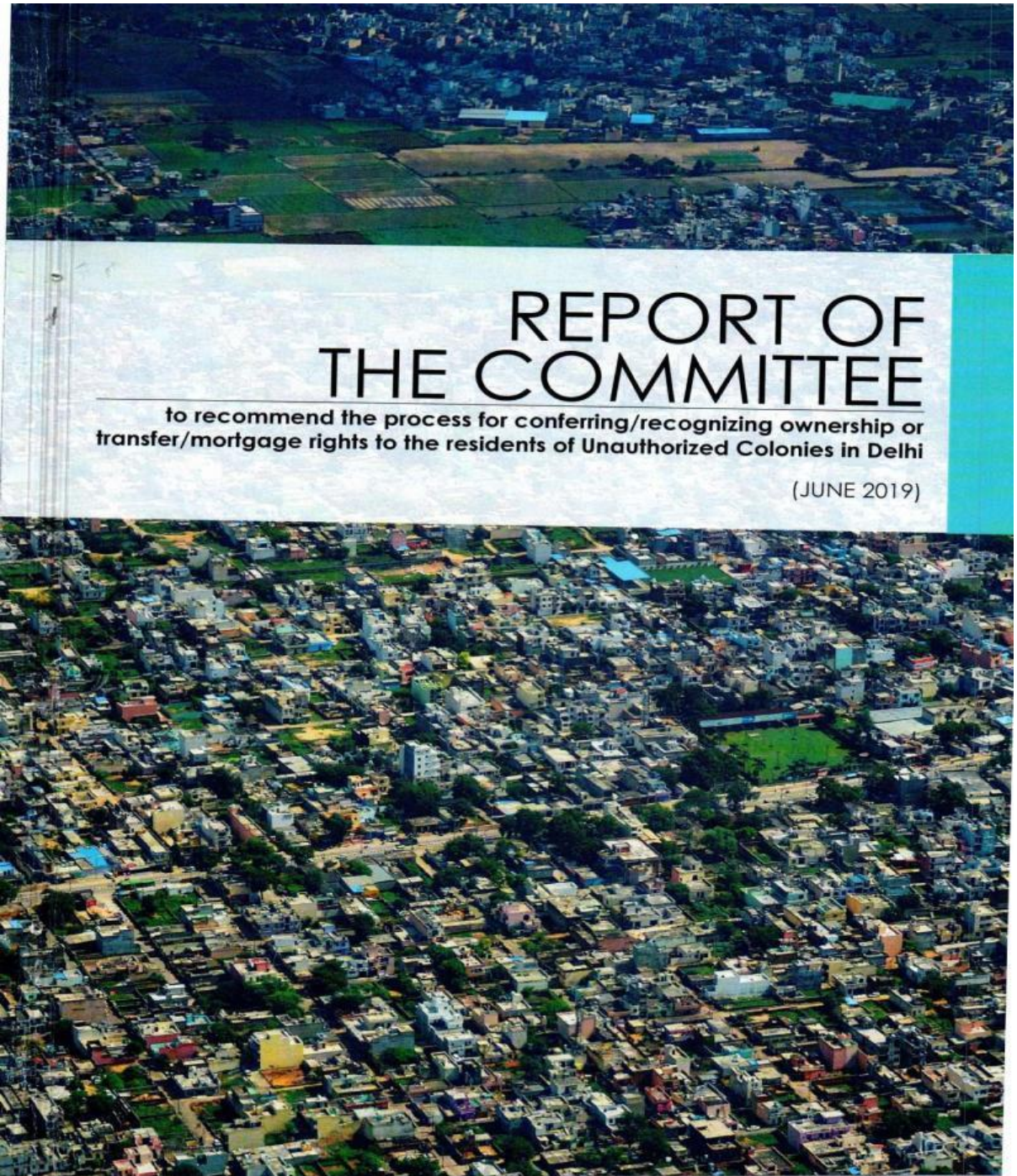


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ANNEX-8
(REFERRED TO IN PARA 2.7 OF THE NOTE)



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REPORT OF THE COMMITTEE

to recommend the process for conferring/recognizing ownership or
transfer/mortgage rights to the residents of Unauthorized Colonies in Delhi

(JUNE 2019)

COMMITTEE MEMBERS

Chairperson

Shri Anil Bajjal, Hon'ble Lieutenant Governor of Delhi

Members

Shri Tarun Kapoor, Vice Chairman, Delhi Development Authority
Shri K. Sanjay Murthy, Additional Secretary, Ministry of Housing & Urban Affairs
Shri Vijay Kumar Dev, Chief Secretary, Government of National Capital Territory of Delhi
Shri Puneet Goel / Smt. Varsha Joshi, Commissioner, South Municipal Corporation of Delhi
Smt. Varsha Joshi, Commissioner, North Municipal Corporation of Delhi
Dr. Dilraj Kaur, Commissioner, East Municipal Corporation of Delhi
Prof. P. S. N. Rao, Chairman, Delhi Urban Arts Commission
Dr. Sanjay Gupta, Professor, Urban Transport, School of Planning & Architecture, Delhi
Shri Jagan Shah, Urban Expert, Former Director, National Institute of Urban Affairs
Shri G. C. Mishra, Former Director, Delhi Fire Services

Member Secretary

Shri Manish Gupta, Principal Commissioner, Delhi Development Authority

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**Committee to recommend the process for conferring/
 recognizing ownership or transfer/mortgage rights to
 the residents of Unauthorized Colonies in Delhi**


Chairperson
Shri Anil Bajjal

Hon'ble Lieutenant Governor of Delhi


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 Ministry of Housing & Urban Affairs


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Preface

Delhi has experienced exponential population growth in the last couple of decades. The development of planned housing colonies has not kept pace with the requirements of such a burgeoning population, with the result that the unfulfilled housing demand has been met within numerous Unauthorized Colonies (UCs) in the city. It is estimated that lakhs of Delhi's citizens live in such unplanned, unregulated and unauthorized colonies spread across the city.

These UCs are characterized by haphazard growth, poor-quality building construction, lack of adequate light and ventilation, unsafe living environments vulnerable to threats of fires, earthquakes and other disasters, lack of proper services and civic amenities, inadequate open spaces, extremely narrow streets and heavy traffic congestion compounded by unorganized mix of uses, and in general, a poor quality of life for the inhabitants. The residents are forced to live in ghetto-like situations with sub-human conditions, and there is an urgent need to address the physical degradation within such colonies and the associated health and disaster risks faced by citizens.

The lack of legal recognition, stemming from the fact that residents do not possess clear ownership titles and that the developments have not been approved in terms of layout plans, land use or building plans, prevents the residents of UCs from accessing the market to avail credit-linked subsidy, loan or mortgage by using their property as a collateral. People also fall prey to fraud/forgery in the absence of formal processes of property transfer and registration of titles, leading to a large number of litigations.

Any attempt to improve such colonies must address two critical aspects, namely, (i) the legal aspect – providing legal recognition to properties in such settlements, enabling the owners/residents to extract the actual value of land and property; (ii) the planning aspect – improving the built environment through improvement of building stock, facilitating access to emergency services, provision of open spaces and social amenities, etc.

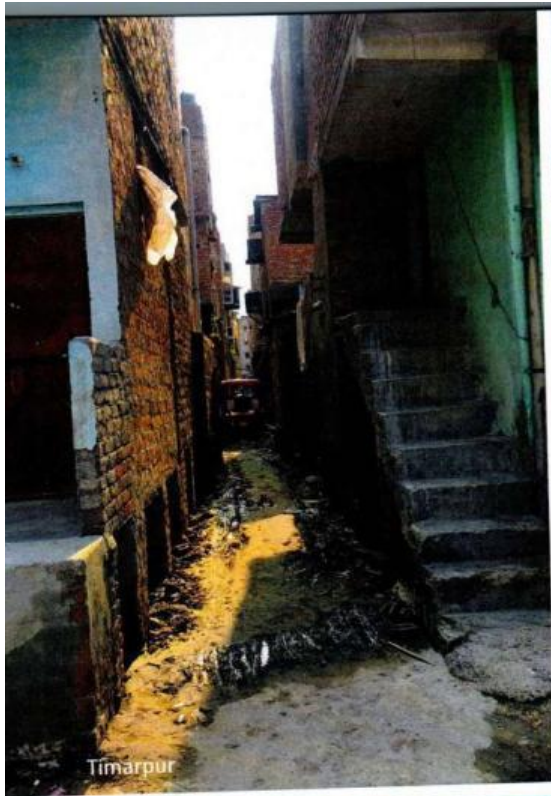
The issue can be addressed through clear property titles, access to credit, incentivizing area improvement/redevelopment through liberalized development control norms, simplification of processes to facilitate improvements in a time bound manner through concerted efforts of local bodies and other service providing agencies, as well as by creating incentives for self-improvement by local residents and landowners. Therefore, the government has decided to constitute a committee to recommend the process for conferring/recognizing ownership or transfer/mortgage rights to the residents of UCs, with the objective of triggering brownfield redevelopment/retrofitting and enhancing the quality of living environment in these areas.

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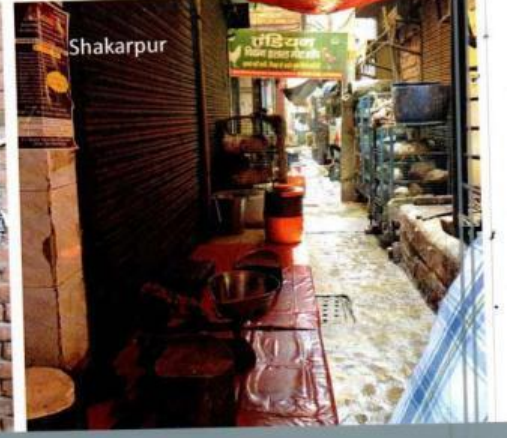
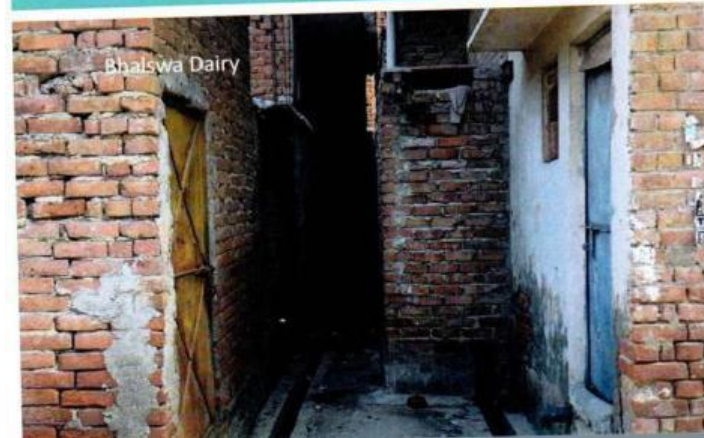
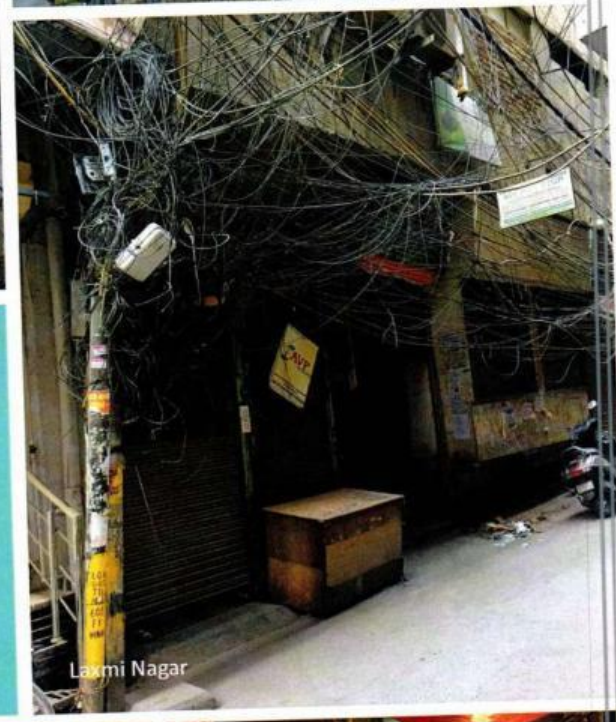
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UNAUTHORIZED COLONIES are characterized by haphazard development that has taken place over past many decades. They lack basic public amenities and are generally heavily built up.



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Introduction

1. 'Unauthorized Colony (UC)' means a colony/development comprising of a contiguous area where permission of agency concerned has not been obtained for approval of Layout plan, land use, and/or building plan¹. These UCs are characterized by haphazard development that has taken place over past many decades. They lack basic public amenities and are generally heavily built up. As per the records of the Urban Development (UD) Department of Government of National Capital Territory of Delhi (GNCTD), 1797 UCs have been identified. This is on the basis of number of registrations applied for by the RWAs in the year 2008.

2. The Land on which the said UCs exist is of various types including,
 - a. Private agriculture land
 - b. Agriculture land vested in Gaon Sabha (under Delhi Land Reforms Act, 1954)
 - c. Government/ original Gaon Sabha Land
 - d. Forest land
 - e. Water-bodies
 - f. Yamuna flood plains
 - g. Land under various stages of acquisition.
 - h. Land under the influence zone of protected monuments.
 - i. Land falling on the Right of Way (RoW) of existing and proposed Master-Plan Roads, National Highways, Waterways, under HT lines etc.
 - j. Land under Master Plan greens, Regional parks, etc.

