

## TRANSFER OF PLOTS AND SHEDS Chapter 8

### Transfer of Plots/ Sheds

8.1 Notwithstanding that the plots/sheds are allotted by the HSIIDC on free-hold basis, the allotment/ management of the industrial estates are being regulated by the Corporation with the sole objective of industrialisation in the State of Haryana. To meet this end, the allotment of industrial plots/sheds is made to the prospective entrepreneurs for setting up their industrial ventures, after following due procedure, involving inviting applications, evaluation on the basis of pre-determined criteria, personal interviews in case of prestigious category projects and thereafter selection of the applicant. As such, the allottee is required to utilise the plot/shed by implementing the industrial project within a stipulated period. To that extent, the expression 'Free-hold' is restrained by the attendant conditions.

### 8.2 What constitutes a Transfer?

A plot/shed allotted by the HSIIDC amounts to transfer in the following circumstances:

i) In case of individual allottees, there is a change of ownership, by whatever means, i.e. through a sale deed, an agreement with the intent of transfer on a future date, or by way of Power of Attorney (except in favour of family members) ;

ii) In the case of Partnership Firms and Limited Liability Partnerships (LLPs), there is a change in the partners whereby the majority stake (51% or above) gets transferred in favour of third party through exit of any of the partner(s) at the time of allotment and /or induction of new partner(s) and the share of the original remaining partner(s) is diluted below 51%;

iii) In the case of Private Limited Companies, there is a change in the promoters/directors whereby the majority stake (51% or above) gets transferred in favour of third party through exit of the shareholders at the time of allotment and

/or induction of new shareholders and the share of the original remaining shareholders is diluted below 51%;

iv) In the case of a Listed Company, where the shareholders having largest shareholding as well as management control have changed their hands;

v) In the case of a Government Company, the change in ownership through dis-investment of shareholding of 51% or more or by way of divestment;

vi) In case of Merger/ Amalgamation/ Take-over of the allottee company, consequent upon the orders of the Competent Court/Central Govt., where the majority stake of the equity shareholders/ management control gets transferred in favour of third party.

### 8.3 Effective date of transfer:

The effective date of transfer shall be the date of registration of sale deed with the concerned Sub-Registrar. In case the transfer is being effected by way of transfer of 51% or more of the share/paid up capital, the effective date of transfer shall be the date of transfer of share/shareholding as per the record of the allottee firm/company.

#### 8.4 Due diligence and warning to purchasers:

Although, the industrial plots/sheds allotted by HSIIDC are freely transferable after completion of the project by the allottee in terms of clause 5.10/5.11, however, third party who purchases or acquires interest in any manner, in a plot/shed before completion of the project, without prior written permission of the Corporation, bears the risk of its resumption notwithstanding that he may plead ignorance about the rules and the facts about the property at the time he entered into the sale-purchase agreement. Hence, it is the duty of any purchaser to carry out due diligence, verify the transferability of the plot/shed and the amount outstanding and payable to the HSIIDC at the time of entering into any agreement. The information in this respect can be gathered from the Estate Offices of the HSIIDC. It is clarified that first/each of the subsequent transfer of plot/shed shall require prior written permission of the Corporation.

#### 8.5. Eligibility Criteria for the First Transfer:

i) The original allottee shall be eligible to transfer the plot subject to the following:

Has deposited full price of the plot, including enhanced cost, if any and got the conveyance deed of the plot/shed executed in his/her/its favour;

Should have obtained occupation certificate and completed the project in terms of clause 5.10/5.11;

There should not be any violations of the building bye-laws and the terms and conditions of allotment;

There should not any default towards payment of other dues of the Corporation like; enhanced cost, maintenance charges, water/sewer charges, EDC, any fee, etc.

ii) The transfer of plot/shed will be allowed without any pre-condition in case of inheritance, will or within the family members of the allottee (except in case of allotment in favour of NRI / person with disability), succession due to death of the allottee/majority shareholders or takeover by Banks/ Financial institutions. The transferee allottee under this category shall be required to implement the approved project and will be treated as original allottee.

