

**SANDEEP VIHAR (AWHO) WELFARE & MAINTENANCE SOCIETY,**  
**GHS-79, SECTOR-20, PANCHKULA**

**READJOURNED GENERAL BODY MEETING HELD ON 04 APR 2021**

**MINUTES OF THE PROCEEDINGS**

**Attendance**

1. Re-adjourned Annual General Meeting was held on 04 Apr 2021, which was attended by 85 out of 548 eligible members. (15.5% attendance against required Quorum of 15 %).

**Agenda**

2. To discuss the "Last and Final Settlement Scheme" issued by HSVP pertaining to settlement of Land Enhancement Demands and decide future course of action

**Proceedings**

**Introduction**

3. The President informed that the scheme issued by HUDA is very brief and contains just a few actionable points. The gist of it is that HUDA will only make recoveries and will not give any refunds. It will simultaneously require those who accept the scheme to give up ongoing court cases and undertake not to lodge any cases in future.

4. He reminded that every decision pertaining to the third enhancement and subsequent developments had been discussed and then approved by the General Body, to include:-

(a) The initial decision to collect the third LEC and deposit with HUDA was taken by the GBM on 17 Nov 2017.

(b) The decision to withhold the payment to HUDA and place the collection in bank deposit as well as to initiate a court case against HUDA was taken by a Special GBM on 31 Dec 2017.

(c) The decision to permit members desirous of withdrawing their deposits was taken by the GBM on 18 Mar 2018 and reiterated by GBM of 02 Feb 2020.

(d) The decision to reject the earlier "Full and Final Scheme" by HUDA was also taken by a GBM.

5. The decision about whether to accept/reject this proposal or to continue with the existing court case had also to be taken by the General Body. He requested the General Secretary to give brief background of the case.

### **Background**

6. The First Enhancement was paid by AWHO prior to handing over the flats and was recovered from allottees along with the final payment. The Second Enhancement was paid by AWHO in 2010, after taking a bank loan, to avoid delay in payment and recovered the dues from allottees.

7. HUDA had raised a demand of Rs 6.83 crores on account of 3<sup>rd</sup> Land Enhancement on 14/01/2016 to MD, AWHO. It was stipulated that the amount be paid within 30 days, failing which interest at 15% per annum would be levied till the date of payment.

8. The then Management requested AWHO to make payment of the due amount immediately and to recover the same from allottees, as had been done for the Second Land Enhancement. AWHO declined to get involved in making the payment due to the liability still held by them after the Second Land Enhancement.

9. At this time the Joint Action Committee of Sector 20 decided to contest the demand. The existing Collegium decided that the demand should not be paid at the time and the other Societies of Sector 20 be joined in the endeavour to get the demand reversed.

10. However, by mid-2017 it had become obvious that the efforts of the Joint Action Committee were not succeeding and that the interest component had increased considerably. In order to avoid financial loss to the owners an early solution was deemed necessary. Accordingly, AWHO was once again requested to undertake the collection and depositing of the Third LEC and intervention of HQ Western Command was also sought. This was not agreed to by AWHO. However, it authorised the management to undertake the collection.

11. The issue was discussed during AGM of 12 Nov 2017, wherein it was decided to collect the Third LEC under arrangements of the Society and to deposit the same with HUDA by 31 Dec 2017.

12. A massive effort was launched to collect the dues from members, based on the details of dues of allottees as on 31 Dec 2107, provided by AWHO. In the interim period, the total amount due had increased by Rs 2.01 crores (approx. 30 %).

13. Simultaneously with the collection of the demand, an exercise was carried out to review the entire basis for calculation by HUDA. Detailed scrutiny indicated that HUDA had carried out massive increases in the "Common Areas" of the sector and applied interest at 15 % per annum on the increased amount, which was detrimental to the interest of all allottees. Interaction was carried out with Jal Vayu Vihar, Sector 20, which had lodged a case against the 2<sup>nd</sup> LEC and had received a favourable judgment. The demand was required to be reviewed by HUDA and a Speaking Order issued by 21 Dec 2017. However, this had not been issued by due date and was expected shortly.

14. In view of expectations of a favourable decision, a Special GBM was convened on 31 Dec 2017 to decide the future course of action with regard to the collected payments. After thorough consideration, the following decision was taken: -

- (a) Payment of 3<sup>rd</sup> LEC to HUDA be pended till the imminent issue of Speaking Order by HUDA in the Jal Vayu Vihar case.
- (b) Funds be placed in short term deposit.
- (c) The case be progressed in the High Court as well as with HUDA.