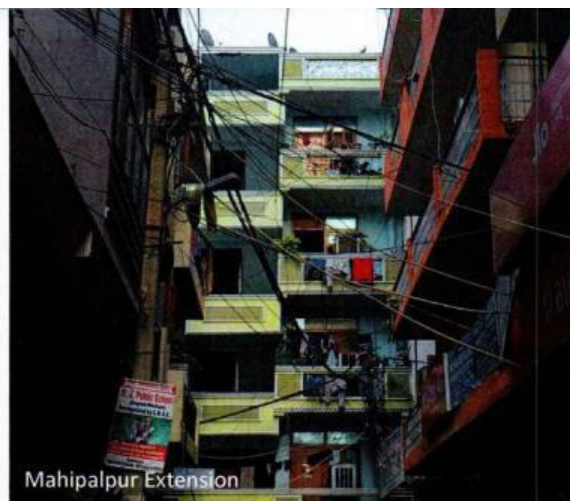
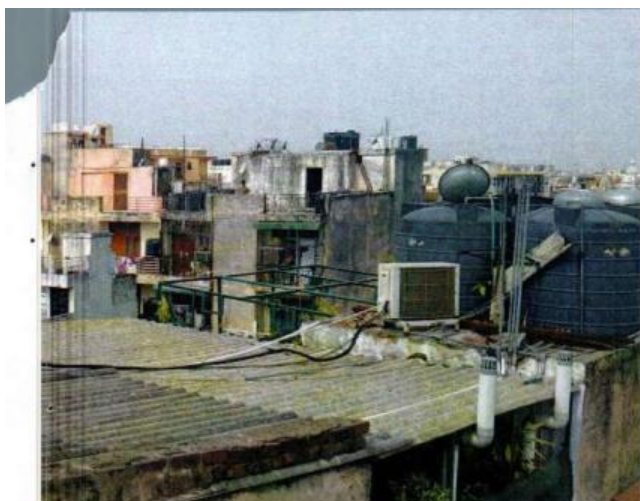
3. The exact data on the details of land under UCs is not available. The UD Department, GNCTD has listed 1797 colonies as registered, the list of which is enclosed at Annexure-I of Appendix 'A'. As reported by the concerned departments/agencies, out of 1797 identified UCs, 519 are on DDA land (part or full), 179 are on forest land (part or full), 3 are in protected/ notified area of ASI and 37 are in regulated / prohibited area of ASI. About 599 colonies are affected by hindrances (relating to infrastructure projects etc.) as identified by DDA. The UCs exist both in notified urban as well as rural villages. As per data from Revenue Department, there are 81 rural villages where UCs exist.

¹ Source : Delhi Development Authority Notification dated 24th March, 2008 "Regulations for Regularisation of Unauthorised Colonies in Delhi"

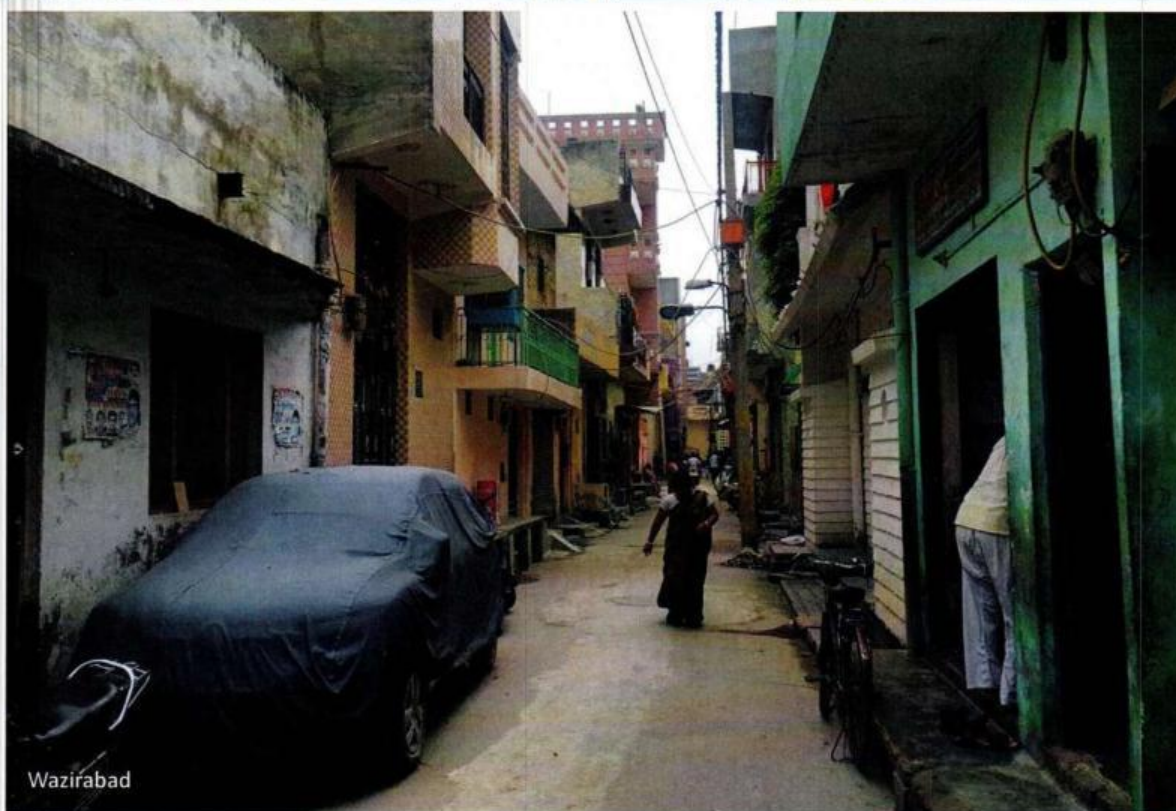
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4. In the UCs, the transfer of properties is not registered by the Sub-Registrars due to ambiguity over the ownership and misuse of agricultural land. Residents do not possess clear title over the land. Financial institutions do not accept mortgage of these properties. Unregistered transfer of properties in these UCs through GPA, Agreement to Sell, and possession documents is quite rampant, resulting in huge revenue loss for the government. It is also a fact that the properties in these UCs have changed hands multiple times. Such informal transactions are prone to fraud/forgery resulting in enormous litigation. Property documents of such transactions are not recognized for the purpose of mortgages as they do not establish clear ownership titles for the owners.
5. A number of attempts have been made in the past to regularize these UCs, but not much progress could be made. A background note on the subject is enclosed as **Annexure-II**.
6. In order to take a comprehensive view of the issue, the government constituted a committee to recommend the process for conferring/recognizing ownership or transfer/mortgage rights to the residents of UCs to trigger brownfield retrofitting/redevelopment and enhance the quality of living environment in these areas vide OM dated 08.03.2019 (**Annexure-I**).
7. **The terms of reference of the Committee are as under:**
 - a) To suggest the process/ mechanism for conferring/ recognizing rights of ownership or transfer/ mortgage to the residents of such colonies and consequential benefits.
 - b) To recommend measures to be taken, including revision, if any, in urban planning norms, development control norms, etc., to trigger redevelopment for improving living conditions in these colonies.
 - c) To recommend the roles and responsibilities of all agencies concerned.
 - d) To suggest methodology for conferment of such rights to the residents including eligibility and conditions for regulation of the beneficiaries.
 - e) To set out the procedure and timelines and terms for granting/ recognizing of such rights.
 - f) To provide definitive time-frame for completing this exercise.
 - g) Any other matter relevant to this.

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Mahipalpur Extension



Wazirabad



Wazirabad



Pandav Nagar

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Deliberations of the Committee & Discussion

8. The first meeting of the Committee under the chairmanship of Hon'ble L.G. of Delhi was held on 02.04.2019. The second meeting of the Committee was held on 01.05.2019. In the said meeting, Secretary, Ministry of Housing and Urban Affairs (MoHUA) and Principal Secretary, UD, Govt. of Odisha also participated as special invitees. Principal Secretary, UD, Government of Odisha, made a presentation on in-situ rehabilitation of slum dwellers in Odisha. The third and final meeting of the Committee was held on 31.05.19. The Minutes of the Meetings are at Annexures-III, IV and V.

9. The Committee also sought legal opinion on various issues related to the UCs. The Committee noted the focused nature of the ToRs, as per which, this Committee is tasked with the clear mandate to address issue of conferment/recognizing rights of ownership or transfer/mortgage to the residents of UCs and consequential benefits. The Committee observed that in case of privately owned land, the issue relates more to facilitating registration of sale deeds. In case of government land, first the government has to confer title on the occupants, subject to certain terms and conditions.

10. The Committee deliberated on the need to frame fresh Regulations in partial modification of the 2008 Regulations, and sought legal opinion for the same. It was decided that a new set of Regulations should be put in place, as the previous Regulations of 2008 did not meet the purpose.

11. On different categories of land as mentioned in the proposed Regulations, the Committee deliberated that in addition to the land owned by the Central Government, there may be different types of government land, which include:
 - i) all lands in respect of which the awards have been given and irrespective of whose possession the land is in, the compensation has either been received by the landowners or deposited in the reference Court in case of litigation,
 - ii) all lands originally owned by the Gaon Sabha at the commencement of the Delhi Land Reforms Act, 1954 (DLR Act), irrespective of whose possession the land is in, and
 - iii) all lands subsequently vested in the Gaon Sabha under Section 81 of the DLR Act where the physical possession is with the Government.

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12. It was noted that in the rural villages, the transfer of private agricultural land is constrained by Section 33 of DLR Act, which restricts transfer in cases of land of less than 8 acres. Similarly, Section 81 of DLR Act vests land in the Gaon Sabha, if used for non-agricultural purposes. The Committee was of the view that for a UC to be recognized as an urban habitation and to free it from the purview of Section 33 and Section 81 of DLR Act, it is necessary that the said rural village is taken out of the purview of DLR Act by declaring it as an urban village in recognition of the ground reality.
13. The Committee observed that the private agricultural land which has been vested in Gaon Sabha under Section 81 on account of non-agricultural use, needs to be treated differently as compared to the land originally owned by the Gaon Sabha, as it was essentially privately owned land. Therefore, in case of vested land under Section 81, where possession has not been taken, the possession remains with the private people and nominal penalty should be charged on such land.
14. After urbanization of villages, all Gaon Sabha land is vested in the Central Government under Section 150 of DLR Act. In case of the original Gaon Sabha land, rights should be conferred on the inhabitants after recovering some charges of land as in the case of other government land and for vested Gaon Sabha land under Section 81 of DLR Act where possession has not been taken, the rights should be conferred on the inhabitants at nominal charges as discussed above.
15. Even after urbanization of villages, the proceedings for misuse of agriculture land already instituted under Section 81 of DLR Act continue by or against Union of India as per Section 150(3)(d) of the said Act. The Lt. Governor (erstwhile Chief Commissioner) may exercise the powers under section 161A(b) of the Act to declare all the proceedings initiated under Section 81 of the said Act in respect of private agricultural land in the UCs to be withdrawn.
16. Further, wherever, the process of land acquisition is not complete and has not lapsed by virtue of coming in force of the new Land Acquisition Act, the Land and Building Department, GNCTD, in consultation with the requisitioning agency, may assess and explore the possibility of denotification of such land from acquisition proceedings. It may further be ensured that no compensation be released or paid to the land owners in such cases even if already deposited with courts/LAC/other agencies henceforth.
17. Regarding permitting registration of sale deeds, since the properties in these UCs may have changed hands multiple times, it would be required to grant exemption of Stamp Duty under relevant provisions of Indian Stamp Act, 1899 for notified areas under UCs for the transactions which might have taken place prior to the last transaction which is being recognized and allow registration by payment of requisite Stamp Duty on the last transaction after disclosing the chain of intervening transfers and documents to identify the land piece as usually done in case of registration of properties.
18. As per Judgment of Hon'ble Supreme Court in the case of Suraj Lamp (11-10-2011), the instruments of GPA, will, agreement for sale are not valid instruments for transfer of property. The Hon'ble Supreme Court in a subsequent judgment clarified that the judgment in Suraj Lamp case is prospective. Therefore the instruments prior to 2011 can be

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recognized. Further, as per the legal opinion sought by the Committee, in situations where property has changed hands more than once even after 11.10.2011 (that is after the date of the judgment), the Querist (i.e. Government) can take a policy decision to register the last transaction in favour of the person in possession of the property without payment of Stamp Duty on intervening transaction. This is primarily keeping in view the overall objective of the policy under consideration, which is essentially pro-people and welfare in nature.

19. The Committee was informed that exact data regarding type of land (government, Gaon Sabha, private, forest etc.) in unauthorized colonies is not available, and it would not be practically possible to compile this data either. The Committee, therefore, decided that in these circumstances it would be better to lay down general principles / ground rules for dealing with various categories of lands.
20. After discussions with DDA and revenue authorities, the Committee decided that the land in UCs could be classified in the following categories for the purpose of laying down general principles/ ground rules for recovery of charges of land.
 - a) Category 1-
Government land, including inter alia:
 - (i) original Gaon Sabha land (known by different nomenclatures such as Sarkar-Daulatmadar, Shamlatdeh etc.) at the time of enactment of DLR Act 1954.
 - (ii) land acquired by the government for which compensation has been paid/ deposited by the acquiring agency.
 - (iii) agricultural land vested under Section 81 of DLR Act of which possession has been taken.
 - b) Category 2-
Agricultural land vested in Gaon Sabha under Section 81 of DLR Act of which possession has not been taken.
 - c) Category 3-
includes-
 - (i) privately owned land.
 - (ii) land that has been acquired but compensation has not been deposited by the acquiring agency.
21. The Committee does not recommend conferring of rights for certain categories of land such as that falling in reserved/notified forests, land identified as regulated or prohibited zone by Ancient Monuments and Archaeological Sites and Remains Act, 1958, land in Zone-O/ Yamuna flood plain, land falling on right of way (ROW) of existing Master Plan roads, land under ROW of High Tension Lines and the Ridge area or land protected under any other law passed by the Parliament.
22. Along with recovery of prescribed charges for the land in Categories 1 & 2, penalty charges and interest on late payment, if any, may be recovered from the occupants of UCs. For the land in Category 3, as mentioned in the proposed Regulations, only penalty charges and interest on late payment, if any, may be recovered.

