

GOVERNMENT OF HARYANA
DEPARTMENT OF URBAN LOCAL BODIES
NOTIFICATION

No.08/04/2021-ICI

Dated : 01.06.2021

POLICY FOR SALE OF SHOPS/HOUSES BY MUNICIPAL BODIES WHERE POSSESSION OF SUCH PROPERTY(IES) IS WITH ENTITIES OTHER THAN MUNICIPAL BODIES OR ITS PREDESSOR BODIES FOR A PERIOD OF 20 YEARS OR MORE

(see the relevant portions of section: 164 of the Haryana Municipal Corporation Act, 1994 and section 62 A of the Haryana Municipal Act, 1973)

The Governor of Haryana is pleased to notify the following policy to be applicable on all Municipal Bodies within the State of Haryana with immediate effect:

1. Short title and commencement: -

- (1) This Policy may be called the 'Policy for Sale of Shops/Houses by Municipal Bodies'.
- (2) It shall come into force from the date appointed by the Government: provided that such date(s) may be appointed differently for different class or category of property/persons.

2. Categories of properties/persons to whom this Policy apply:-

- (1) Save as otherwise provided by or under this Policy or, as the case may be, directed by the Government from time to time, this Policy shall apply to the following properties:-

- (a) On the land leased out on Tehbajari/shops/houses for which the corresponding rent/lease money/license fee/Tehbajari fee is due/receivable to the Municipal Bodies as on 31.12.2020 and which are in the possession of persons/entities other than the Municipal Bodies or, as the case may be, its predecessor bodies for a period of 20 years and above.

Note: It is possible that even after granting such rights, the properties might have been transferred to the Municipal Bodies (either its ownership or management) from other bodies (such as Panchayat, Improvement Trust, Mandi Township, etc). In such cases, for the purposes of working out 'duration of possession', the period for which it remained in the ownership/management of such predecessor bodies will also be included while working out eligibility.

- (b) Any other class or category of persons/properties on which the Government may, by order, specifically direct this Policy to be made applicable, either wholly or in parts.

3. DEFINITIONS: - In this Policy, unless the context requires it to be otherwise,

- (a) "allottee" means the person/entity to which the property or a part thereof was leased out/rented out/ given on tehbjari/given on license fee by the Municipal body or its predecessor;
- (b) "appointed date" means the date appointed by the government through notification for bringing this policy into force;

- (c) **“competent authority”** means (i) Commissioner of the respective Municipal Corporation for the Municipal Corporations; (ii) The Estate Officer of Excised Area for the Excised area falling within the Municipal Council of Ambala Sadar and (iii) The respective District Municipal Commissioners for all other Municipal Bodies/area;
- (d) **“encroachment”** means any land, other than the one that was granted on rent or license fee or lease for shop/house (but not on tehbajari) but adjoining to such land, which has been occupied by way of raising construction thereupon or covering it without authorization from the Municipal Bodies or its predecessor;
- (e) **“Government”** means the Government of the State of Haryana in the Urban Local Bodies Department, save as otherwise provided by or under this Policy;
- (f) **“lawfully”** means such property or part thereof which was legitimately leased/rented out/granted on tehbajari/license fee and does not include any piece of land or structure that has been encroached upon or raised unauthorizably (that is without obtaining lawful permission so to do) either within the premises so leased/rented out/granted on tehbajari/license fee or outside the said premises but in continuity/adjoining the said premises;
- (g) **“municipal bodies”** means any local body functioning under the administrative control of the Department of Urban Local Bodies, Government of Haryana;
- (h) **“occupier”** means a person or a legal entity who is in possession of whole or any part of the property as on 31.12.2020;
- (i) **“predecessor”** means any Organ of State or Public Sector Undertaking of the State Government from which the area was transferred to the Municipal Bodies along with properties owned by such Organ of State or Public Sector Undertaking of the State Government for management/ownership purposes;
- (j) **“property”** means any land, including the building raised on the land owned or managed by the Municipal Body as on 31.12.2020 which is used as shop/house while being in possession of individual (person or entity) other than the respective Municipal Body while the said land/construction raised thereupon was lawfully leased/rented out/granted on tehbajari/license fee either by the Municipal Bodies or the predecessor bodies from which the ownership/management has come to the Municipal Bodies;
- (k) **“transferee”** means a person/entity to whom the property or a part thereof was transferred, either with the permission of the Municipal Body or its predecessor or by some other understanding/arrangement between the then occupier of the property or a part thereof and the successor person, with

the said successor person to be known as the 'transferee' for the time being;

- (l) **"unauthorized construction"** means any construction or coverage raised on the land and structure constructed thereupon, other than the one that was granted on rent or license fee or lease for shop/house (but not on tehbajari), without seeking the valid permission of the Municipal Body or its successor.

