


PUBLIC NOTICE

It is brought to the notice of general public that the HIMUDA has proposed a scheme titled "**Development of Real Estate Projects by Private Developers in collaboration with HIMUDA**" for development of Real Estate Projects in collaboration with Private Developers. The detailed scheme has been uploaded on official website of HIMUDA i.e.

"www.himuda.hp.gov.in"

Through this notice, objections and suggestions are hereby invited from the general public and other stakeholders regarding the proposed scheme. The objections and suggestions, if any, be filed/submitted in writing to the CEO-cum-Secretary, HIMUDA Nigam Vihar Shimla within a period of 30 days from the date of publication of this notice.

Any objections and suggestions received after this period, shall not be entertained.


Dr. Surinder Kumar Vashisht,
CEO-cum-Secretary,
HIMUDA, Shimla-171002.

HIMACHAL PRADESH HOUSING AND URBAN DEVELOPMENT AUTHORITY

NOTIFICATION

Whereas, Himachal Pradesh Housing and Urban Development Authority has been created under the Himachal Housing and Urban Development Authority Act, 2004 to plan and develop land and create infrastructure to meet the housing needs of different income groups and to provide for development schemes for mobilizing public and private resources for the promotion of housing colonies and related infrastructure;

And whereas, in the State of Himachal Pradesh, availability of Govt. land for the purpose of Development of Housing Colonies is scarce and purchase of big chunk of land at a place is a tedious and time consuming process involving consent of all land owners. Moreover, the land holdings of private people are very small. There is a lot of demand for plots and flats in the State at prominent places and various private developers are also introducing real estate projects in the State. With a view to cater housing demand in the State, it is felt promising to develop a scheme in collaboration with private developers/players having own land parcels and who intend to develop housing colony with the expertise and brand of HIMUDA;

Now therefore, CEO-cum-Secretary, Himachal Pradesh Housing and Urban Development Authority, in exercise of the power conferred by section 17 read with section 20 of the Act ibid proposes to frame the following scheme for development of real estate projects with private developers having their own land in collaboration with HIMUDA which would help in developing well planned, laid out and better developed real estate projects in the entire State with private association and will provide better living conditions for the public at large and the same is hereby published in the Rajpatra (e-Gazette), Himachal Pradesh for information of the general public. Any person who has any objection(s) or suggestion(s) with regard to the proposed scheme, he may send the same to CEO-cum-Secretary, HIMUDA within a period of 30 days from the date of publication of the said scheme in the Rajpatra (e-Gazette) Himachal Pradesh.

The objection(s) or suggestion(s), if any received within the above stipulated period shall be considered by the CEO-cum-Secretary (HIMUDA) before finalizing the said draft scheme namely:-

1. (1) This scheme may be called the Himachal Pradesh Development of Real Estate Projects with Private Developers in collaboration with HIMUDA Scheme, 2025.
(2) This scheme shall come into force from the date of publication in Rajpatra (e-Gazette), Himachal Pradesh.
2. (1) In this Scheme unless the content otherwise requires,-
 - (a) "Act" means Himachal Pradesh Housing and Urban Development Authority Act, 2004; and
 - (b) 'Authority' means the Himachal Pradesh Housing and Urban Development Authority established under section 3 of the Act.
(2) The words and expressions used but not defined in this Scheme shall have the same meaning as respectively assigned to them in the Act.
3. **OBJECTIVE OF SCHEME.-** (1) The objective of the Scheme shall be to collaborate with private land owners / developers to build Housing / Commercial real estate projects for providing better living standard to general public.
(2) Under this scheme Private Developers possessing a minimum of Five Acres/25 Bighas of land in Himachal Pradesh will be eligible to collaborate with Authority for the development of real estate projects.
(3) Scheme envisages a minimum of 9% revenue sharing from the developer out of total revenue receipt from sale of inventory.
4. **SALIENT FEATURES OF SCHEME.-** Private Developers/ land owners (hereinafter referred to as the 'developer') having contiguous chunk of land appropriately located for developing real estate projects may apply to the Authority under the scheme. After assessment and checking viability of the project, Authority if satisfied with the viability of the project may enter into an MOU with private developer.