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23. Regarding land falling in the RoW of proposed Master Plan roads, etc., DDA will have to examine whether the said roads are feasible at this stage or whether alternative doable solutions are available.
24. Regarding boundaries, the Committee was apprised that data available in respect of boundaries of UCs is quite old and a lot of changes have taken place on ground. This data needs to be updated to delineate the boundaries of the UCs. The Committee was of the view that latest technology such as remote-sensing/ drone surveys should be used by DDA and Revenue Department to update the data, and the boundaries of existing UCs / cluster of UCs should be delineated on the latest map to be provided by Survey of India, Gol using software tools. The boundaries should be determined on the basis of built-up area in UCs, existence of road or physical boundaries such as railway line, nallah etc., to the extent possible.
25. Regarding framing of modified Development Control Norms, it was emphasized that the Development Control Norms should be aimed at making these UCs habitable and incentivize redevelopment projects to be undertaken. The Committee suggested that following parameters/aspects be considered while framing modified Development Control Norms:
- a) Area and location of the UCs.
 - b) Access for emergency services.
 - c) Proper space for internal movements.
 - d) Provision of primary health services, to the extent possible.
 - e) Provision of elementary education i.e. primary schools, to the extent possible.
 - f) Amalgamation of plots/colonies.
 - g) Incentives for planned brownfield redevelopment by granting higher FAR.
 - h) Vacant government land (Category-1), wherever available, should be used for development of civic amenities on priority. Steps to identify and protect vacant land should be taken by DDA in a time bound manner.
26. The UCs not only have residential houses but commercial establishments also. Therefore, mixed land use is required to be considered in these areas. For this, the norms prescribed in para 15.3.4 of MPD-2021 need to be further relaxed and thereafter, local bodies need to undertake the process for declaring mixed land use streets in accordance with para 15.3.3 of the MPD-2021 by incorporating adequate parking provisions or plans for pedestrianization of these areas.
27. The Committee deliberated on the extent of the terms of reference and observed that the Committee has a focused mandate to suggest process/ mechanism for conferring/ recognizing rights of ownership or transfer/ mortgage to the residents of such colonies and consequential benefits, along with recommendations and suggestions on the related aspects. Therefore, for other matters like mixed land use etc., the Committee observed that they may be dealt as per the provisions of the Master Plan.
28. The Committee deliberated on the issue of determination of cost of land and penalty charges to be recovered for various categories of land. It was decided that these rates

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should be realistic, keeping in view, ground conditions and socio-economic situations of these UCs. While the circle rate of adjacent categories may be taken as reference but it has to be kept in mind that the circle rates are meant for regular colonies where government has provided required planned infrastructure and amenities. The UCs despite being within the city suffer from severe infrastructure crunch and lack basic amenities.

29. The issue of the three UCs inhabited by affluent section of the society viz. Sainik Farm, Mahindru Enclave, Anant Ram Dairy was also discussed. The Committee was of the view that the ground conditions in these colonies are different from other unauthorized colonies. Hence, the issue of these UCs may be taken up separately.

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Recommendations of the Committee

TOR (a): To suggest process/ mechanism for conferring/ recognizing rights of ownership or transfer/ mortgage to the residents of such colonies and consequential benefits.

30. **Declaring rural villages as urban:**
All those rural villages in which Unauthorized Colonies fall, should be declared as urban under Section 507 of Delhi Municipal Corporation Act 1957 with the approval of the Lt. Governor, in consonance with the legal opinion given to the Committee.
31. **Delineation of boundaries:**
To delineate the boundaries of UCs/cluster of UCs, DDA with the assistance of Revenue Department, GNCTD, should undertake the exercise of delineation of boundaries of UCs / cluster of UCs as discussed in Para-24 above.
32. **Closure of ongoing cases under Section 81 of DLR Act:**
Revenue Department, GNCTD, to undertake the process of withdrawing Section 81 cases pending under various Revenue Courts under Section 161A(b) of the DLR Act in respect of such private lands as referred in Para 15.
33. **Conferment of ownership of land in case of Categories 1 & 2:**
For such categories of land, ownership should be conferred on the occupants subject to payment of prescribed charges of land, penalty charges, and interest on late payment, if any. Once the relevant charges are paid, title can be conferred through a Conveyance Deed by the Government. Once the Conveyance Deed has been executed, these properties can be registered in the normal manner. For the purpose of executing Conveyance Deed, DDA officers can be authorized to receive the applications in the prescribed format through single window/online system. Further DDA should lay down a simple and streamlined procedure for the Conveyance Deed and registration.
34. DDA should devise a suitable mechanism to ensure that in cases of acquired land in Categories-1 and 2 in the UCs, no compensation is released henceforth including in the cases where it is already deposited with courts/ LAC/ other agencies.
35. **Recognition of ownership of land in case of Category 3:**
For such category of land, registration of property instruments should be permitted subject to payment of penalty charges and interest on late payment, if any. For receipt of penalty/ interest charges (if any), DDA Officers can be authorized to receive the applications in the prescribed format through single window/online system. Further DDA should lay down a

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streamlined procedure for calculating the demand, receipt of payment and acknowledging the same. DDA should coordinate closely with sub-registrar offices for the purpose of implementation of recommendations of this Committee.

36. **Recognizing GPA transactions post 11.10.2011:**
A policy decision should be taken to recognize such instruments executed after 2011 till date to allow registration of instruments of sale and transfer of properties in these UCs on the basis of such instruments as per the legal opinion sought by the Committee.
37. **Registration of instruments:**
The Revenue Department, GNCTD should issue necessary instructions, in consultation with DDA for exemption of Stamp Duty on the intervening transactions under the Indian Stamp Act, 1899 and for procedure to be followed by the registering authorities for registration of land under categories 1, 2 and 3 after the prescribed charges and stamp duty have been paid.
38. **Development Control Norms:**
DDA should frame the revised Development Control Norms as discussed in Para No. 25 above and will get it notified after following the due process of law. The said Development Control Norms should be liberal and could be different for different colonies/localities.
39. **Use of Vacant government land for developing civic amenities:**
Vacant government land (Category-1), wherever available, should be used for development of civic amenities on priority. Steps to identify and measures to protect vacant land should be taken by DDA in a time bound manner.
40. **Regulations:**
The proposed Regulations as attached at Appendix 'A' should be notified by DDA after following due process of law.

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TOR (b): To recommend measures to be taken, including revision, if any, in urban planning norms, development control norms, etc., to trigger redevelopment for improving living conditions in these colonies.

41. As recommended, to trigger redevelopment for improving living conditions in these colonies, the revised Development Control Norms, to be prepared by DDA, may incorporate provisions of higher FAR. Further, MoHUA, Govt. of India may frame schemes for credit linking of financial institutions and applicants on mortgage basis for such redevelopment efforts.

TOR (c): To recommend the roles and responsibilities of all agencies concerned.

42. Based on the recommendations above, the roles, responsibilities and timelines shall be as follows:

ROLES AND RESPONSIBILITY	AUTHORITY	TIMELINES (T*)
Declaring rural villages as urban	UD Deptt. & DDA	T+1 month
Procurement of satellite imageries to determine the extent of built-up area	DDA	T+1 month
Delineation of boundaries	DDA with the assistance of Revenue Department, GNCTD	T+3 months
Withdrawal of Section 81 cases	Revenue Deptt., GNCTD	T+1 month
a) Policy decisions recognizing GPA transactions post 11.10.2011	Revenue Deptt., GNCTD	T+1 month
b) Notification for exemption of stamp duty on preceding transactions		
c) Issuance of instructions/guidelines for registration of instruments and chargeability of stamp duty		
Denotification of land from acquisition wherever needed in consultation with requisitioning departments	L and B Deptt., GNCTD	T+1 month
Notification of Development Control Norms	DDA & MoHUA, Govt. of India	T+3 months
Identification of vacant government plots in the UCs and measures for protection of such government land	DDA	T+3 months
Notification of Regulations	DDA & MoHUA, Govt. of India	T+3 months
Scheme for incentivizing Redevelopment	MoHUA, Govt. of India	T+3 months

*T is the reference time from the issuance of Government Order after acceptance of the report

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TOR (d): To suggest methodology for conferment of such rights to the residents including eligibility and conditions for regulation of the beneficiaries.

43. Eligibility and conditions for regulation of the beneficiaries:

These recommendations would be applicable to residents/occupants of all 1797 UCs as listed by Urban Development Department, GNCTD². It is further clarified that these 1797 UCs exclude three UCs inhabited by affluent section of the society viz. Sainik Farm, Mahindru Enclave and Anant Ram Dairy.

TOR (e): To set out the procedure and timelines and terms for granting/ recognizing of such rights.

&

TOR (f): To provide definitive time-frame for completing this exercise.

As discussed above.

TOR (g): Any other matter relevant to this.

44. Preparation of Local Area Plan:

Local Area Plan in respect of each colony/cluster of colonies should be prepared by local bodies in consultation with RWAs, and for this purpose, services of expert agencies may be utilized.

45. Future encroachment of government land:

To discourage encroachments on government land, it should be clearly spelt out that cases of encroachments of government land not covered under this policy would be dealt with severely as per law.

46. Removal of difficulties:

During the implementation of the recommendations of the Committee, as above, if any difficulty/ hindrance arises, the same should be resolved by the Chief Secretary, GNCTD and Vice Chairman, DDA.

² Source : http://164.100.72.17/wps/wcm/connect/doi_udd/Urban+Development/Our+Services/Unauthorized+Colonies+Cells+%28UC%29/

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Appendix - 'A'

**Draft recommended Regulations for conferring/recognizing ownership or transfer/mortgage rights to the residents of Unauthorized Colonies (UCs) in Delhi
 (Under Section 57 of DD Act, 1957)**

(DDA to frame regulations for conferring/recognizing ownership or transfer/mortgage rights to the residents of Unauthorized Colonies in accordance with Article 239 AA, read with Entry-18, List-II, Seventh Schedule of Constitution of India.)

In exercise of power conferred by Section 57 of Delhi Development Act, 1957(61 of 1957), the Delhi Development Authority with the previous approval of the Central Government, hereby makes the following regulations:

1. Introduction

Ministry of Housing and Urban Affairs, Government of India vide OM dated 08.03.2019 constituted a Committee headed by the Lieutenant Governor of Delhi to recommend the process for conferring/recognizing ownership or transfer/mortgage rights to the residents of Unauthorized Colonies (UCs) in Delhi. These Regulations have been framed on the basis of the recommendations of the Committee.

2. Definitions

- a) "Category of land" means type of land as categorized for determination of land charges for conferring/recognizing ownership or transfer/mortgage rights as mentioned in para 3.1 of these Regulations;
- b) "Registering Authority" means the Sub-Registrar of the area concerned;
- c) "Plot" means a parcel/piece of land enclosed by definite boundaries; and
- d) "Unauthorised Colony" or "UC", for the purpose of these Regulations, means a colony/ built-up plots comprising of a contiguous area, where no permission of concerned agency/ agencies has been obtained for approval of Layout Plan, and/or building plans; and, which is included in the list of 1797 colonies as registered by UD Department, GNCTD, (Annexure-I). Sainik Farm, Mahindru Enclave and Anant Ram Dairy have been excluded from these Regulations.

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3. Steps to be taken for conferring/recognizing ownership or transfer/ mortgage rights to the residents of UCs
- 3.1 Category of land considered for conferment of rights - Land that is to be considered for conferment of rights in the UCs would be categorized in the following manner:
- a) **Category 1-**
Government land, including inter alia-
(i) original Gaon Sabha Land (known by different nomenclatures such as Sarkar-Daulatmadar, Shamlatdeh etc.) at the time of enactment of DLR Act 1954;
(ii) land acquired by the government for which compensation has been paid/ deposited by the acquiring agency;
(iii) agricultural land vested under Section 81 of DLR Act of which possession has been taken.
- b) **Category 2-**
Agricultural land vested in Gaon Sabha under Section 81 of DLR Act of which possession has not been taken.
- c) **Category 3-**
(i) land under private ownership;
(ii) land that has been acquired but compensation has not been deposited by the acquiring agency.
- 3.2 No rights will be conferred or recognized over Prohibited land i.e. Forest land, land under the influence zone of protected monuments, Zone - O/ Yamuna flood plain, land falling on right of way (ROW) of existing Master Plan roads, land under ROW of High Tension Line and Ridge Area and such land on which settlement is prohibited by any Act of the Central Government.
- 3.3 **Recovery of charges of land and penalty**
- 3.3.1 for land categories 1 and 2, charges of land, penalty charges and interest rate on late payment (wherever applicable) will be levied and recovered.
- 3.3.2 for land category 3 i.e. land under private ownership, only penalty charges and interest rate on late payment (wherever applicable) will be levied and recovered.
- 3.3.3 The category of locality (A/ B/ C/ D/ E/ F/ G/ H as per the Circle rate notification under the Indian Stamps Act, 1899) of the UC for the purpose of determining the charges of land and penalty shall be decided on the basis of the highest category of locality of the surrounding residential area(s)

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3.3.4 Depending upon the category of land, the charges of land shall be as follows (for illustration, refer Table-1 at Annexure-II):

Land in Category-1

- i.) For plots of area less than and equal to 200 sq.m., 1% of the prevailing circle rate for the residential use; and
- ii.) For plots of area more than 200 sq.m., 2% of the prevailing circle rate for the residential use.

Land in Category-2

Charges for Category- 2 will be levied as 10% of the charges of Category-1.

3.3.5 Penalty charges which shall be recovered at the rate specified below: (for land in categories 1, 2 and 3)

The rate at which the penalty charges will be recovered for conferment of rights shall be 50% of the rate applicable for recovering the charges of land in the corresponding category of the locality in which the UC falls and for the corresponding size of the plot. (refer to Table-2 at Annexure-II)

3.3.6 Interest rate on late payment shall be recovered at the rate specified below: (for land in categories 1, 2 and 3)

The rate at which interest will be recovered on late payment beyond one year from the date of the notification of the regulation, shall be 8% per annum simple interest. This will be charged on all the above dues.

3.3.7 The amount levied (both for land charges and penalty) shall be rounded off to nearest Rs. 100 after calculating the amount for the entire plot.