4. Eligibility and other Conditions related to it:

The following category of person(s) shall be eligible to seek the benefit of this policy:

- i. An occupier of the property or a part thereof, who was in possession of the property or any part thereof on 31.12.2020; and
- ii. Who is occupying such property or the part thereof while the said property or its said part remained in the possession of individual or entities other than the Municipal Bodies or its predecessor entity continuously for a period of 20 years or more; and
- iii. In all such cases, where there is some ongoing litigation before a court of law, but the occupier submits an affidavit that he is prepared to take the benefit of this policy solely on his own risk and cost and shall not involve the concerned Municipal Body in the said dispute in any manner what so ever:
provided that in all such cases where the Municipal Body has been lawfully prevented by some competent court of law not to transfer the ownership or to maintain status-quo relating to the property, such property shall not be eligible for transfer in terms of this policy.

5. Procedure to apply for seeking the benefit of this policy:

An eligible occupier desirous to seek the benefit of this policy may apply online on the web-portal to the respective Commissioner of Municipal Corporation/Executive Officer/Secretary of the respective Municipal Body on or before 5.00 pm within one month counted from the appointed date along with following documents/proof:

- a. Eligible document(s) (in terms of clause 6 of the policy) supporting the claim that the applicant was in possession of the property or part thereof (for which he is interested in availing the benefit of this policy) on 31.12.2020;
- b. A self certified copy of letter (in the support of claim submitted by the occupier) mentioning the date/year from which the property or the relevant part thereof has been claimed to be under the possession of person(s)/entities other than the respective Municipal Body or its predecessor;
- c. Document(s) (in terms of clause 6 of the policy) supporting the claim that the property or the relevant part thereof (for which he is interested in availing the benefit of this policy) was under the possession of person(s)/entities other than the respective Municipal Body or its predecessor on the date/year claimed under clause 'b' above;
- d. A self certified copy of site plan and floor wise constructed plan mentioning the total area and the total built up area which is under the possession of the applicant as on 31.12.2020. (The area built up by the Municipal Body or its predecessor and handed over need not be included in the 'total built up area' for the purposes of this clause.)

Note 1: In all such cases, where documentary proof required are produced only for a part of property, only such part shall be considered for dispensing the benefit of this policy subject to other conditions of this Policy.

Note 2: While mentioning the built up area, total cumulative carpet area need to be mentioned (including the areas of all floors, if more than one constructed floor is claimed to be under his possession).

6. Documents that shall be considered as sufficient proof establishing the possession of person(s)/entities other than the respective Municipal Body or its predecessor on any particular date:

Any one or more of the following documents shall be sufficient to establish the possession of person(s)/entities other than the respective Municipal Body or its predecessor on any particular date for the purposes of this policy:

- a. Allotment letter issued in favour of the person(s)/entities by the respective Municipal Body or its predecessor valid as on the relevant date of eligibility in terms of this policy on which the possession is being claimed;
- b. Transfer letter validated with the permission of the Municipal Body or its predecessor;
- c. Agreement with original Allottee/lawful transferee as per the Municipal Record;
- d. Receipt(s) issued by the respective Municipal Body or its predecessor regarding payment of rent/tehbajari/license fee/lease money paid to the concerned Municipal Body or its predecessor;
- e. Copy of any Municipal Record/Record of its predecessor that established the property or any part thereof under the possession of person(s)/entities other than the respective Municipal Body or its predecessor, including any property tax assessment order in favour of person(s)/entities other than the Municipal Body or its predecessor;
- f. Electricity Meter connection in the name of person(s)/entities other than the respective Municipal Body or its predecessor pertaining to the property of any part thereof;
- g. Water supply connection in the name of person(s)/entities other than the respective Municipal Body or its predecessor pertaining to the property of any part thereof;
- h. Any other document validly issued by the Government (of the State of Haryana or Central Government) pertaining either to the property or part thereof or pertaining to activities undertaken from the property or part thereof (clearly mentioning the description or address as the property or a part thereof), such as Sales Tax/VAT/GST related registration number, IT Returns, Registration under Shop Act, Fire NOC, etc.