15. Meanwhile, HUDA continued with its dirty games and on 16 Jan 2018, it issued yet another demand of Rs 789.55 per sq mtr, totalling to Rs 4.10 crores for the society. This was done by merging Sector 20 with Sector 20 (Part 2). They referred to it as revision of 3<sup>rd</sup> LEC, but in actual of fact, it amounted to a 4<sup>th</sup> LEC. They also carried out numerous changes in methods of calculation to our disadvantage. Just one example will suffice to indicate their malafide intentions.

16. In earlier calculations, HUDA used to give credit of Rs 5.00 lakhs (taken as land cost in 1991), at the stage of calculation of First LEC in 2002. While doing so, it added interest of Rs 9.50 lakhs for the period from 1991 to 2002, thereby giving us relief of Rs 16.76 lakhs per acre. However, in the fourth LEC, it adjusted the land cost of Rs 5.00 lakhs at the 1991 stage, thereby depriving us of interest of Rs 9.50 lakhs per acre. This not only increased our liability by Rs 9.50 lakhs but also added interest from 1991 to 2018 at 15 % per annum.

17. By this time threadbare examination of the legal issues and the calculations had made it obvious that HUDA was carrying out legalized loot. In a short period of time a detailed writ petition was prepared which was admitted in Hon'ble High Court on 14 Feb 2018.

18. Not surprisingly, HUDA issued the much-anticipated Speaking Order on 22 Feb 2018 and rejected the contentions of Jal Vayu Vihar.

19. In light of these developments, the issue was reviewed in the GBM of 18 March 2018 and again on 02 Feb 2020 and the following decisions were taken: -

- (a) The deposit be retained till outcome of the case, after which the amount be refunded to owners along with interest accrued.
- (b) Members applying for immediate refund could do so with the proviso that any future demands by HUDA would be dealt with by them personally.

20. In the case of members selling the flat, the seller continues to be required to deposit the dues till the date of issue of NOC, after which the liability of any further demands is accepted by the buyer.

21. After admission of the case in the High Court, a massive exercise was launched to obtain information under RTI from HUDA, Town and Country Planner, Haryana as well as other authorities. A total of 171 RTI applications were filed, out of which 149 reached the stage of First Appeal and 79 went for Second Appeal before the Chief Information Commissioner, Haryana. Based on the information obtained, HUDA's case was demolished point by point in the Reply to Rejoinder given by HUDA before the court.

22. Simultaneously with the legal side, the illegalities by HUDA on the issue of enhancements was pursued along with the Sector 20 RWA. With mounting pressure before the State elections, HUDA made some concessions with regard to the procedure for calculation of enhancement, but did not agree to the crucial issue of definition of "Common Areas". HUDA however constituted a Three Judges Committee to define the Common Areas

23. The information gathered for the Court case and various RTI replies were placed before the Three Judges Committee, along with the other submissions. The Three Judges Committee issued its report on 31 Mar 2019 and accepted our contentions, practically in entirety.

24. On 05 Dec 2019 Hon'ble Punjab and Haryana High Court issued its judgment in our case. It recorded that Counsel for HUDA had agreed that all our demands would be considered and recalculation carried out in terms of revised policy dated 22 Aug 2019 within three months. The process was to be completed by 29 Mar 2020, but got delayed due to the epidemic. On 04 June 2020, CCF, HUDA intimated that they would stand by their definition of Sector in so far as merger of Sector 20 and Sector 20 (Part 2) was concerned. For remaining issues, including recalculation, he forwarded the case to Administrator, HUDA.

25. Since no further action was taken by Administrator, HUDA, Panchkula on the judgement, we have gone before the Hon'ble High Court again seeking implementation of the judgement. The case was admitted on 04 Jan 2021. During the last hearing on 25 Mar 2021, HUDA Counsel submitted that they did not wish to Reply to our submission. The case is listed for arguments on 09 Jul 2021.

### **The Last and Final Settlement Scheme**

26. HUDA has now issued a voluntary "Last and Final Settlement Scheme" which is open till 30 April 2021. This is a sequel to earlier "One Time Settlement Scheme" and "Full and Final Settlement Scheme", which involved paying up the dues as calculated by HUDA with marginal reduction in the total outstanding amounts. Both these involved giving up all legal claims. Both were rejected by the General Body and in fact by practically all societies except those who had yet to get their conveyance deed done etc. They had no choice.