5. **PRE MOU OBLIGATIONS.-** (1) Developer will apply to the Authority alongwith a copy of Jamabandi/Tatima and a demarcation reports under this scheme.
- (2) If required, the developer will get technical survey, slope analysis and soil investigation done.
- (3) After checking the financial and physical viability of the project, Authority and private developer shall enter into an MOU for discharging other responsibilities and obligations under the scheme.
6. **POST MOU OBLIGATIONS.-** (1) Developer will transfer the land free from all encumbrances to Authority by way of registered sale deed at circle rate and the payment for land will be included in 91% share of developer as per this scheme and no additional payment will be made.
- (2) Registration charges and stamp duty shall be paid by Authority to the Sub-Registrar.
- (3) The Authority shall apply for No Objection Certificate of water, power supply; Forest Department, Fire Department, Pollution Department. The expenditure to obtain these No Objection Certificates shall be loaded to the project cost.
7. **PLAN APPROVAL AND RERA COMPLIANCES.-** (1) After the land is transferred by the developer to Authority, the Authority will get the plans and drawings prepared and submit the same to the competent authority for approval in case for making of Plans and Drawings outside Architect is to be engaged, the cost of the same shall be borne by developer.
- (2) The Authority shall apply to Real Estate Regulatory Authority for the registration of the project, after approval of the drawings from Town and Country Planning Department.
8. **ADVERTISEMENT AND SALE STRATEGY.-** After registration of the Project with Real Estate Regulatory Authority, the Authority and developer will devise the sale strategy of Units (Apartments) and advertise the project. No demand survey shall be permissible under Real Estate Regulatory Authority guidelines for consideration of money before registration of project with Real Estate Regulatory Authority. Third Party will be engaged for marketing on Social Media and setting

up of Call Centre, the cost of which shall be borne by developer. The Commission to Real Estate Agents/Brokers, if any, shall be decided and borne by developer. Builder tie up with Banks for loans to customers of the Project shall be done by developer with the assistance of Authority.

9. **EXECUTION OF THE PROJECT.**- (1) Development of the project will be done by developer from 70% corpus of funds raised in self-financing mode.

(2) It will be the joint responsibility of Authority and developer to develop and execute the project as per approved plans and drawings and in compliance to Real Estate Regulatory Authority guidelines.

(3) Authority will get the third party structural and quality audit done from reliable source.

(4) Before advertising the project for the sale both parties will decide on the period of construction of project.

(5) After completion of the project, Authority will own the responsibility regarding the maintenance and watch and ward etc. as per the provisions of Act and rules framed thereunder and the cost of the same shall be borne by Authority. During operation of Project the Watch and Ward expenses will be borne by developer.

10. **ACCOUNTING AND REVENUE SHARING.**- (1) Under this Revenue Sharing, Authority will charge fixed minimum percentage @9 % of total receipts irrespective of Construction/Development/ Land Cost. Authority charges may however be increased considering proposal and viability of the project.

(2) (A) The receipts from the primary sale of properties will be distributed as follows:-

- Developer: 91% of the total receipts or as may be decided.
- Authority: 9% of the total receipts (minimum) or as may be decided, (70% of total receipt shall be reserved for project development to be met out of developers share).

(B) Authority will regulate the secondary sales as per its rules and regulations.

(3) Separate Project ESCROW account will be opened in which all sale proceeds/installments related to the project will be credited. As per section

4(2)(1)(D) of Real Estate Regulatory Authority there shall be a separate bank account for housing project and 70% amount received from allottees from time to time, shall be deposited in that account to cover the developmental cost and cost of land. After meeting project cost/expenses etc. as per Real Estate Regulatory Authority, 30% amount will be shared between the Developer and Authority in the agreed ratio.

(4) The withdrawal from the Account of the receipts of the allottee will be strictly as per the Real Estate Regulatory Authority guidelines.

(5) Except the fee relating to Town and Country Planning Department and Real Estate Regulatory Authority, all other fees on statutory compliances shall be loaded to the project.

(6) The selling rate of the unit will be decided mutually by the Authority and Developer. The differential cost of units will also be fixed with mutual consent.

(7) Developer shall transfer land after signing MOU with Authority. In case permission under section 118 of the Himachal Pradesh Tenancy and Land Reforms Act, 1972 is required to be taken by Developer for sale of land to Authority, the same shall be obtained on the basis of the MOU.

(8) The land shall be transferred by the developer in the name of Authority and all expenses related to registration shall be borne by the Authority. As per provisions of section 194-1A of Income Tax Act, 1961, TDS @ 1% of sale value shall be paid by the Authority in respect of sale consideration value and credit of same shall be provided to the Developer.