7. Time Frames for making decisions:

- a. There shall be one common web portal through which all applications, including the objections and claim, would be received and processed and, wherever required (optionally at the discretion of the applicant/occupier), payments shall also be received on-line through the said web-portal;
- b. Every application which is received shall be notified along with the uploaded documents on the web-portal and shall be made accessible to public at large;

- c. Within one month counted from the date on which the application along with its detail is uploaded, it will be open for any person/entity to raise claim and objection on the web-portal of the respective Municipal Bodies, if any;
- d. Within the same one month as mentioned in sub-clause 'b' above, the concerned Commissioner of Municipal Corporation or, as the case may be, Executive Officer of Municipal Council or the Secretary of Municipal Committee shall cause the application received to be scrutinized and place before the Competent Authority. During the course of scrutiny, if there is any requirement to seek clarification/extra/further supporting documents from the applicant, the same shall be procured. The report of scrutiny should be complete in all respect and shall also include the verification of the claimed area to be under the possession of occupier making the application;
- e. On the expiry of the said one month, all the claim and objections received shall be examined and settled by the Competent Authority and a final decision on the application, by also taking into consideration the scrutiny report and recommendation, shall also be made by the Competent Authority within a period of further one month by passing an order:
provided that through such order, the application/request for grant of the benefit of this policy may also be declined by finding the application either not being in order or unfit for granting the benefit of this policy or due to any other reason as recorded in the order.
- f. Once the Competent Authority finds the application to be in order and fit for granting the benefit of this policy, he shall make such an order. Within 15 days of making of the said order, the concerned Municipal Body shall issue a demand notice to the applicant wherein the total liability of payment to be made in terms of this policy shall be mentioned;
- g. Within 15 days counted from the date on which the demand notice was issued, an amount representing 25% of the 'total liability of payment' conveyed through the demand notice shall be deposited with the concerned Municipal Body by or on behalf of the applicant/occupier;
- h. On depositing the said 25% of the 'total liability of payment' and before the 'total liability of payment' has been made and conveyance deed is executed, the applicant/occupier, in whose favour the Competent Authority has passed the order, may mortgage or create any right/interest on the property only to secure the loan amount against the property in order to make the payment of the balance of the 'total liability of payment' with the prior written permission of the respective Competent Authority (such a prior written permission shall be mandatory);
- i. Under all circumstances, the 'total liability of payment' must be cleared within 3 months counted from the date on which the demand notice was issued;
- j. Once the 'total liability of payment' has been made, the conveyance deed shall be executed between the concerned Municipal Body and the applicant/occupier. The entire cost of execution of the Conveyance Deed, including the applicable Stamp Duty, etc, shall be borne by the applicant/occupier.

8. Appeal

- a. Any person aggrieved by any order made or action taken within the provisions of this policy by the Municipal Body may prefer a representation/appeal before the Competent Authority within a period of one month from the date on which such order was passed or, as the case may be, such action was taken;
- b. Any person aggrieved by any order passed by the Competent Authority within the provisions of this policy may prefer an Appeal before the Director, Urban Local Bodies or any other authority authorized by him in this behalf within a period of one month from the date on which such order was passed;
- c. Any representation made/appeal preferred under this clause shall be decided as expeditiously as possible, but preferably within 2 months.