3.4 DDA shall devise a mechanism to ensure that in cases of UCs falling on acquired land in categories 1 and 2, no compensation is released henceforth; including in the cases where it is already deposited with courts/LAC/other agencies.

4. Procedure for conferring/recognizing ownership or transfer/mortgage rights to the residents of UCs

4.1 DDA will lay down the detailed procedure for conferring/recognizing ownership or transfer/mortgage rights to the residents of UCs including procedure for issuance of Conveyance Deed for transfer of land in categories 1 and 2. The procedure and guidelines for registration of land in these categories after payment of prescribed charges and stamp duty will be issued by the Revenue Department of GNCTD in consultation with DDA.

4.2 The Revenue Department, GNCTD will issue necessary instructions for allowing registration of instrument pertaining to transfer of properties in respect of land in category 3, after payment of requisite charges and stamp duty in these UCs.

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Appendix- 'A'
ANNEXURE II

**Illustration of calculation of rate for
recovery of charges of land and penalty**

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Illustration of Calculation of Rate for Recovery of charges of land and Penalty

An example of calculation: Consider plot of size 100sq.m. in a UC which falls in the category of locality 'D'.

Step 1: The prevailing circle rate, notified by GNCTD on 23.09.2014, for residential use in 'D' category of locality is Rs. 1,27,680 per sq.m.

Step 2: As per regulation 3.3 since the plot size is upto 200sq.m., the rate applicable shall be 1% of the prevailing circle rate for residential use.

Step 3: Therefore, rate of charges on land = 1% of 1,27,680 per sqm = Rs.1276.80 per sq.m.

Step 4: As per para 3.2, the rate for recovery penalty charges shall be 50% of the rate of charges on land. Therefore, rate for recovering penalty charges = 50% of Rs. 1276.80 per sq.m. i.e.Rs. 638.40 per sq.m. Penalty charges shall be recovered from all the owners/occupants of the UC.

Further, based on the prevailing circle rate for residential use, as notified by GNCTD on 23.09.2014, the calculated values of the rate of charges of land and the rate for recovering penalty charges are tabulated below:

Table 1: Charges of land to be recovered for Category -1

Category of locality in which UC falls	Charges of land to be recovered (In rupees per sq.m.)	
	Plot area upto and equal to 200 sq.m.	Plot area more than 200 sq.m.
A	7740.00	15480.00
B	2455.20	4910.40
C	1598.40	3196.80
D	1276.80	2553.60
E	700.80	1401.60
F	566.40	1132.80
G	462.00	924.00
H	232.80	465.60

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For Category 2, the charges shall be 10% of the charges of Category -1.

Table 2: Penalty charges

Category of locality in which UC falls	Penalty charges (in rupees per sq.m.)	
	Plot size upto and equal to 200 sq.m.	Plot size more than 200 sq.m.
A	3870.00	7740.00
B	1227.60	2455.20
C	799.20	1598.40
D	638.40	1276.80
E	350.40	700.80
F	283.20	566.40
G	231.00	462.00
H	116.40	232.80

Step 5 : The amount levied (both for land charges and penalty) shall be rounded off to nearest Rs. 100 after calculating the amount for the entire plot.

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ANNEXURE II

Background Note on Unauthorized Colonies

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Background Note on Unauthorized Colonies

1. Press Note dated 19.07.1961 issued by Delhi Administration regarding the problems of UCs became the basis for regularization of the first set of 103 unauthorized colonies by Municipal Corporation of Delhi (MCD) and Delhi Development Authority (DDA) up to 1962. Thereafter, Government of India (GoI) issued an order regarding regularization on 16.02.1977 under which 567 UCs were regularized by MCD and DDA between 1979 and 1993.
2. From 1977 to 1993, 567 UCs were regularized by the Government by clearing their LOPs through a resolution of MCD. Once the LOPs were passed by MCD, the individual Land Plots got recognized, and everything else (including recognition of ownership rights and opening of registration) followed.
3. In 2001, the then Ministry of Urban Development (MOUD) formulated guidelines for regularization of UCs in Delhi with the approval of the Union Cabinet. Under these guidelines, only UCs existing as on 31.03.1993 were to be taken up for regularization. Subsequently, these guidelines were revised with the approval of the Cabinet in 2004 and the cut-off date for existence of UCs eligible for regularization was extended from 31.03.1993 to 31.03.2002. However, none of these guidelines were implemented.
4. The guidelines for 2004 were again revised in 2007 with the approval of the Union Cabinet. Based on these Revised Guidelines of 2007, issued by the then MoUD on 05.10.2007, the regulations for regularization of UCs were notified on 24.03.2008 under section 57 of Delhi Development Act, 1957. These regulations were subsequently amended vide DDA's notifications dated 16.06.2008, 06.06.2012 and 01.01.2015.
5. As per Regulations of 2008, the cut-off date for existence of the UC for consideration for regularization was 31.03.2002 and such colony/habitation had to have more than 50% plots built at the time of formal announcement of regularization scheme i.e 24.03.2008. Accordingly, applications were called from Residents' Societies/RWAs; which were examined by Government of National Capital Territory of Delhi (GNCTD) and DDA. Out of the various applications received, 1,639 UCs were found to be eligible for regularization. DDA had marked the Master Plan roads on these maps. Out of these, 312 unauthorized colonies were declared regularized by GNCTD on the ground that they were on private lands. However, later some of them were found to be on government land.
6. With the approval of the Union Cabinet, the cut-off date for existence of UC was subsequently revised to 01.06.2014 and notification was issued on 01.01.2015 and therefore, cut-off date for 50% coverage & built up area for eligibility was revised to 01.01.2015. The Delhi Government subsequently added new colonies and the number of such unauthorized colonies has gone upto 1,797 as on date.
7. As per the guidelines only such unauthorized colonies were to be regularized which do not fall in forest areas, pose hindrances in provision of infrastructure facilities, violate the provisions of Ancient Monuments and Archaeological Sites and Remains Act, 1958 and were not inhabited by affluent sections on public or private land. The existing guidelines and

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regulations do not provide for conferment of ownership or mortgage/transfer rights to the residents of unauthorized colonies.

8. UD Ministry in pursuance to the directions of Hon'ble Delhi High Court prepared revised draft guidelines for unauthorized colonies, which were shared with Government of Delhi, and they were requested to provide details of all unauthorized colonies, which can be considered for regularization. Delhi government was further requested to make available the boundaries of all unauthorized colonies along with certain other details to assist in taking an informed decision. In 2017, Delhi Government informed that they require two years and this exercise can be completed by July 2019. Thereafter, in a recent review they have further sought time till 2021 for doing the needful.
9. The Regulation dated 24.03.2008 is currently in existence. In spite of sincere efforts, the said regulation could not be implemented in letter and spirit. Because of its complexity, it has not been feasible to implement the same on ground.

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ANNEXURE III

Minutes of Meeting dt. 02.04.2019

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Minutes of Meeting

Meeting of the Committee constituted by Government of India to recommend the process for conferring/recognizing ownership or transfer/mortgage rights to the residents of Unauthorized Colonies (UCs).

1. The first meeting of the Committee was held on 02.04.2019 at 03.00 PM at Raj Niwas, Delhi under the Chairmanship of Hon'ble Lt. Governor. The list of members and officers who attended the meeting is enclosed at 'Annexure-A'.
2. Chairman welcomed the participants and gave a brief background on the Committee Constitution. Principal Commissioner (LM & Coordination), DDA made a brief presentation on the constitution of Committee, its TOR, current status of UCs as well as issues involved for consideration of the Committee.
3. The committee deliberated on the issues viz. Registration of instrument, Chargeability of Stamp duty, delineation of boundaries, Development Control Norms, etc. and decided as under:
 - i. **Registration of instruments in unauthorized colonies and chargeability of stamp duty on chain of documents.** It was suggested that DDA may check how the registration of instrument was done in respect of colonies regularized during the period from 1978 to 1993 and whether the stamp duty is charged on the last transaction or chain of documents. Similarly it may also be checked whether a) registration of instrument is done in respect of 312 unauthorized colonies regularized in 2012; and b) stamp duty on the previous document(s) is also being charged/levied or not.
 - ii. **Delineation of boundaries** It was informed that the data available respect of UCs is of year 2008 and a lot of changes might have taken place in respect of number of UCs/extent of UCs as well as constructions. Chairman suggested that this data needs to be updated to understand current extent of the problem and suggested for 20% random sampling to have an idea of the present ground situation. It was decided that
 - a) DDA would collect existing data and other requisite information from concerned departments and do joint exercise with revenue department to update the same. Further, use of technology, such as Remote sensing/Drone survey will be used, wherever required.
 - b) Meeting may be convened with a suitable agency that could do exact boundary fixation using latest technology.
 - iii. **Land type wise data i.e. Government, Gram Sabha, Acquired Land, Private –** Data should be collected to get the extent of government land (under various categories) which are within the boundaries of UCs in order to recommended principles on the basis of which various category of land would be handled.

Contd.....2/N

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2/N

- iv. **Development control norms** Planning Departments, DDA would re-examine developmental control norms for Unauthorized Colonies depending on access to take care of emergency services and facilities such as school & colleges, etc. and redesign them to incentivize planned redevelopment of such UCs.
4. Way forward:
- i. DDA may coordinate with Survey of India, Gol for obtaining the latest maps in order to super impose the same on revenue maps.
 - ii. Use of technology as a tool for mapping.
 - iii. Time bound action plan for doing the survey and mapping.
 - iv. Submit agenda points for the next meeting of the Committee.
5. The meeting ended with the vote of thanks to the Chair.

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ANNEXURE IV

Minutes of Meeting dt. 01.05.2019

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MINUTES OF MEETING

Meeting of the Committee Constituted by Government of India to recommend the process for conferring/recognizing ownership or transfer/mortgage rights to the residents of Unauthorized Colonies (UCs).

1. The 2nd meeting of the Committee was held on 01.05.2019 at 04:15 PM at Raj Niwas, Delhi under the Chairmanship of Hon'ble Lt. Governor. The list of members and officers who attended the meeting is enclosed at 'Annexure-A'.
2. Chairman welcomed the participants specially the Secretary, MoHUA and the Principal Secretary, UD, Govt. of Odisha as special invitees. The Member Secretary of the Committee briefed about the agenda items as well as issues before the Committee for consideration.
3. First of all, Pr. Secretary, UD, Government of Odisha, made a presentation on in-situ rehabilitation of slum dwellers in Odisha and gave emphasis on the land rights being given to the residents as heritable but not transferable, mortgageable for housing loan, certificates to be issued jointly in both the names of the spouses etc. under the programme titled as 'JAGA' mission. The mission also includes 9 features to transform slums into livable habitats viz. Land Rights to Slum Dwellers, Housing under Awaas Mission, Individual/Community Toilet, Tap water to household, Smart LED Street Lighting, Skill upgradation & Livelihood Support, CC/Paver Block Roads, Covered Drains & Sanitation, Social Infrastructure like parks, playground, and public space. He also clarified that this scheme is presently being operated for slum on Govt. Land.
4. The Members Secretary of the Committee gave a presentation on the action taken report on the issues decided in the last meeting. The committee deliberated on the issues and decided as under:
 - i. **Registration of instruments in unauthorized colonies and chargeability of stamp duty on chain of documents.** The Committee was apprised about the process followed for registration of instrument and stamp duty charged in respect of a) 567 colonies regularized during 1978-1993 and b) 312 colonies regularized in 2012.

It was recommended that the existing process of registration of instruments in UCs and chargeability of Stamp Duty may be examined thoroughly and measures be suggested after analysing the impact of different

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court order and rules/laws/instructions in this process so that the objective of the Committee is met.

- ii. **Delineation of boundaries.** The boundaries of existing UCs are to be delineated on the latest map to be provided by Survey of India, GOI, having the details of the extent of the construction as on date.

After deliberations, it was decided that in addition to Survey of India, DDA may contact National Remote Sensing Centre (NRSC) for procuring the latest satellite imageries at the earliest. It was also discussed that to achieve the purpose, latest technology including drone survey should be put to use, as and where required. Further, the issue related to the delineation of the boundaries would be dealt once the maps are received.

- iii. **Land type wise data i.e. Government, Gram Sabha, Acquired Land, Private Land etc.** The Committee was apprised that data regarding type of land (Government, Gram Sabha, Vested, acquired, forest etc.) in unauthorized colonies is not available, and it would be a long draw tedious task to procure this data. It was, therefore, suggested that the Committee may recommend principles on the basis of which various categories of land would be handled. It was decided that as compilation of data on types of land does not seem feasible at this stage, the ground rules/principles should be laid down in this regard, to be followed by all concerned.

- iv. **Development control norms.** Discussion on the matter of re-examination of Development control Norms for Unauthorized Colonies in Delhi and framing the modified Development Control Norms was held, it was decided that the Planning Wing of DDA will frame the draft Development Control Norms keeping the following parameters/aspects in consideration:

- a) Area and location of the UCs.
- b) Access to the emergency service.
- c) Proper space for internal movements.
- d) Provision of emergency health services, to the extent possible.
- e) Provision of elementary education i.e. Primary School etc. to the extent possible.
- f) Amalgamation of plots/colonies etc.
- g) Incentivize plan redevelopment.

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The minimum common standard for different services should be laid down as far as possible but we should retain the flexibility to customize them as per ground situation. It was further emphasized that the Development Control Norms should be flexible enough for making these UCs inhabitable as Urban locality and for redevelopment of these UCs. The prohibited area will also be specified while framing these Development Control Norms.

It was informed that the planning Wing of DDA is in the process to framed the draft Development Control Norms. The process for notifying the Development Control Norms will be followed as per laid down procedure and as per law.

