the ongoing case of Jal Vayu Vihar, Hon'ble High Court had directed HUDA to issue a revised Speaking Order (the basis for our 3<sup>rd</sup> LEC demand) incorporating the issues raised by them. This was to have been completed by 30 Nov 2017, but, HUDA sought an extension till 21 Dec 2017. The revised Speaking Order has still not been issued, but, cannot be delayed for too long now. The Speaking Order should definitely bring some relief for us, but not all the issues will be addressed. It is therefore imperative that, we lodge a writ petition against HUDA seeking quashing of all the demand notices (as was done in the case of Jal Vayu Vihar and other Societies) as well as, recalculation of our dues right from the start. This should result in considerable reduction leading to a refund.
5. We have obtained opinion of the leading lawyer in such cases, who has handled/is handling all the major ongoing cases of Sector 20 with success. Preparation for the case has started and after approval of the House, will be lodged at the earliest after courts reopen in Jan 2017.
6. One issue which needed a resolution was the incorporation of AWHO as plaintiff, being title holder of the land. This has been agreed to by MD, AWHO during the meeting on

27 Dec 2017. They have provided all available documents and will authorize President Sandeep Vihar to represent them after a GBM resolution is passed.

Schedule of depositing of 3<sup>rd</sup> LEC payment with HUDA.

7. A decision was taken in the AGM held on 12 Nov 2017 to collect payment of 3<sup>rd</sup> LEC which includes interest as on 31<sup>st</sup> Dec 2017 with the proviso that, a final call would be taken based on the prevalent situation at that time. Simultaneously, the case for reduction of dues was to be pursued with HUDA. Both the exercises have been undertaken concurrently.

8. In the efforts to reduce the dues with HUDA, all channels available, including political have been used. A number of meetings have been held with Chief Administrator, HUDA, Administrator, HUDA Panchkula, Chief Controller of Finance HUDA and Estate Officer, Panchkula. While flaws in the Speaking Order were conceded, they expressed their inability to amend the Speaking Order already issued, without Court directions. It was pointed out to them that the existing High Court directions in the case of Jal Vayu Vihar offered an opportunity to address the errors. This review is still awaited and is expected very shortly. It should, in all probability, reduce the liability of 3<sup>rd</sup> LEC to some extent.

9. In accordance with High Court orders, it was expected that the decision would be known by end Nov 2017 after which a considered decision could be taken regarding when and how much of the payment is required to be deposited. Thus the date set for the GBM on 31 Dec 2017. Unfortunately, this has got delayed and placed us in a dilemma as to whether to deposit the payment in full or to await the revised Speaking Order for a little while and then deposit the recalculated amount. There are pros and cons of both options which we enumerate below.

(a) Deposit of payment in full by due date.

(i) Pros. All liabilities are met in full of those who have paid.

(ii) Cons.

(aa) In case there is a reduction in liability, which seems imminent, then the refund will take a long time in coming.

(ab) Since all members have not paid 3<sup>rd</sup> LEC dues, HUDA will adjust the refund against the liabilities of members who have not paid. Thus the law abiding members will be unnecessarily penalized. The non payment would not have affected the payment being made by the law abiding members if reduction were not to take place.

(b) Delaying of payment

(a) Pros

(i) The reduction due to any favorable amendment in Speaking Order will be effected. Thus there will be no issue of non-refund.

(ii) This will give us time through our simultaneous endeavor in the High Court to quash all demand notices. If this succeeds, the interest liability will freeze and thus no payment will be required to be made till the conclusion of the case.

(b) Cons In the event that relief is not obtained in either the Speaking Order or the Court case, there will be an increase in the interest liability, but will not be excessive. It will be the difference between the interest due to HUDA and the interest our funds accumulate during the same period.

Recommended Course of Action

10. (a) The payment of 3<sup>rd</sup> LEC to HUDA be pended till the imminent issue of Speaking Order in Jal Vayu Vihar case.

(b) The funds deposited be placed in short term fixed deposit.

(c) The case be progressed in the High Court as well as with HUDA.

(d) The management be authorized to take appropriate decision in this regard, based on developments.

(d) The issue be reviewed during the GBM in Feb 2018 if there has been no progress till then.

Decision

11. The House unanimously resolved to authorize the management to proceed with initiation of legal case against HUDA as well as to pend payment to HUDA and eventually take a decision in the larger interests of the members based on developments in various cases. The following resolution was passed with regard to initiation of the court case.

“It was resolved that a case be initiated by AWHO against HUDA challenging their illegal demand and AWHO be requested to authorize Col R S Rathee, S/o Sh Abhe Ram, President, Sandeep Vihar Welfare and Maint Society to represent them in all matters, including, but not limited to, engaging lawyer, signing all documents for filing the said writ petition and to attend hearings in any courts. AWHO to be requested to issue the requisite Vakalatnama accordingly”.

## Agenda Point No 2

**To consider the AWHO proposal for mutual settlement of the ongoing case in the NCDRC wherein AWHO would return the interest on 2<sup>nd</sup> LEC directly to owners and give the MI Room on long lease to the Society at reasonable rates, while the Society would withdraw the case.**

### Background

12. The Society had lodged a case in NCDRC seeking redress on the following issues:-

- (a) Refund of interest on 2<sup>nd</sup> LEC to the Society.
- (b) Return of MI Room to the Society.
- (c) Return of Corpus Fund.
- (d) Compensation for delay in handing over.
- (e) Loss of rebate benefit.
- (f) Poor quality of construction.
- (g) Sale of parking slots to the members.

13. The case was lodged primarily for redressal on the first three issues. The remaining were added to bolster the case. A detailed discussion on the issue took place during the AGM on 12 Nov 2017, after which a decision was taken to “authorize the management to explore the possibility of a solution which does not affect our core issues of refund of interest and MI Room”.

### Current Status

14. The management has interacted with AWHO, initially through telephone and thereafter meetings with Secretary, AWHO on 11 Dec 2017 and MD, AWHO on 27 Dec 2017.

15. During the meetings it was pointed out that, the Corpus Fund stands refunded to the Society with interest. AWHO is agreeable to refunding the interest on 2<sup>nd</sup> LEC directly to owners. However, AWHO is not agreeable to outright transfer of the MI Room to the Society because, it cannot write off the book value in excess of Rs 85 lakhs. It has however offered to lease the MI Room at a reasonable rate to be decided by a Board of Officers comprising rep of Sandeep Vihar, AWHO and HQ Western Command. In return, the Society would withdraw the case.

16. The President pointed out that the Management was making no recommendation regarding the course of action to be followed. In case the House decided to withdraw the case then the Management would ensure that the best terms were worked out with AWHO.

In case it was decided to proceed with the case, the management would pursue the case relentlessly.

Decision

17. It was unanimously decided that the case would be proceeded with to its legal conclusion.

Date:- 03 Jan 2018

Lt Col Rohit Mittal (Retd)  
General Secretary