9. Liability to pay in cases where the claim has been found fit for execution of Conveyance Deed in terms of this Policy:

Base Rate: Base Rate of the property shall be calculated in following manner:

| Sr. No. | Duration of Continuous Possession | Base Rate |
|---------|--|--|
| 1 | 2 | 3 |
| 1. | For a period exceeding 20 years but less than 25 years | (80% of the Applicable Circle Collector Rate of the relevant category of land on the date on which demand notice was issued) multiplied by (the verified area of land under the possession of occupier and approved to be sold by the Competent/Appellate authority) |
| 2. | For a period 25 years or more but less than 30 years | (75% of the Applicable Circle Collector Rate of the relevant category of land on the date on which demand notice was issued) multiplied by (the verified area of land under the possession of occupier and approved to be sold by the Competent/Appellate authority) |
| 3. | For a period 30 years or more but less than 35 years | (70% of the Applicable Circle Collector Rate of the relevant category of land on the date on which demand notice was issued) multiplied by (the verified area of land under the possession of occupier and approved to be sold by the Competent/Appellate authority) |
| 4. | For a period 35 years or more but less than 40 years | (65% of the Applicable Circle Collector Rate of the relevant category of land on the date on which demand notice was issued) multiplied by (the verified area of land under the possession of occupier and approved to be sold by the Competent/Appellate authority) |
| 5. | For a period 40 years or more but less than 45 years | (60% of the Applicable Circle Collector Rate of the relevant category of land on the date on which demand notice was issued) multiplied by (the verified area of land under the possession of occupier and approved to be sold by the Competent/Appellate authority) |
| 6. | For a period 45 years or more but less than 50 years | (55% of the Applicable Circle Collector Rate of the relevant category of land on the date on which demand notice was issued) multiplied by (the verified area of land under the possession of occupier and approved to be sold by the Competent/Appellate authority) |
| 7. | For a period of 50 years or more | (50% of the Applicable Circle Collector Rate of the relevant category of land on the date on which demand notice was issued) multiplied by (the verified area of land under the possession of occupier and approved to be sold by the Competent/Appellate authority) |

Calculation of Chargeable Price of the property from the occupier:

a. For the component of land and/or the structure constructed by the Municipal Body or its predecessor proposed to be transferred in terms of this policy

The Chargeable price component for the land to be transferred and/or the structure constructed by the Municipal Body or its predecessor to be transferred in terms of this policy shall be worked out in the following manner:

| Sr. No. | Category of Occupier | Chargeable Price |
|---------|---|---|
| 1 | 2 | 3 |
| 1. | Where the entire structure constructed by the Municipal Body or its predecessor raised on the land and the land is to be transferred to a single occupier (irrespective of number of floors constructed there upon) | Base Rate |
| 2. | Where the structure constructed by the Municipal Body or its predecessor is two storied and each of such story is to be transferred to different occupiers. | (i) 60% of Base Rate for the occupier of Ground Floor (ii) 40% of the Base Rate for the occupier of First Floor. |
| 3. | Where the structure constructed by the Municipal Body or its predecessor is three storied and it is to be transferred to more than one occupier. | (i) 50% of Base Rate for the occupier of Ground Floor (ii) 30% of the Base Rate for the occupier of First Floor. (iii) 20% of the Base Rate for the occupier of Second Floor. |

Note: In all such cases where the top floor has been acquired in terms of this policy, the roof rights shall vest in the occupier in whom the ownership of the top floor of the building vests. This roof right, however, shall be confined only to the uses of the vacant portion of roof (after excluding the area of roof utilized for common purposes of building or the essential purposes by the owners of the other floors, such as for purposes of keeping water tank, the outdoor unit of air conditioner plants, etc, but it shall not authorize the owner of the top floor to raise any construction, including constructing another floor.)

b. For the component of structure constructed by the person(s)/entities other than the Municipal Body or its predecessor on the land and/or building mentioned in (a) above and proposed to be transferred in terms of this policy:

(Rs. 1,000/-) multiplied by (the total carpet area constructed by the person(s)/entities other than the Municipal Body or its predecessor represented in the unit of square yards) and approved to be transferred in terms of this policy.

c. Other dues

The applicant/occupier in whose favour the property is to transferred by way of execution of Conveyance Deed shall also be liable to make payment of all the established taxes and arrear thereof and rent/license fee and arrears thereof including property tax/fire tax/profession tax/trade tax/calling and employment tax/license fee/rent/tehbajari/lease money, etc. in addition to all the applicable taxes/dues of the Municipal Bodies or its predecessor or Government. The person or occupier, in whose favour the Conveyance Deed is proposed to be executed, shall be

liable to make all such payment irrespective of whether the property was in his possession or not at the relevant time to which such tax/dues or arrears thereof pertain.