- v. **Framing of Regulation.** The issue to frame a new regulation or a modified regulation incorporating all requisite aspects for conferring/recognizing ownership or mortgage/transfer rights to the residents of unauthorized colonies (UCs) in Delhi was discussed. It was informed that the Planning Wing of DDA is in the process of modifying the existing regulation but final shape to the regulation would be given once the recommendations of the Committee are received. The process for notifying the regulation will be followed as per laid down procedure and as per law.
5. The Committee also desired to visit few UCs to know the ground realities and to have the first hand information with respect to conditions of these UCs.
 6. The Committee further desired that the next meeting with an updated status and action taken report should be held within a period of 10 days or so.
 7. The meeting ended with the vote of thanks to the Chair.

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ANNEXURE V

Minutes of Meeting dt. 31.05.2019

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Minutes of Meeting

Minutes of Meeting of the Committee Constituted by Government of India to recommend the process for conferring/ recognizing ownership or transfer/mortgage rights to the residents of Unauthorised Colonies (UCs).

1. The 3rd meeting of the Committee was held on 31.05.2019 at 11:30 am at Raj Niwas, Delhi under the chairmanship of Hon'ble Lt. Governor. The list of members and officers who attended the meeting is enclosed at Annexure 'A'.
2. Chairman welcomed the participants. The Member Secretary of the Committee briefed about the agenda items as well as issues before the Committee for consideration.
3. The draft Report and the draft Regulations were presented before the Committee. The following amendments were suggested by the members of the Committee after detailed discussion.
 - i. Ex-Director, Delhi Fire Services, suggested that the names of three UCs viz. Sainik Farms, Mahindru Enclave and Anant Ram Dairy should be specifically reflected as **excluded UCs** in the definition of UCs in the Regulations as well as the Report.
 - ii. Various other minor amendments were suggested by the members viz. removal of the word "habitation" from the Report of the Committee as well as from the draft Regulations and removal of the detailed procedure mentioned in the draft Regulations.
 - iii. These amendments were accepted by the Committee and the Member Secretary was requested to carry out these amendments in the Report.
4. The Committee desired that the final Report of the Committee along with the draft Regulations should be prepared after incorporation of the suggested amendments immediately.
5. The meeting ended with the vote of thanks to the Chair.

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List of Abbreviations

ASI = Archaeological Survey of India
DDA = Delhi Development Authority
DLR Act = Delhi Land Reforms Act, 1954
FAR = Floor Area Ratio
GNCTD = Government of National Capital Territory of Delhi (India)
GPA = General Power of Attorney
LAC = Land Acquisition Collector
MPD = Masterplan Document
MOHUA = Ministry of Housing and Urban Affairs, Government of India
OM= Office Memorandum
RWAs = Residents Welfare Association
TOR = Terms of Reference
UCs = Unauthorised Colonies
UD Department = Urban Development Department

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ANNEX- 9

(Summary of Recommendations of the Committee)
(REFERRED TO IN PARA 3.2 OF THE NOTE)

The recommendations of the Committee are summarised as below:

- i) The Committee has noted that Section 33 of The Delhi Land Reforms (DLR) Act, 1954 restricts transfer of land less than 8 acres and Section 81 provides for vesting of agricultural land in Gram Sabha, if used for non-agriculture purpose. As DLR Act, 1954 is not applicable on urban areas, the Committee recommends that all rural villages in which these UCs fall should be declared as urban under Section 507 of Delhi Municipal Corporation (DMC) Act, 1957.
- ii) DDA to delineate the boundaries of the UCs/ cluster of UCs on the latest maps provided by Survey of India using software tools and technology such as remote sensing/drone surveys with the assistance of the Revenue Department, GNCTD.
- iii) Cases pending in Revenue Courts, in respect of private lands under Section 81 of the Delhi Land Reforms (Act (DLR), 1954 to be withdrawn.
- iv) The committee categorised the land that is to be considered for conferment of rights in the UCs in the following manner:
 - a) **Category 1-**
 - a. Govt land like original Gaon Sabha land (known by different nomenclatures such as Sarkar Daulatmadar, Shamlatdeh etc.) at the time of enactment of DLR Act 1954.
 - b. Land acquired by the government for which compensation has been paid/ deposited by the acquiring agency.
 - c. Agricultural land vested under Section 81 of DLR Act of which possession has been taken.
 - b) **Category 2-** Agricultural land vested in Gaon Sabha under Section 81 of DLR Act of which possession has not been taken.
 - c) **Category 3-** Private owned land including and that has been acquired but compensation has not been deposited by the acquiring agency.
- v) Ownership should be conferred on the occupants of Government land, subject to payment of prescribed charges of land, penalty charges, and interest on late payment, if any. Once the prescribed charges are paid, title can be conferred through a conveyance deed by DDA on behalf of the Government. DDA to lay down a simple and streamlined procedure for the Conveyance Deed and Registration of property.
- vi) Committee recommended that ownership should be recognised for the occupants of private land in the UCs, subject to payment of penalty charges and interest on late payment, if any. DDA to lay down a streamlined procedure

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for calculating the demand, receipt of payment and acknowledging the same. All applications to be received through a single window / online system.

vii) Hon'ble Supreme Court in Suraj Lamp case (11.10.2011) disallowed GPA, Will and Agreement to sell as valid instruments for transfer of property. Most of the property in UCs have these instruments as ownership documents. Committee took legal advice on the matter and recommended that a policy decision be taken to recognize such instruments executed after 11.10.2011 till a given date notified by Government.

viii) The Revenue Department, GNCTD should issue necessary instructions, in consultation with DDA for exemption of Stamp Duty on the intervening transactions under the Indian Stamp Act, 1899 and for procedure to be followed for registering of land after the prescribed charges and stamp duty have been paid.

ix) DDA to issue revised liberal Development Control Norms for each of these UCs based on the area and location, taking into account all urban development norms/factors following the due process of law. These norms should be aimed at making these UCs habitable and incentivise redevelopment projects. Vacant Government land in the UCs should be used for creating social/common infrastructure. DDA will take measures to protect all vacant Government land.

x) The proposed Regulations will facilitate hassle free mortgage/ transfer rights to the residents of UCs.

xi) No rights will be conferred or recognized over prohibited land, i.e. Forest Land, Land under influence zone of protected monuments, Zone O/Yamuna flood plain, Land falling on right of way (ROW) of existing Master Plan roads, Land under ROW of High Tension Line, Ridge area and such land on which settlement is prohibited by any Act of the Central Government.

xii) In case of Category 1 and Category 2 land charges, penalty charges and interest on late payment, if any will be recovered. However, in case of Category 3 recovery will be of penalty charges and interest on late payment, if any. The land charges will be based on the residential use circle rate as notified by GNCTD of highest category locality of surrounding areas and size of plots.

xiii) Classification of land has been done category-wise like A, B, C, D, E, F, G, H category as per descending circle rate in Delhi. For plot area up to 200 sq m, land charge will be 1% of the prevailing rate for the surrounding residential use. For others it will be 2 % of the prevailing rate for the surrounding residential use. Penalty charges will be 50 % of land charges.

xiv) Recovery of only the land charges and penalty charges will be for one year from the date of notification of the Regulations. Thereafter, simple interest will also be charged on these charges along with land charges and penalty charges. The interest rate for late payment will be simple interest @8%

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per annum on all dues. The amount will be rounded off to the nearest 100 after calculating the amount for entire plot.

xv) DDA to devise mechanism to ensure that in cases of acquired land no compensation is released henceforth including in cases, where it has already deposited compensation with courts/LAC (Land Acquisition Collectors)/ other agencies.

xvi) The Regulations will be issued in accordance with Article 239AA read with Entry 18, List -II Seventh Schedule of Constitution of India by the DDA under Section 57 of DD Act,1957.

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ANNEX -10

(REFERRED TO IN PARA 5.1 OF THE NOTE)

Regulations

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

GOVERNMENT OF INDIA
 MINISTRY OF HOUSING AND URBAN AFFAIRS

NOTIFICATION

New Delhi, the-----, 2019

G.S. R. (E).- In exercise of the powers conferred by section 57 of the Delhi Development Act, 1957 (61 of 1957) and in supersession of the Regulations for Regularisation of Unauthorised Colonies in Delhi published *vide* notification number S.O 683 (E), dated the 24th March, 2008, except as respects things done or omitted to be done before such supersession, the Delhi Development Authority, with the previous permission of the Central Government, hereby makes the following regulations, namely:-

1. Short title and commencement. - These regulations may be called the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Regulations, 2019.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions. - In these regulations, unless the context otherwise requires, -

- (a) "Affluent unauthorised colonies", means colonies as specified in **Annexure 1** and includes any other affluent colonies as identified by the Delhi Development Authority under these regulations;
- (b) "Annexure" means the Annexure appended to these regulations;
- (c) "carpet area" shall have the same meaning as assigned to it in clause (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);
- (d) "locality" means classification of colonies as A / B / C / D / E / F / G / H determined as per the circle rate notified under section 27 of the Indian

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Stamps Act, 1899 (2 of 1899) as applicable to the National Capital Territory of Delhi;

- (e) "local authorities" means the Delhi Municipal Corporation established under the Delhi Municipal Corporation Act, 1957 (66 of 1957) or the New Delhi Municipal Council established under the New Delhi Municipal Council Act, 1994 (44 of 1994) or the Delhi Development Authority established under the Delhi Development Act, 1957 (61 of 1957), Delhi Cantonment Board established under the Cantonments Act, 2006 (41 of 2006) and entitled to exercise control in respect of the areas under their respective jurisdiction;
- (f) "resident" means a person having physical possession on the basis of a registered sale deed or latest set of Power of Attorney, Agreement to Sale, Will, Possession letter and other miscellaneous documents including documents evidencing payment of consideration in respect of a property in unauthorised colonies and includes their legal heirs but does not include tenant, licensee or permissive user;
- (g) "unauthorised colony" means a colony or development comprising of a contiguous area, where no permission has been obtained for approval of layout plan or building plans and has been identified for regularisation of such colony in pursuance to the notification number S.O. 683(E) dated the 24th March, 2008 as specified in **Annexure II** and includes colonies as identified by the Delhi Development Authority under these regulations.

3. Classification of land.- The categories of land that are to be considered for conferring or recognising ownership or transfer or mortgage rights shall be as under-

(a) Category 1 of land shall include the following, namely: -

- (i) Original Gaon Sabha land at the time of commencement of the Delhi Land Reform Act, 1954 (8 of 1954);
- (ii) land acquired by the Government for which compensation has been paid or deposited by the acquiring agency; and
- (iii) Agricultural land under section 81 of the Delhi Land Reforms Act, 1954 (8 of 1954) with or without possession.

(b) Category 2 of land shall include the following, namely:-

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- (i) private land; and
(ii) land that has been acquired by any acquiring agency but compensation has not been deposited by the acquiring agency.

4. Assessment of charges. - (1) The assessment of charge from a resident shall be calculated on carpet area basis for each unit.

(2) For a resident holding multiple properties, the rate of charges shall be determined by clubbing carpet areas of all properties of the resident in all unauthorised colonies.

(3) If a resident does not apply for conferment of rights on all his properties simultaneously, and it is discovered that he has paid charges at a lower rate on account of non-disclosure of all his properties, the charges at applicable rates shall be payable on all the properties including the properties where the rights have already been conferred.

(4) For the purpose of determination of the charges, the circle rate of the highest locality of the surrounding residential area shall be taken as basis.

(5) The charges for built up area to be recovered for property in Category-1 as referred to in clause (a) of regulation 3 shall be as follows:-

SI. No	Where cumulative carpet area of a resident in all the properties in all unauthorised colonies is	Charges
(1)	(2)	(3)
1.	less than 100 sqm	Carpet area x $\frac{1}{4}$ x 0.5% of circle rate of locality in terms of sub-regulation 4 of regulation 4
2.	More than (or equal to) 100 sqm but less than 250 sqm	Carpet area x $\frac{1}{4}$ x 1 % of circle rate of locality in terms of sub-regulation 4 of regulation 4
3.	Greater than or equal to 250 sqm	Carpet area x $\frac{1}{4}$ x 2.5% of circle rate of locality in terms of sub-regulation 4 of regulation 4

(6) For vacant plots, the ownership/transfer right will be granted based on the area of the plot and the nominal rates of 0.5%, 1% and 2.5% depending on the

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size of plots less than 100 sqm, 100 to 250 sqm and greater than 250 sqm in the government land and half of these amount if the plot is situated on the private land. The charges to be recovered for vacant plot situated in Category-1 as referred to in clause (a) of regulation 3 shall be as follows:-

SI. No	Where cumulative vacant plot area of a resident in all unauthorised colonies is	Charges
(1)	(2)	(3)
1.	less than 100 sqm	Land area x 0.5% of circle rate of locality in terms of sub-regulation 4 of regulation 4
2.	More than (or equal to) 100 sqm but less than 250 sqm	Land area x 1 % of circle rate of locality in terms of sub-regulation 4 of regulation 4
3.	Greater than or equal to 250 sqm	Land area x 2.5% of circle rate of locality in terms of sub-regulation 4 of regulation 4

(7) The charge for the classification of land in Category-2 shall be fifty per cent. of charges applicable to land in Category-1.

(8) Depending upon the category and locality of land, the charge per square metre for three classification of land on the basis of area and based on the applicable circle rates, calculated on the basis of charges specified in sub-regulation 5 as on date, are illustrated at Table-1 and Table-2 under **Annexure III**.

(9) The charges shall be valid for a period of one year from the date of notification of these regulations and thereafter, eight per cent. per annum simple interest shall be recovered on late payment of charges beyond one year.

(10) The amount levied shall be rounded off to nearest Rs. 100 after calculating the amount for the entire property or unit.

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(11) The residents shall have option to pay the charge in three equal instalments.

(12) The residents who are paying the entire charges in one instalment shall immediately be granted the ownership or mortgage or transfer rights in the property, as the case may be.

(13) The residents who opt to deposit the charge in instalments shall be conferred provisional ownership or mortgage or transfer rights after depositing two-third of the total payable charge, which shall be converted into permanent rights after full and final payment of entire amount due on account of charges.

5. Conferment of rights.- (1) The conferment of rights on land under the footprint of the building shall be in proportion to the carpet area of the floor held by the resident.