(9) All types of expenditure on the Project like Development, Civil Construction shall be borne by the developer from its 91% share. If any expenditure on the Project is incurred by the Authority, the same shall be chargeable to the Project and will be recovered out of the revenue share of the Developer i.e. related with construction of project. All Expenditure of Stamp duty for Registration, Fees of Town and Country Planning Department and Fees of Real Estate Regulatory Authority shall be borne by Authority from its 9% share.

(10) Authority will collect sale proceeds of the residential/ commercial units from the allottees and part with developer's share as per agreed terms after taking out its share from such collection. However, in case developer fails to carry out any

development and civil construction as per agreed standard terms and conditions, then Authority reserves the right to carry out such activities at its own out of receipts of the Project and same will be set off against the share of the developer.

(11) The allotment shall be made under self-financing scheme i.e. 100% cost shall be paid by the allottee before getting possession.

(12) If any allottee after allotment fails to pay the instalments as per payment schedule, then penal interest as per rate charged by the Authority on its own scheme will be charged from the allottee and the same will be shared in equal proportion.

(13) The units shall be sold/allotted in phased manner. Therefore units which are to be sold will only be advertised for sale.

(14) The advertisement cost will be initially incurred by Authority and shall be chargeable to the project cost.

(11). OTHER TAX RELATED IMPLICATION AND CONDITIONS.

The other tax related implications and condition shall be as under:-

(i) The developers shall bear Capital Gain Tax, either short-term or long-term, depending on the period for which the land was held, on transfer of land to Authority, with no recourse or loading on the Project cost.

(ii) Developer will realize his share (91% or as decided) after payment as per circle rate as income based on the sale of residential units in the housing colony on percentage completion method. This income will be subject to income tax in the year in which it is recognized and entire tax and cost on this account after deduction of development expenditure incurred and proportionate land cost on circle rate shall be borne by the Developer.

(12). TAX DEDUCTED AT SOURCE ON PAYMENTS.-(i) Authority will deduct Income Tax Tax Deducted at Source under Section 194C @ 2% or as applicable from time to time, from developer's share payments. Tax Credit of the same will however be paid to the developer. This shall be after payment as per circle rate is made on which 1% Tax Deducted at Source would have already been deducted.

(ii) The developer shall adhere to all provisions of Income Tax/ Goods & Services Tax regarding Tax Deducted at Source deduction, deposit and filing of returns in respect of payments to contractors or service providers during the development phase.

(iii) In case of units costing above 50.00 lakhs, allottees shall be liable to deduct 1% Tax Deducted at Source on sale cost/ installment paid to Authority u/s 194-1A of Income Tax Act. The tax credit of same will be taken by Authority and will be considered towards Authority share.

(13). **GOODS AND SERVICES TAX REGISTRATION.**- (i) The developers shall obtain Goods & Services Tax registration and discharge their Goods & Services Tax liabilities as per provisions of Goods & Services Tax laws.

(ii) Goods & Services Tax as applicable on sale of units as per law in force will be paid in addition to Basic Sale Price by Customer and the same will be deposited by Authority under the Goods & Services Tax registration.

(iii) All Development/ Construction activities shall be undertaken by the developer out of his revenue share. The developer may take Goods & Services Tax Input claim in respect of procurements made by him from supplier/ sellers. As such all his Goods & Services Tax liabilities shall be met by him out of his revenue share.

(iv) All penalties, interest and legal costs resulting from non-compliance with provisions of Real Estate Regulatory Authority, shall be borne by the party concerned i.e. Authority or developers as the case may be.

(v) All penalties, interest, and legal costs resulting from non-compliance with Goods & Services Tax, Tax Deducted at Source or other statutory obligations shall be the sole responsibility of the party concerned i.e. Authority or developer as the case may be.

(14). **COMPLETION AND ALLOTMENTS.**- (1) Allotment of units after completion will be done by Authority as per its allotment rules read with Real Estate Regulatory Authority guidelines.

(2) Operation and maintenance of different phases of project when it becomes habitable shall be done by Authority as per the provisions of the Act and rules framed thereunder.

(3) Secondary sales and allotments shall be regulated by Authority as per its rules and regulations and developer will not have any right to this effect.

(15). **Legal issues.**- During execution and defect liability period, any dispute between the parties (Authority and developer) will be forwarded to a two Member Committee comprising of Chief Executive Officer, HIMUDA and an Officer nominated by the developer to resolve the dispute. If still the dispute remains unresolved the matter shall be referred to arbitration in accordance with Arbitration and Reconciliation Act, 1996.