27. The purpose of the present scheme, as enumerated in the document, is **"to realize the dues of enhancement from the defaulting allottees wherein the allottee shall not be entitled to any refund whatsoever"**. The only guidelines given are: -

(a) The Three Judges Report will not be applicable to enhancements prior to 01.04.2015.

(b) The existing litigations will have to be withdrawn and undertaken given that there will be "no dispute to the calculation of additional price in future"

(c) In case the scheme is not accepted then the total amount due with interest shall have to be paid in future.

28. The four major issues raised by us before the Court are as under:

(a) Enhancements can only be demanded consequent to the orders of a competent court under the Land Acquisition Act. In the case of Sector 20, there have been only two courts ordered enhancements and both have been paid in full in 2001 and 2010 respectively. The Second Enhancement has been given finality by the Supreme Court and thus there can be no further enhancement demands. Third and Fourth LEC demand will have to be cancelled being legally untenable.

(b) The retrospective merger of Sector 20 and Sector 20 (Part 2), 25 years after raising and after collection of two enhancements separately for both sectors is patently illegal.

(c) There has been baseless variation in Common Areas in all the four enhancements, all with the aim of increasing the demands.

(d) The method of calculation has been changed in the fourth enhancement to deprive us of the interest on land cost. The consequential application of interest for 30 years takes our liability through the roofs.

(e) There can be no liability for enhancement, after all dues have been paid to original owners.

29. There are many other issues raised like: -

(a) Application of fictitious judgments in calculations of first and second LEC.

(b) Mathematical errors in calculations.

(c) Most importantly, the Three Judges Committee has ruled that there can be no interest levied for the period between court judgments and raising of demands by HUDA. This amounts to many years.

30. The additional issue which we are now raising before the Court is that HUDA had agreed before the Court to consider "claims of the petitioner as made out in the petition in view of the amended policy of 22.08.2019 (Three Judges Report) and calculation as well can be made in view of the provisions of the aforesaid policy". This implied recalculation of the First and Second Enhancement as well applying the common Areas as defined in the Three Judges Report.

31. Acceptance of the HUDA "Last and Final Settlement Scheme" proposal will mean the following for us: -

(a) Accepting status quo on the first two enhancements.

(b) Accepting the illegality of the Third and Fourth Enhancements.

(c) Payment of the Third and Fourth demands as calculated by HUDA with interest added thereon.

(d) Withdrawal of the Ongoing Court Case.

(e) Conceding acceptance of any future calculations without dispute.

32. During the subsequent discussion, the following salient issues were raised by the members: -

(a) Col Sandeep Nautiyal. Col Sandeep Nautiyal queried regarding details of acceptance of the previous "Full Final and Scheme" by other Societies of Sector 20, Panchkula. The General Secretary clarified that according to information available on the Sector 20 RWA Group only Societies like Triveni (GH 38), which had not, till then, got their conveyance deed done, had accepted the earlier scheme.

(b) Mrs Maninder Kaur. Mrs Maninder Kaur queried as to what would be the future financial implications of not accepting the scheme. The General Secretary reiterated that the scheme visualised payment of dues at any future point of time with addition of interest. However, acceptance of the scheme would mean giving up the ongoing court case and all possibility of any recalculation of the First and Second Enhancements and setting aside of the Illegal Third and Fourth Enhancements. The issue had to be accordingly weighed.


(c) Col H O Khandelwal. Col H O Khandelwal queried about the status of the Sector 20, Panchkula RWA and participation by Sandeep Vihar in its endeavours. The General Secretary stated that the first step of approval of name of the Sector 20, Panchkula RWA Society had been completed by the District Registrar. The final process of Registration was ongoing. The Society had been all along actively involved with the RWA in contesting the enhancements by HUDA and in submission before the Three Judges Committee. As a matter of fact, the major inputs were provided by our Society. Once the Registration of the Sector 20 RWA Society was finalised, Sandeep Vihar would become a member, since there was provision for this in the Bye Laws.

### Resolution.


33. The House unanimously resolved that the "Last and Final Settlement Scheme" floated by HUDA must be rejected and the ongoing Court case and with HSVP must be pursued with full vigour to its favourable conclusion.

34. The House further resolved that the Society must work in conjunction with Sector 20 RWA in the efforts to get the enhancements recalculated and also join the same once it is formalised.

Date : 05 Apr 2021

  
(Brig D K Mohan), (Retd)  
General Secretary

COUNTERSIGNED

  
(Col R S Rathee), (Retd)  
President