Note 1: The liability under this sub-clause shall be worked out by the respective Municipal Body and conveyed along with the demand notice.

Note 2: The term 'arrears' would include any interest chargeable or penalty levyable on the principal amount in arrear.

d. Arrears of Transfer Fee

In all such cases where the applicant/occupier, in whose favour the property is to be transferred by executing Conveyance Deed in terms of this policy, happens to be the one who has not come to occupy the property by seeking lawful permission of the respective Municipal Body or its predecessor, the said applicant/occupier shall also be liable to pay a sum of Rs. 30,000/- as a 'one time composition fee'.

e. The 'total liability of payment'

Total liability of payment shall be worked out by adding the liabilities as worked out for the applicant/occupier under the sub-clause 'a', 'b', 'c' and 'd' above.

10. Other ancillary conditions:

a. The duration spent from the date appeal is filed and the appeal is decided in terms of this policy shall not be counted while working out the permissible 'time frame for making decisions' in terms of clause 7 of this policy for all events that fall after the appeal is filed and before it has been finally decided.

b. The validity of the 'demand notice' issued under the sub-clause 7 (e) of the policy shall be for 3 months counted from the date it is issued and whenever, due to any reason whatsoever, including the reason of delay due to filing of appeal and decision thereupon, the permissible validity expires but the permissibility of extending the benefit of this policy still subsists, fresh demand notice shall be prepared in terms of this policy and issued and such modified demand notice shall be deemed to be the authentic and final demand notice in supersession of all the previously issued demand notices.

c. In cases where the originally planned verandah have been covered/encroached by the adjoining shop/houses leases/renters/license fee holders, it will be permitted for the same to be sold by way of execution of conveyance deed while adhering to the other conditions of this policy, provided the occupiers of the entire row of shops, by passing a resolution, represent to the competent authority that all of them are interested in taking the benefit of this policy by adhering to all its conditions and are willing to take, uniformly, the encroached portion of adjoining verandah by paying the composition fee in terms of the provision of clause 9 of this policy at Base Rate (for the land) and the composition fee (clause 9 'b') of this policy in addition:

Provided that such encroachment does not form a part of street/road and its dispensation shall not hinder the smooth movement of traffic and it is not reserved for any public purpose and not intended to be used for any common purpose;

Note: The discretion of the Competent Authority in this regard shall be final and no appeal shall vest against such discretion as to get 'encroachment' regularized is not a matter of right.

- d. In cases where, without obtaining the sanction of the Municipal Bodies or their predecessor, construction have been raised over and above the originally built up shops/houses (by the Municipal Bodies or their predecessors) and leases/rented out/granted on license fee and, as the case may be, constructions raised on the land granted on tehbajari, the same shall also be permissible to be regularized by realizing the composition fee as mentioned in clause 9 'b' of this policy subject to all the other provisions of this policy, provided they do not violate any other legal requirements (such as in contravention of the defense area regulations, control area regulations, etc;
- e. For the land granted on tehbajari, since such grants are very old, entire area claimed to be under the possession of the applicant/occupier free from any dispute qua the occupation shall be permissible to be transferred in terms of this policy subject to the verification about the occupation.

11. Re-evaluation of rental in cases where the properties/occupier of the property failed to seek accommodation within this policy:

This policy happens to be a onetime amnesty dispensing opportunity to the eligible beneficiaries, it compromises the privileges of the Municipal Bodies in favour of the eligible beneficiaries but do not extinguish the lawful rights/privileges of the Municipal Bodies. Thus there would be possibilities where some of the properties and their occupier do not find it worthwhile to seek accommodation within this policy owing to various reasons, including economic better prospect remaining with such property in exception to seeking such accommodation or where the Competent Authority has declined to grant of the benefit of this policy (under proviso to sub-clause 'e' of clause 7 of this policy) the status/rent of the respective property shall be reassessed based on following formulation:

- i. In all such cases, where there are illegal constructions raised on the premises leased out, such illegal constructions shall be removed forthwith;
- ii. Wherever land, in excess to the one granted in terms of the original allotment have been occupied/brought under construction, the same shall be demolished and retrieved, while the cost of demolition shall remain chargeable from the occupier;
- iii. The rent shall be, after implementation of the provisions of (i) and (ii) above shall be reassessed in terms of following formulation:

Fresh Rent annually = (Area of actual land after removal of encroachment afforded to the rent holder/lessee) multiplied by (the relevant collector rate at commercial valued land in the vicinity) multiplied by (the highest rate of interest paid by the State Bank of India on Fixed Deposit annually):

Note: The possession of the property, in absence of fully meeting the compliance as mentioned in provisions (i) and (ii) above within a month shall amount to the possession being unlawful in the hands of occupier and shall be retrieved forth with by the respective Municipal Body.

- iv. Fresh rent/lease agreement under these terms shall be deemed to have been entered, replacing the existing rent/lease agreement, if objection is raised within one month of the decision under proviso to sub-clause 'e' of clause 7 of this policy or, as the case may be,

after the expiry of the period of making an application seeking accommodation under this policy.

2. In the event of non acceptance of the proposition, including the rent/lease amount fixed in terms of this policy as enumerated above, it shall be lawful for the respective Municipal Bodies to terminate the use of such property by sealing it and seeking back the possession of the property from its occupier.

12. Relaxations

The Government may, if it deems fit so to do, accord relaxation(s) in the provision(s) of this policy, either generally or targeted to any class or category of persons or properties.

13. Interpretation, clarification and removal of doubts

If, at any stage of implementation of this policy or otherwise, any doubt is raised or encountered about the interpretation of any provision(s) of this policy or about the procedure required to be followed in giving effect to the letter and spirit of this policy, then the matter shall be referred to the Government and the decision of the Government about such interpretation/doubt/procedure to be followed shall be final and binding on all concerned and shall be reckoned as a clarificatory part of this policy.

2. The Governor of Haryana is further pleased to direct that the provisions of this policy be implemented/given effect to all the concerned in earnest with immediate effect.

Chandigarh dated the,
01.06.2021

S.N.Roy
Additional Chief Secretary to Government Haryana,
Local Bodies Department.

Endst. 08/04/2021-1CI

Dated : 01.06.2021

A copy of the above is forwarded to the following for information and necessary action please:-

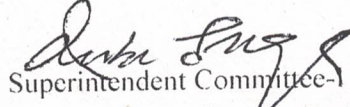
1. Secretary to Governor, Haryana;
2. Chief Secretary to Government of Haryana, Chandigarh;
3. All the Administrative Secretaries to Government Haryana;
4. Director General of Police, Haryana, Panchkula;
5. Director General, Urban Local Bodies Department, Haryana, Panchkula;
6. All the Divisional Commissioners in the State;
7. All the Heads of Departments in Haryana;
8. All the Deputy Commissioners in Haryana;
9. All the Commissioners, Municipal Corporations in Haryana;
10. All the District Municipal Commissioners in Haryana;
11. All the Executive Officers/ Secretaries, Municipal Councils/ Municipal Committees in Haryana;
12. Secretary to Government Haryana, Secretariat Establishment;
13. Private Secretary to Hon'ble Speaker, Haryana Vidhan Sabha.


Superintendent Committee-I

For Additional Chief Secretary to Government of Haryana,
Urban Local Bodies Department.

A copy of the above is forwarded to the following for information and necessary action please:-

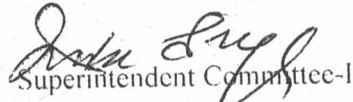
1. Private Secretary to Urban Local Bodies Minister;
2. Chief Principal Secretary to Chief Minister Haryana;
3. Principal Secretary to Chief Minister Haryana;
4. Additional Principal Secretary to Chief Minister Haryana;


Superintendent Committee-I

For Additional Chief Secretary to Government of Haryana,
Urban Local Bodies Department.

A copy of the above is forwarded to the following for information and necessary action please:-

1. All the Mayors of the Municipal Corporations in Haryana;
2. All the Presidents of the Municipal Councils/Municipal Committees in Haryana.


Superintendent Committee-I

For Additional Chief Secretary to Government of Haryana,
Urban Local Bodies Department.

58223—C.S.—H.G.P., Chd. 2N2