#### 8.6 Subsequent transfers:

In case of subsequent transfer of industrial plot/shed, where the first/earlier transfer was effected after completion of the approved project, there will be no pre-conditions, except that there shall not be any violation with respect to

FAR, zoning norms as well as other building bye-laws; further there shall be no default towards payment of any dues of the Corporation like; enhanced cost, maintenance charges, water/sewer charges, EDC, any fee, etc. However, the transferee shall be required to pay applicable processing fee (provided transfer fee in respect of first/earlier transfer was already paid) and enter into an agreement with the HSIIDC to adhere to the rules & regulations of the Corporation qua allotment of the plot, as the transferee allottee would be stepping into the shoes of original allottee. Every subsequent transfer would entail payment of processing charges and execution of a Registered Sale Deed/other documents as per provisions of the Transfer of Property Act/other laws.

8.7

Transfer fees :

i)

Wherever transfer is permissible, save exempted categories as mentioned under para 8.8 below, the transfer fee shall be payable as under:

Sr. No.

Category of Estates

Plots (Rs. Per Sq. Mtr)

1

Category 'A'

300/-

2

Category 'B'

150/-

3

Category 'C'

50/-

In case of shed, the transfer fee shall be payable on the area of the plot under shed. However, in case of flatted factory, transfer fee shall be payable on the plinth area basis. The Service Tax as applicable, shall be extra.

ii)

Transfer of General category plots without completion of the approved project:

In case of general category plots, the allottee may transfer the industrial plot

without completion of the approved project (including vacant/partly constructed

plot) after he/she/it has deposited full price of the plot, including enhanced cost,

if any and got the conveyance deed of the plot/shed executed in his/her/its favour,

subject to payment of transfer fee as under:

Sr.

Particulars

Transfer Fee

No.

1

After

part

Double the normal transfer fee.

completion of the

project

The transferee allottee shall be required to complete the project within the original permissible period or extendable period on payment of prescribed extension fee and thereafter further transfer shall be on payment of normal transfer fee.

Subsequent transfer without completion of the project would attract double the normal transfer fee.

2

After

obtaining

Three times the normal transfer fee.

occupation

certificate

(at

The transferee allottee shall be required to least for minimum complete the project within the original permissible prescribed period or extendable period on payment of construction prescribed extension fee and thereafter further coverage norms as transfer shall be on payment of normal transfer fee. per EMP-2015)

Subsequent transfer without completion of the project would attract double the normal transfer fee.

3

Transfer of vacant 25% of the current allotment price\*, applicable at plot the time of submission of transfer request. In case of multiple transfer of vacant/un-implemented (partly plots, fee as above shall be applicable for first constructed plot transfer and for each subsequent transfer of vacant or where OC for plots/un-completed projects, the transfer fee at minimum double the normal rate shall be applicable prescribed construction

The transferee allottee shall be required to obtain coverage not occupation certificate and complete the project obtained shall be within the original permissible period or extendable treated as vacant period on payment of prescribed extension fee and for the purpose of thereafter further transfer shall be on payment of transfer) normal transfer fee.

4

Subsequent Normal transfer fee, if previous transfer was before transfer after completion of the project; and completion of project

At processing fee, if previous transfer was after completion of the project.

Note:\* All pending applications, received before coming into force of EMP-2015, shall be considered to have been filed on 16.10.2015 i.e. the date of implementation of EMP-2015 and shall be dealt under the provisions of EMP-2015. In such cases, allotment rate mentioned in Annexure-2.1 shall be considered as the current allotment price for such pending applications.

iii) Transfer of Prestigious Category plots:

In case of prestigious category projects, transfer shall be permissible on payment of normal transfer fee, only after completion of the project by the allottee, as defined in clause 5.11(i)(a) of EMP-2015.