(2) In cases where the total carpet area of a floor in a building exceeds the plot area, (i.e. having projections beyond plot area), rights shall be restricted only in respect of the plot area.

(3) In cases where the total carpet area of ground floor in a building is less than the plot area (i.e. ground coverage is less than hundred per cent.), rights shall be conferred only in respect of the land under the building footprint.

(4) The procedure for submission of application for conferment of rights and the examination thereof including issuance of conveyance deed or authorisation slip, as the case may be, shall be such as specified in **Annexure IV**.

(5) Delhi Development Authority shall ensure that in cases of unauthorised colony falling on acquired land, the residents of which has been allowed for property rights under these regulations, no compensation is released, and no resident or his predecessors in interest shall claim such compensation even in cases where the amount of compensation has been deposited with the Courts or Land acquisition Collector or other agencies.

(6) The payment of charges, and interest on late payment, if any, for all category of land, shall be collected by the Delhi Development Authority and kept in the 'Special Development Fund'.

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(7) Boundaries of unauthorised colonies or clusters of unauthorized colonie shall be delineated by the Delhi Development Authority.

(8) The Delhi Development Authority shall prepare Local Area Plan and Development Control Norms for all unauthorised colonies or clusters of unauthorised colonies and make necessary amendments in the Master Plan for Delhi (MPD)-2021 and Urban Building Bye Laws for Delhi (UBBL)-2016 to pave the way for planned redevelopment of the existing units on the "as is where is" basis.

(9) The Delhi Development Authority shall ensure correct identification of resident applicants.

(10) The Conveyance deed or authorisation slip, as the case may be, shall be issued for residential purpose only irrespective of current use of the property.

(11) No Penalty and External Development Charge shall be levied from residents for recognising ownership or mortgage or transfer rights.

(12) In case any dispute arises in respect of conferment of rights under these regulations, the aggrieved person may make a representation to the Delhi Development Authority, and upon receiving such representation, the Delhi Development Authority may, within a period of ninety days from the receipt of such representation and after hearing the parties, pass such order as it deems fit.

6. Identification of additional colony.- Identification of other eligible new colonies as per the revised eligibility criteria notified on 01.01.2015, i.e., existence of colony as on 01.06.2014 and 50% development of the colony as on 01.01.2015 as cut off dates, for conferment/recognition of ownership/ mortgage rights to residents in these areas to be completed in the next two years by DDA from the date of notification of these Regulations in the Official Gazette.

7. Exclusion. - Under these regulations, no rights shall be conferred or recognised-

- (a) over prohibited land, that is, land falling in reserved or notified forests, land identified as protected or prohibited area by the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), land falling in Zone-0, Yamuna Flood Plain, land falling in right of way of existing roads, Master Plan roads, land under right of way of high tension lines, land falling in ridge area of Delhi and land reserved or protected under any other law for the time being in force; and

- (b) Affluent unauthorised colonies

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Annexure-I

(See Regulation 2(a))

List of UCs inhabited by affluent section of society		
S. No	Regn No.	Name of Colony
1.		Sainik Farms
2.		Mahendru Enclave
3.		Anant Ram Dairy
4.	453	Defence Service Enclave (Sainik Farm)
5.	519	Anupam Garden, Delhi-68 South Chhatarpur
6.	738	KhirkiExtn. Colony Carriappa Marg, M.B. Road, New Delhi-62
7.	12-(ELD)	Defence Service Enclave, Khanpur, New Delhi62 South SangamVihar
8.	1295	Sainik Farms Western Avenue N.Delhi
9.	143	Freedom Fighters Enclave, IGNOU Road, Neb Sarai, New Delhi-68 South Chhatarpur
10.	165	Freedom Fighters Colony, Neb Sarai South Chhatarpur
11.	44-(LOP)	Freedom Fighters Comunity Development & Welfare Association, Neb Sarai New Delhi 68
12.	1389	FreedomFightersEnclave Delhi-68
13.	1355	Freedom Fighters Enclave, Near Neb Sarai, Mehrauli, Delhi-68
14.	1355 B	Freedom Fighters Enclave, Near Neb Sarai, Mehrauli, Delhi-68
15.	1031	Freedam Fighters Enclave Neb Sarai Delhi-68
16.	294	Freedom Fighters Vihar, Nebsarai, New Delhi
17.	1120	Freedom Fighters Enclave Neb Sarai Delhi-68
18.	459	Freedom Fighter Enclave, Nev Sarai, Delhi-68
19.	1587	FF CC Colony, Neb Sarai, New Delhi South Chhatarpur
20.	978	Neb Sarai Extn.Area Delhi-68
21.	1244 A	Neb Sarai Extn.,Ph-II IGNOU Road Delhi
22.	330	Indira Enclave, Neb Sarai
23.	1119	Neb Valley IGNOU Road, Neb Sarai, Delhi-68
24.	1244	Neb Sarai Extn.,Ph-II IGNOU Road Delhi
25.	31-(LOP)	Neb Sarai Extn. Area New Delhi 68 South Chhatarpur
26.	108-(ELD)	Neb Sarai New Delhi 68
27.	128-(ELD)	Neb Sarai, Saidulajab Market Association New Delhi 68
28.	154	Dang Complex, IGNOU Road, SaidulajabExtn., New Delh-30 South Chhatarpur
29.	1054	SaidulajabExtn.Paryavaran Complex Delhi-30 South Chhatarpur
30.	1415	SaidulatabExtn.J-Block, Paryavaran Complex, Delhi-30
31.	1446	SaidulajaibExtn., Kohinoor Enclave, M.B.Road, Opp. CISF Complex.
32.	126	SaidulajabExtn. Mehrauli, New Delhi-68
33.	1513 A	SaidulajaibExtn., New Delhi-30
34.	1513 B	SaidulajaibExtn., New Delhi-30
35.	114-(ELD)	Saidulajaib Village Residance Welfare Association New Delhi
36.	374	Sultan Apartment, Gali No.2, SaidullaJaib, M.B.Road, Delhi-30
37.	129	HarcharanBagh, Andheria More, VasantKunj Road, Delhi-30 South Mehrauli
38.	1112	Shanti Kunj (Main) Near Church VasantKunj Delhi-70 South Mehrauli

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39.	83	Shanti Kunj, Behind Sect.-D, Pocket III & IV, VasantKunj South Mehrauli
40.	1144	Shanti Kunj Behind Deep Public School, VasantKunj) Delhi-70 South Mehrauli
41.	5	BhawaniKunj behind Sector D-II, VasantKunj, New Delhi-70 South Mehrauli
42.	576	BhawaniKunj Near VasantKunj, Delhi-70 South Mehrauli
43.	504	Shri SaiKunj, Mehrauli, Delhi-70 South Mehrauli
44.	1343	Asha KunjVasantKunj Delhi-70 South Mehrauli
45.	110-(ELD)	The Haven Athene Hospitality Services Pvt. Ltd,Property No. 4-1-14, Ward- I, Kalka Das Marg, Mehrauli New Delhi 30
46.	111-(ELD)	The Sunridge, Sunridge India Heritage Pvt. Ltd.Haveli Sarai No. 6, Kalka Das Marg Mehrauli, New Delhi 30
47.	112-(ELD)	The Qila, SunridgeQila Resorts Pvt. Ltd. 4A, Ward -I, Kalka Das Marg Mehrauli New Delhi
48.	109-(ELD)	The Sunridge, Sunridge India Heritage Pvt. Ltd.Haveli Sarai No. 8, Kalka Das Marg Mehrauli, New Delhi 30
49.	556	Amaltas Avenue (Samalka) Colony, Rajokri, Delhi
50.	425	VasantKunj Enclave, Delhi-70 New Delhi Bijwasan
51.	62	VasantKunj Enclave, B-Block, MlikapurKohi, Village Rangpuri New Delhi Bijwasan
52.	143-(ELD)	RuchiVihar, Rang Puri Abutting Block-B, Delhi 37 South West Bijwasan
53.	321 A	Defence Enclave, Mahipalpur, Extn.-II, New Delhi-37
54.	321 B	Defence Enclave, Mahipalpur, Extn.-II, New Delhi-37
55.	1593	Defence Enclave Development Association , MahipalPurExtn. New Delhi-37
56.	866	Chatterpur Mini Farms Chatterpur main Road Mehrauli New Delhi-62 South Chhatarpur
57.	2-(ELD)	GadaiPurExtn., 26-A, Club Drive, GadaiPur Extn., Mehrauli, Gurgaon Road, GadaiPur, Delhi-30
58.	591	Green Meadows, SatbariMehrauli, Delhi South Chhatarpur
59.	31-(ELD)	Silver OAK Enclave, Village JonapurGadaiPur, Mandi Road, New Delhi-47
60.	37	Club Drive Colony, M.G. Road, Gadaipur (Opp.Ghitorni) South Chhatarpur
61.	68-(ELD)	SanskritikAurVikasSanstha OSHO Drive GadaipurExtn. Of Village GadaipurMehrauli New Delhi
62.	47-(LOP)	Silver OAK Enclave, Village JonapurGadaipur Mandi Road New Delhi 47
63.	916	ChattarpurExtn.Mehrauli New Delhi-74
64.	735	ChattarpurExtn.Mehrauli New Delhi-74
65.	480	Chattarpur Enclave, MehrauliChattarpur, Road, Delhi-68
66.	480 B	Chattarpur Enclave, MehrauliChattarpur, Road, Delhi-68
67.	480 C	Chattarpur Enclave, MehrauliChattarpur, Road, Delhi-68
68.	375	Chattarpur Extn.,A-1, New Delhi
69.	56	Chhatarpur Enclave Ph-I, Block-A, Maidan Garhi, Village Road

Explanation: - Registration number is as per the list of Unauthorized Colonies registered by Government of National Capital Territory of Delhi in accordance with the Regulations for Regularization of Unauthorized Colonies in Delhi dt.24.03.2008.

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Annexure-II
(see regulation 4)

A. Calculation of charges for Category- I

Category of Locality in which UC falls	Charges to be recovered for Category-I of the carpet area (in rupees per sqm.)*		
	Plot area upto and equal to 100 sqm. (0.5% of the circle rate/4)	Plot area more than 100 sqm. But below 250 sqm. (1% of the circle rate/4)	Plot area more than 250 sqm. (2.5% of the circle rate/4)
A	967.50	1935.00	4837.50
B	306.90	613.80	1534.50
C	199.80	399.60	999.00
D	159.60	319.20	798.00
E	87.60	175.20	438.00
F	70.80	141.60	354.00
G	57.75	115.50	288.75
H	29.10	58.20	145.50

*% of circle rate of residential use (highest) of the surrounding colony as per GNCTD notification No. F.1(953)/Regn. Br./Div. Com./HQ/2014/5943 dt.22.09.2014.

B. Calculation of charges for Category- II

Category of Locality in which UC falls	Charges to be recovered for Category-II of the carpet area (in rupees per sqm.)*		
	Plot area upto and equal to 100 sqm. (50% of Category- I)	Plot area more than 100 sqm. But below 250 sqm. (50% of Category- I)	Plot area more than 250 sqm. (50% of Category- I)
A	483.75	967.50	2418.75
B	153.45	306.90	767.25
C	99.90	199.80	499.50
D	79.80	159.60	399.00
E	43.80	87.60	219.00
F	35.40	70.80	177.00
G	28.87	57.75	144.37
H	14.55	29.10	72.75

*% of circle rate of residential use (highest) of the surrounding colony as per GNCTD notification No. F.1(953)/Regn. Br./Div. Com./HQ/2014/5943 dt.22.09.2014.

Annexure-III

Procedure for processing application for conferring rights in UCs

(See regulations 5(4))

1. DDA will create a portal for this purpose.
2. **Preparation:** Applicant shall do following preparation before filling his application for conferment of rights-
 - (a) Open a Digilocker Account
 - (b) Upload each of the ownership documents in the Digilocker separately.
 - (c) Take a photograph of your property from outside so that the building is clearly visible.
 - (d) DDA will empanel agencies for fixing geo-coordinates of plots. Resident/applicant will engage one of the empanelled agencies for fixing geo-coordinates of the plot. Get the Geo-coordinates of the plot be fixed by the Agency. Agency will also prepare an Auto-CAD drawing of the plot and neighbouring properties. Agency will upload the Geo-coordinates and Auto-CAD file on DDA portal and generate the QR Code. This QR Code will be given by agency to the Applicant.
3. **Registration of user:** Applicant will register on DDA portal for this purpose by providing basic information and authentication of Aadhar Card and email/ mobile through OTP.
4. **Login:** User will login to the designated portal of DDA using his email/mobile number and OTP received on his email or mobile phone.
5. **Filling of Application Form:** DDA will display on the portal the information required for filling application form by the resident. Information about property and other necessary information required for the processing of conveyance deed/Authorisation Slip be entered. After successful

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submission of application, a Unique Application number and Unique ID for property will be generated.

6. **Payment of self-assessed charges:** After generation of Unique application number and Unique property ID, charges to be paid by the applicant will be displayed on the window. The window showing self-assessed charges will also contain a link for payment. Payment of that amount can be done through online payment gateway.
7. **Publishing Applications:** Basic details of applicants and property applied for conferment will be displayed on website for any aggrieved person to file objections, if any. This display option will be available till completion of Approval Process.
8. **Desk Verification of Application:** DDA will display a check list to verify/examine the application. The DDA will examine the application and documents uploaded according to the Check-list and will raise Deficiency Memorandum (DM), if any.
9. **Reply to DM:** Applicant will submit point-wise replies to DM on the portal. Thereafter the application is re-scrutinized and accepted.
10. **Fixing of Inspection:** DDA will make visit to physically verify the property. For field verification of the applicant's property, applicant can book a time and date slot.
11. **Field inspection:** (i) Random allocation of inspection personnel for inspection. (ii) Inspecting Officer inspects the property and uploads inspection Report. (iii) In case of any deficiency found, the inspecting officer shall raise DM, which will be communicated to the resident/applicant.
12. **Reply to DM:** Applicant will submit point-wise replies to DM on the portal.
13. **Final Scrutiny and Approval:** The approving authority examines application, inspection memos and replies to DMs to approve the application

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(subject to Document verification) or reject the application. In case any person has filed any objection, hearing would be conducted before deciding the matter.