iv) Transfer fee, wherever applicable, would be payable along with interest @ 12% p.a. from the effective date of transfer. However, in cases where transfer fee is linked to current allotment price, interest @ 12% p.a. shall be applicable from the date of submission of transfer request. The allottee shall apply for first/subsequent transfer of plot/shed in favour of the proposed transferee before effecting the transfer, failing which the transfer fee (which is not linked to current rate of allotment)/processing fee, as the case may be, would be charged at double the normal rate, instead of normal rate. Similarly in case where the first transfer was

made after complying with the eligibility criteria as defined under clause 8.5(i) and subsequent transfer(s) of plot/shed is effected at the stage of Provisional Transfer Letter (without obtaining FTL), the same may be regularised by the Corporation by charging penalty equivalent to 25% of normal transfer fee as per EMP-2015 for each such transfer.

v) In case of non compliance of conditions of Provisional Transfer Letter (PTL) within a period of 120 days, penalty equivalent to 25% of normal transfer fee as per EMP-2015 shall be charged for regularising the delay beyond 120 days, in compliance of PTL conditions.

vi) In case the transfer of plot/shed was effected through registered sale deed, there shall be no requirement of personal appearance of the transferor before the Estate Manager, HSIIDC to confirm the sale transaction. In case the transfer is effected through transfer of majority equity shares in a company, such transfer should be filed/registered in the MCA records and the allottee shall be required to submit a copy of the MCA records along with resolution of the Board of Directors/ general body for change of management/transfer of majority shareholding, duly certified by the Statutory/ Secretarial Auditors of the Company and in such cases also there shall be no requirement of personal appearance of outgoing directors/shareholders.

8.8 Categories exempted from payment of Transfer Fee:

No transfer fee will be payable in the following cases:

i) Transfer of plot after the allottee has run his industrial unit for a period of more than five years; it is clarified that once the allottee or the re-allottee has run the unit for a period of five years or more, no transfer fee shall be applicable in case of subsequent transfers.

ii) Transfer by way of inheritance, will or within the family members of the allottee;

iii) Succession due to death of owner/allottee/ majority shareholders;

iv) Takeover by bank/financial institutions.

v) Second or all subsequent transfers, provided the first/earlier transfer was made after completion of the project on payment of normal transfer fee, and otherwise eligible for transfer as per clause 8.6.

vi) Transfer of plot in favour of another company promoted by the same promoters / shareholders.

In the cases covered under above categories, only the applicable processing fee will be payable along with the transfer request. However, dues of the Corporation, if any, shall be required to be cleared by the allottee/proposed transferee before any such transfer.

#### 8.9 Consequences of unauthorized transfers:

A transfer is unauthorised where the transfer of plot/shed is not permissible as per provisions of the EMP-2015. Any transfer, which is otherwise permissible, but effected without prior written permission of the Corporation shall also constitute as unauthorised transfer. The allottee/successor-in-interest, as the case may be, will have to bear the consequences of such unauthorised transfer, including payment of penalties as defined in EMP as well as resumption of the plot/shed.

#### 8.10 Procedure:

i) An application for transfer of plot/shed containing relevant information along with payment of applicable transfer fee/processing fee shall be required to be made to HSIIDC as per the prescribed procedure, by the authorised person, as detailed below:

The allottee himself in the case of an individual/ sole proprietorship or the lawful successor in case of inheritance/ will/ death of the original allottee;

One of the partners with authorisation from other partners in the case of a partnership firm;

One of the Directors, along with certified copy of the resolution passed by the BoD of the company, in the case of a Private Limited Company;

The Company Secretary/Manager, duly authorised through a resolution of the Board of the Company, in the case of a Public Limited Company.

ii) The Estate Manager shall verify the completeness of the application, the purpose for which the proposed transferee would be utilizing the premises and other prescribed parameters within a period of 07 working days. In case the application/request is found to be in order, the Estate Manager shall issue a Provisional Transfer Letter (PTL) containing the terms and conditions for such permission within 30 days. In case the application is found incomplete or deficient in any respect, the applicant will be informed of the same along with the deficiencies within a period of 15 working days;

iii) The terms and conditions of Provisional Transfer Letter (PTL) will be complied with by the transferor /transferee within a period of 120 days from the



date of issue of the PTL;

iv) Pursuant to the completion of formalities contained in PTL, the Estate Manager would, execute agreement with the transferee, issue the letter of re-allotment in favour of the transferee, whereupon the proposed transferee shall become an allottee/ re-allottee of the Corporation.