- 14. Fixing appointment for document verification and execution:** Applicant will book a slot for document verification and execution of Conveyance Deed/ Issue of authorisation slip. He will also enter details of witnesses he will bring. A checklist of documents will also be generated.
- 15. Submission of Documents:** DDA will establish adequate number of Suvidha Kendra at various places near the UCs and the details of which shall be displayed on the portal. At the SuvidhaKendra, applicant will come and produce original documents for verification.
- 16. Scrutiny of the documents:** The documents received through Kiosks will be scrutinized by the staff deployed in the Kiosks and verification will be done. If everything is found to be in order, the AD will print the Conveyance Deed/ authorisation slip, and get it signed by applicant and witnesses.
- 17. Execution of the Conveyance Deed/Issuance of authorisation slip:** The conveyance deed /issueofauthorisation slip will be executed/issued by DDA after verification of all original documents in the presence of applicant and two witness brought by the applicant.
- 18. Closing:** The signed conveyance deed/ authorisation slip will now be scanned and uploaded in the software application. The execution of the Conveyance Deed or Issuance of authorisation slip will enable the residents to get the instruments registered by Sub-registrar.
- 19. Rejection or Dispute resolution:** On rejection of application or in case of any dispute, the applicant will submit representation to DDA, which will decide the same within 90 days of receipt of the representation.

[F. No.....]
 (Name of the Officer)
 Designation

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ANNEX -11

(REFERRED TO IN PARA 6.1 OF THE NOTE)

	THE NATIONAL CAPITAL TERRITORY OF DELHI (RECOGNITION OF PROPERTY RIGHTS OF RESIDENTS IN UNAUTHORISED COLONIES) ORDINANCE, 2019	
	Promulgated by the President in the Seventieth Year of the Republic of India.	
	An Ordinance to make special provisions for the National Capital Territory of Delhi for recognising the property rights of residents in unauthorised colonies by securing the rights of ownership or transfer or mortgage in favour of the residents of such colonies who are possessing properties on the basis of Power of Attorney, Agreement to Sale, Will, possession letter or any other documents including documents evidencing payment of consideration and for the matters connected therewith or incidental thereto.	
	WHEREAS there has been phenomenal increase in the population of the National Capital Territory of Delhi in the last few decades owing to migration and other factors but development of planned housing colonies have not kept pace with the requirements of a burgeoning population resulting in the increase of unauthorised colonies.	
	AND WHEREAS number of unauthorised colonies have been identified in the National Capital Territory of Delhi on the basis of applications made by the Residents Welfare Associations for regularization in pursuance to notification number S.O. 683(E), dated the 24 th March, 2008 of the Delhi Development Authority, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated 24 th March, 2008;	
	AND WHEREAS the properties in these colonies are not being registered by registering authority and thereby the residents do not have any title documents in respect of such properties and the Banks and financial institutions do not extend any credit facilities in respect of said properties.	
	AND WHEREAS the ownership of the properties in unauthorised colonies have been transferred several times through registered or un-registered or notarised Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration and stamp duty on these multiple transactions have neither assessed nor been paid;	
	AND WHEREAS the transfer of immovable property at a value lesser than	

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	the stamp duty value, adopted or assessed or assessable by any authority of the Central Government or State Government for the purpose of payment of stamp duty in respect of an immovable property, may trigger the taxability in the hands of the recipients unless receipt thereof is exempted by the Central Board of Direct Taxes in respect of certain class of persons;	
	AND WHEREAS the stamp duty on the conveyance deed, sale deed or authorization slip, as the case may be, is levied as per minimum rates (circle rates) specified in the notification <i>vide</i> No.F.1(953)/Regn.Br./Div.Com/ HQ/2014, dated the 22 nd September, 2014 of the Government of National Capital Territory of Delhi or the sale consideration mentioned in the conveyance deed or authorization slip, as the case may be, whichever is higher;	
	AND WHEREAS the Supreme Court in the case of Suraj Lamp & Industries (P) Ltd. Vs. State of Haryana & others dated the 11 th October, 2011 had held that sale agreement/general Power of Attorney or Will transactions are not 'transfers' or 'sales' and that such transactions cannot be treated as completed transfers or conveyances and they can continue to be treated as existing agreement of sale;	
	AND WHEREAS keeping in view the socio-economic conditions of the residents of these unauthorized colonies and ground realities, it is desirable to recognise and confer rights of ownership or transfer or mortgage to the residents of such colonies on the basis of Power of Attorney, Agreement to Sale, Will, possession letter and other miscellaneous documents including documents evidencing payment of consideration and to facilitate development or re-development that may improve existing infrastructure, civic and social amenities which may lead to better quality of life;	
	AND WHEREAS it is expedient to have a law to recognise and confer rights of ownership or transfer or mortgage to the residents of unauthorised colonies as one time special measure;	
	AND WHEREAS the Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action;	
	NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance: —	
	1. (1) This Ordinance may be called the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Ordinance, 2019.	Short title, extent and commencement.

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	(2) It extends to the National Capital Territory of Delhi.	
	(3) It shall come into force at once.	
	<p>2.In this Ordinance, unless the context otherwise requires, —</p> <p>(a) “resident” means a person having physical possession on the basis of a registered sale deed or latest set of Power of Attorney, Agreement to Sale, Will, possession letter and other miscellaneous documents including documents evidencing payment of consideration in respect of a property in unauthorised colonies and includes their legal heirs but does not include tenant, licensee or permissive user;</p> <p>(b) “unauthorised colony” means a colony or development comprising of a contiguous area, where no permission has been obtained for approval of layout plan or building plans and has been identified for regularisation of such colony in pursuance to the notification number S.O.683(E), dated the 24th March, 2008, of the Delhi Development Authority, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated 24th March, 2008.</p>	Definitions.
2 of 1899. 16 of 1908. 43 of 1961.	<p>3.(1) Notwithstanding anything contained in the Indian Stamps Act, 1899, the Registration Act, 1908 as applicable to the National Capital Territory of Delhi and the Income-tax Act, 1961 or any rules or regulations or bye-laws made thereunder and the judgment of the Supreme Court in the case of Suraj Lamp & Industries (P) Ltd. Vs. State of Haryana, vide its judgment dated the 11th October, 2011, the Central Government may, by notification in the Official Gazette, regularize the transactions of immovable properties based on the latest Power of Attorney, Agreement to Sale, Will, possession letter and other miscellaneous documents including documents evidencing payment of consideration for conferring or recognising right of ownership or transfer or mortgage in regard to an immovable property in favour of a resident of an unauthorised colony in the National Capital Territory of Delhi.</p>	Recognition of property rights.
	(2) The Central Government may, by notification published in the Official Gazette, fix charges on payment of which transactions of immovable properties based on the latest Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration for conferring or recognizing right of ownership or transfer or mortgage in regard to an immovable property in favour of a resident of an unauthorized colony in the National Capital Territory of	

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	Delhi through a conveyance deed or authorization slip, as the case may be.	
	(3) Notwithstanding anything contained in section 27 of the Indian Stamp Act, 1899, the stamp duty and registration charges shall be payable on the amount mentioned in the conveyance deed or authorisation slip, as the case may be, to be executed.	
	(4) Any resident of an unauthorized colony having registered or un-registered or notarised Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration shall be eligible for right of ownership or transfer or mortgage through a conveyance deed or authorisation slip, as the case may be, on payment of charges referred to in sub-section(2).	
	(5) No stamp duty and registration charges shall be paid on any previous sale transactions prior to any transaction made under sub-section (4).	
	(6) The tenants, licencees or permissive users shall not be considered for conferring or recognising right of ownership under this Ordinance.	
Exemption from tax on income.	4. Notwithstanding anything contained in section 56 of the Income-tax Act, 1961, where the rates considered for the registration on the basis of the minimum rates (circle rates) exceeds the rates mentioned in the conveyance deed , sale deed or authorisation slip, as the case may be, the rates so exceeds shall not be chargeable to income-tax under the head “income from other sources”.	43 of 1961.

President.

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Annex-12**(REFERRED TO IN PARA 8.1 OF THE NOTE)****GIST OF THE COMMENTS OF STAKEHOLDERS WITH OBSERVATIONS OF THE MINISTRY THEREON****Lieutenant Governor of Delhi**

Lieutenant Governor of Delhi vide letter dated 30.07.2019 conveyed agreement with the Draft Cabinet Note.

Government of National Capital Territory of Delhi (GNCTD):

GNCTD forwarded their comments vide their letter No. 9391/DS/UC/UD/2019/2547 dated 24.07.2019.

Para No.	Proposal in DCN	Urban Development's (GNCTD) Comments/ Recommendations	MoHUA's Observations
2.4	Relating to cut off date of UCs	The cut off date for 50% built up should be 31.03.2019 OR There should be 35% built up as on 01.01.2015.	Union Cabinet has approved the cut off date and any change at this stage will further delay the proposal.
2.6	Though the MPD-2021 allows for redevelopment of colonies with additional Floor Area Ratio (FAR) as an incentive, no redevelopment could take place as for want of ownership rights in UCs.	The DDA could not keep pace with the massive influx of poor immigrant population in Delhi and failed to provide the affordable accommodations to all thereby leading to unplanned, haphazard and unauthorised development of Colonies on Public and Private Lands.	Statement and requires no comment.
2.7	Committee headed by LG of Delhi constituted to conferring/recognizing ownership or mortgage/ transfer	The GNCTD had vide their letter dated 12.11.2015 had requested the GOI to revise the said regulations which finally led to the constitution of a Committee under the	GNCTD's proposal was for revision of 2008 Regulations and was not related to the proposal

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	rights to residents of unauthorized colonies in Delhi,	Chairmanship of Hon'ble L.G. Delhi.	for conferring/ recognizing ownership or transfer/ mortgage rights to the residents of UCs in Delhi.
3.1(v)	DDA to lay down a simple and streamlined procedure for the Conveyance Deed and Registration of property in UCs for ownership rights.	Conveyance Deed/Registration to be done as per the Digital Maps prepared by GSDL.	Procedure for registering Conveyance Deed to be laid down by DDA on the basis of delineation of the boundaries of UCs/ Clusters of UCs based on Survey of India Maps.
3.1(vii)	Hon'ble Supreme Court in Suraj Lamp case (11.10.2011) disallowed GPA, Will, Agreement to sell, Purchase and Possession documents as valid instruments for transfer of property.	The date of notification of Policy/ Regulations should be the cut-off date.	An Ordinance has been proposed to allow registration of these instruments as a onetime measure.
3.1(ix)	DDA to issue revised liberal Development Control Norms for each of these UCs following the due process of law. Vacant Government land in the UCs should be used for creating social/ common infrastructure. DDA will take measures to protect all vacant Government land.	All Government Land to be transferred to GNCTD for development of Social infrastructure, i.e., schools, health facilities, community centre, etc., at category-II rates.	DDA alongwith ULBs will develop social infrastructure on vacant land.
3.1(xi)	No rights will be	UC falling outside Yamuna	Exclusions are

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	conferred or recognized over prohibited land, i.e. Forest Land, Land under influence zone of protected monuments, Zone O/Yamuna flood plain, Land falling on right of way (ROW) of existing Master Plan roads etc.	Bandh should be regularized in this scheme. Forest, ASI land to be excluded from the area of UC Colonies, rest of the colony should be regularized.	statutory binding. Existing roads and Master Plan Roads have also been excluded. These will continue in new Regulations also.
3(xii)(c) & (d)	xii) Recovery of charges of land and penalty	The category of UC should be one category below the lowest of all colonies surrounding the UC or Category H.	Calculation of charge is based on carpet area of construction on "as is where is basis". The Govt is charging a nominal amount of 0.5%, 1% and 2.5% of circle rates. The purpose of this is to grant relief to and address the needs of the lower income group of society residing in these UCs.
4.2	Committee has recommended conferring/recognizing ownership or mortgage/ transfer rights in 1,797 colonies as listed by Urban Development Department, GNCTD. Three colonies inhabited by affluent section of society namely Sainik Farm, Mahindru Enclave and Anant Ram Dairy may be	The principles of equity and inclusiveness have not been followed; inasmuch as, three colonies, i.e., Sainik Farms, Mahindru Enclave and Anant Rama Dairy have been left outside the purview of Regularization process thereby hanging their fate in the balance. There is no merit in categorising some colonies as affluent and others as nonaffluent. Affluent people could be residing in any unauthorized colony. The affluent status	Purpose of this is to grant relief to lower income groups of the society in UCs and not to affluent sections. Affluent colonies will be considered separately later and not with the present proposal.

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	excluded.	should be based on the plot sizes for which higher charges for the public land, penalties and development charges, etc., should be collected.	
4.3	Therefore, in the first phase, exercise for conferring/ recognizing ownership or mortgage/ transfer rights to residents of UCs will be done only in 1,797 colonies, excluding 3 colonies inhabited by affluent section of society. GNCTD to identify such other colonies fulfilling the criteria of the Notification dated 01.01.2015 for regularisation of UCs, which will be considered in the second phase.	<p>The cut off date for Regularization of UCs in second phase should be 01.07.2019.</p> <p>After the cut off date 01.07.2019 any extension of unauthorized colony or development of new unauthorized colony should not be allowed.</p> <p>If any new colony comes after 01.07.2019 or extension of any unauthorized colony takes place after this date, the area SDM, SHO and the concerned Dy. Commissioner of MCD should be held responsible.</p>	<p>Union Cabinet has approved the cut off date and any change at this stage will further delay the proposal.</p> <p>Agreed</p> <p>A Special Task Force is already in place under the Chairmanship of VC, DDA with responsibility matrix clearly defined to address this issue.</p>
4.5	Local Area Plan for these UCs will be prepared by DDA on behalf of the urban local bodies. The DCN are to be prepared by DDA for these UCs by engaging renowned experts.	For one time only, the DDA should prepare Local Area Plan for the UCs on behalf of Urban Local Bodies.	Already proposed in the Proposal. DDA will prepare Local Area Plan on behalf of ULBs for UCs/Clusters of UCs.
4.6	The Committee's recommendation for late payment with simple interest @8% per annum may be levied after one year from the	There should be some scheme for credit linking of Financial Institutions to enable the poor inhabitants of UCs, to avail interest free/ minimal interest loan to pay for the cost of their	Already proposed in the proposal. The Nominal charges are to be recovered in three instalments to enable lower income group of society to

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	date of issuance of notifications of the Regulations.	land, penalty, cost of conveyance charges, registration and stamp duty charges, etc.	avail benefit of this proposal. There will not be any penalty.
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NOTE:

(i)		<p>The Appendix 'A' Annexure-1 of the Draft Cabinet Note contains a tentative list of 1797 Unauthorized Colonies. The list requires some modifications; inasmuch as the three colonies, namely, 1. Jan Chetna Sangam Mandawali Unche Par (Regn. No. 53 LOP) (2) Bhikam Singh Colony, Vishwas Nagar (Regn No.755) and (3) Nehar Bazaar Sudhar Samiti Maujpur (Regn. No. 55 LOP) have been cancelled vide orders dated 09.10.2014, dated 20.07.2016 and dated 10.09.2014 respectively (Copy enclosed)</p> <p>Besides the above 3 colonies, namely, (1) Indra Park Extension Part 2 (Regn. No. 1002 A), (2) Indraprasth Colony Part-1 Burari (Regn. No. 1368) and (3) Indra Park, Indra Market (Regn. No. 1610) do not find mention in the tentative list of unauthorized colony supplied. The Government of India may like to amend the list accordingly.</p> <p>Besides the above, Sainik Farms Western Avenue (Regn No. 1295) was considered for deletion due to its being categorized as Affluent colony. The formal order for cancellation has since not yet been issued</p>	
(ii)			(i)&(ii) Necessary corrections has been done in list of 1797 Unauthorized Colonies by DDA and corrected list has been annexed at Annexure-10 to the Regulations.

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(iii)		<p>that is why Sainik Farms Western Avenue finds its place in the list of 1797 unauthorized colonies. Since the draft Cabinet Note explicitly mentions that the 3 Affluent Colonies including Sainik Farms Western Avenue (Regn No 1295) shall not be considered for regularization, hence the name of Sainik Farms Western Avenue may be deleted from the list of 1797 unauthorized colonies sent by Ministry of Housing and Urban Affairs.</p>	<p>(iii) Affluent unauthorised colonies have been defined for the purpose of these Regulations and list 69 affluent colonies is annexed at Annexure II to the Regulations.</p>
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Ministry of Environment, Forest Climate Change (M/o EF&CC):

M/o EF&CC forwarded their comments vide their letter No. 14-1/2019-IA.III dated 25.07.2019.

- i. The instant proposal is only for framing regulations for conferring/ recognizing ownership or mortgage/ transfer rights to the residents of 1,797 Unauthorized Colonies (UCs) in Delhi in the first phase and in the other colonies to be identified by the Government of National Capital Territory of Delhi (GNCTD) in the second phase, in super session of the existing Guidelines/ Regulations.
- ii. In the process of recognising ownership the concerned Urban Local Bodies/ State Government may initiate suitable environmental conservation and protection measures in such clusters, viz., proper drainage, plantation, sewage, treatment, solid waste management, etc. in accordance with extant guidelines/ environmental statutes.
- iii. If redevelopment of these colonies involves construction of buildings with built-up area \geq 20,000 sq.m. and/ or Township and Area Development projects covering an area of >50 ha, prior Environment Clearance will be required from the concerned regulatory authority as per the extant provisions of the EIA Notification, 2006 and its amendments under the Environment (Protection) Act, 1986. The related provisions for buildings/ area development projects requiring prior environment clearance is extracted as follows:

Project or Activity		Category with threshold limit		Conditions, if any	MoHUA's Observations
		A	B		
1	2	3	4	5	6
"8	Building of Construction projects or Area Development				

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projects and Townships					
8(a)	Building and Construction projects		≥ 20,000 sq.m. and <1,50,000 sqm of built-up area	<p>The term “built up area” for the purpose of this notification is the built up or covered area on all floors put together including its basement and other service area which are proposed in the buildings and construction projects.</p> <p>Note 1. The projects or activities shall not include industrial shed, universities, college, hostel or educational institutions, but such buildings shall ensure sustainable environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials such as fly ash bricks.</p> <p>Note 2. General Condition shall not apply.</p>	<p>The ownership is being given on “as is where is basis”. DDA will prepare LAP and liberal development control norms will be proposed by DDA. The Development Control Norms to be formulated by DDA are to be included in Master Plan Delhi 2021 which shall also incentivise redevelopment of unauthorized colony for a better habitat. These norms will address/comply with the provisions of MoEF&CC guidelines.</p>
8(b)	Township and Area Development projects		Covering an area of >50 ha or built-up area >1,50,000 sqm	<p>A project of Township and Area Development Projects covered under this item shall require an Environment Assessment Report and be appraised as Category ‘B1’ Project.</p> <p>Note- General condition shall not</p>	As above.

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				apply".	
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- iv. The construction project would also incorporate green building features, rain water harvesting system, energy efficient lighting, water conservation, sewage/ effluent treatment/ disposal, solid waste management including construction and demolition waste, vehicle parking, etc.
- v. Further, the proposal, if involves diversion of forest land, would require the forest, clearance under the Forest (Conservation) Act, 1980. Further, in case of project/ activity (or even part of it) falling within the eco-sensitive zone around the National Park or the Wildlife Sanctuary, shall require clearance under the Wildlife (Protection) Act, 1972 also. Both these Acts are administered by this Ministry.

It is further suggested that post conferring/ recognizing ownership rights, the owners may be required to contribute towards development of civic infrastructure to the local body. This can be incorporated as a part of MoHUA Guidelines.

Ministry of Law & Justice:

M/O Law & Justice forwarded their comments vide their EO No.335753/LS/2019 dated 25.07.2019.

	Proposal in DCN	Comments of Law and Justice	MoHUA's Observations
2	2.1 Large population in Delhi reside in unauthorised colonies located on private/public land. Properties whether in the form of plot of land or built up space in these unauthorised colonies are held through General Power of Attorney (GPA), Will, Agreement to Sell and Payment & Possession documents.	We have examined the matter. As per the Cabinet Note the large population in Delhi residing in unauthorized colonies located on private/ public land. The residents of unauthorized colonies are in possession of the properties through the General Power of Attorney (GPA), Will, Agreement to Sell and Payment and Possession documents. It is an established law that these documents are not authorized documents to confer the ownership rights, therefore, the ownership rights cannot be given to the persons those are residing	An Ordinance has been proposed to allow registration of these Instruments as a onetime measure.

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		on the unauthorized land. The Mortgage deed can be executed between the owner of the land and the Mortgagee, as such, Mortgage rights is not relevant in the present context. It may be advisable to confer the Transfer Rightsto the residents on the lines of the lease hold rights.	
		Subject to observations made above, the proposal contained in the present DCN is a matter of policy and there appears to be no Legal or Constitutional objection to the same. Hence, we may concur in.	

Ministry of Railways:

M/o Railways forwarded their comments vide their Letter No. 2019/LML-1/14/39 dated 01.08.2019.

Para Nos.	Proposal in DCN	Comments of Ministry of Railways	MoHUA's Observations
3.1(xi)	No rights will be conferred or recognized over prohibited land on which settlement is prohibited by any Act of the Central Government.	No rights will be conferred or recognized over prohibited land under Ministry of Railways and on such land settlement on which is prohibited by any Act of the Central	This has been taken care of by definition of excluded area provided under para 7(a) of draft Regulations.

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	Government.	
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Ministry of Culture:

M/o Culture forwarded their comments vide their OM No. 14/11/2019-CDN dated 16.07.2019.

Ministry of Culture has supported the proposal and has offered no specific comments.

Ministry of Finance, DoE

M/o Finance, DoE forwarded their comments vide OM NO. 30(12)/PFX-/2019 dated 13.08.2019

Para Nos.	DCN comments	D/o Expenditure comments	MoHUA's observations
2.2	Press Note dated 19.07.1961 issued by Delhi Administration and regularisation of the first set of 103 unauthorised colonies by Municipal Corporation of Delhi (MCD) and Delhi Development Authority (DDA) up to 1962 and between 1979 and 1993.	It may be clarified if any further unauthorized colonies have been regularized after the issuance of revised guidelines of 2007 for regularization of UCs. With regard to the unauthorized colonies already regularized. It may also be clarified where these colonies have undergone the desirable redevelopment process and have basic/common infrastructure.	No other UCs has been regularized after the issuance of 2008 Regulations. No redevelopment as per MPD-2021 has been done in these unauthorized colonies.
2.4	As per extent regularization, the UCs which were in existence as on 1 st June, 2014 and where more than	In this regard, it may be clarified as to which authority would need to certify with regard to the fact of 50% plots were built	DDA in consultation with ULBs will delineate boundaries as per Survey of India maps.

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	<p>50% plots were built-up on the date of announcement of a regularization scheme, i.e., 1st January, 2015 are eligible for regularization provided they do not fall in forest areas and in areas prohibited by any Act/ Statute.</p>	<p>up on the date of announcement of regularization scheme, i.e., 1st January, 2015 and the methodology adopted to certify the accuracy of this fact.</p> <p>(ii) One of the important aspects of regularization of unauthorized colonies is creation of proper social/ common infrastructure. Similarly, it needs to be ensured that the buildings, conforms to the safety norms.</p> <p>(iii) In view of para (ii) above, the regularization of unauthorized colonies have financial implication for the Govt in terms of establishing basic infrastructure facilities and this financial implication which may need to be borne by the local authorities, Delhi Govt and MoHUA may be clearly brought out with timelines for provision of the same to these colonies and how safety standards of the buildings would be ensured by the local authorities.</p>	<p>DDA along with ULBs will develop social infrastructure on vacant government land.</p> <p>For this purpose Special Development Fund will be created.</p>
2.5	GNCTD could not	The reasons for	GNCTD was unable to

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	delineate the boundaries of these colonies even after 11 years of issuance of the Regulations and has sought more time to complete this exercise.	failure of the GNCTD may be brought out in this regard, along with the detailed timelines for completion of this exercise by GNCTD. Unless and until this exercise of delineation of boundaries is completed by DDA with the assistance of Revenue Department of GNCTD, the present proposal would be possible to implement within the given timelines.	select a competent survey agency to do the task and not been able to do so till date. In order to complete this timely the responsibility is now being given to DDA.
2.6	Master Plan of Delhi-2021 allows for redevelopment of colonies with additional Floor Area Ratio (FAR) as an incentive, no redevelopment could take place as no ownership rights exist to the residents in these unauthorized colonies.	The issue of redevelopment of these colonies may be clarified as to whether the Government intends to take up the responsibilities of redevelopment of these unauthorized colonies or these will be left to the private builder/ developers. Since multi ownership is there in most of the cases as flats have been constructed on such properties, how the redevelopment work would be carried out is not very clear.	Redevelopment will be done as per MPD-2021 norms and land pooling policy by a developer entity.
3.1(v)	Ownership should be conferred on the occupants of Govt land, subject to payment of prescribed charges	The specific amounts/ rates of these charges may be clearly stated along with the likely financial implication to	The Government is not making any investment for implementation of these Regulations except utilization of services of DDA and concerned Agencies

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	<p>of land, penalty charges, and interest on late payment,</p>	<p>the Government of India/ local authorities/ Government of Delhi in terms of receipts.</p> <p>If the occupant of the Government land don't pay the requisite charges for a long period of time, it may not be advisable to keep the case pending for a long time and, therefore, there may be a cut off date or definitive period prescribed for the payment of such charges beyond which the ownership of these lands may not be transferred to the illegal occupants for expeditious completion of the regularization process.</p>	<p>and expenditure in case of delineation exercise and preparation of Local Area Plan (LAP), which are in any case their normal course of work. The rates have been formulated by converting the land rate recommended by Committee headed by LG to carpet area rate in consultation with DDA and consultation as mentioned at para 4.1 of the Cabinet Note. The Government land is being conveyed at nominal rate i.e. 0.5 to 2.5 % of circle rate as the beneficiaries of this scheme are lower income group/persons, who have to pay charges on carpet area basis. Charges are being calculated presuming 100% ground coverage and 4 storey construction which is generally the case in UCs in Delhi as per report of DDA. For vacant plots, the ownership/transfer right will be granted based on the area of the plot and the nominal rates of 0.5%, 1% and 2.5% depending on the size of plots less than 100 sqm, 100 to 250 sqm and greater than 250 sqm in the government land and half of these amount if the plot is situated on the private land. The actual/ exact financial implication of the notification of Regulations cannot be assessed due to lack of data in respect of Government land and number of</p>
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			<p>transactions of sale/purchase in all the UCs.</p> <p>For late payment simple interest @ 8% per annum will be levied after one year from issuance of Regulations.</p>
3.1(vii)	Hon'ble Supreme Court in Suraj Lamp case (11.10.2011) disallowed GPA, Will and Agreement to sell as valid instruments for transfer of property	Committee took legal advice on the matter. In this regard, the legal advice given may also be stated in the final note.	An Ordinance has been proposed to allow registration of these instruments as one time measures.
4.2	three colonies inhabited by affluent section of society namely Sainik Farm, Mahindru Enclave and Anant Ram Dairy may be excluded from regularization of unauthorized colonies.	The objective and transparent criteria utilized to exclude these three colonies may be elaborated in the final note.	Purpose of this scheme is to grant relief to lower income groups of the society in UCs and not to affluent sections. Affluent colonies will be considered separately later and not with this proposal.

Additional Suggestions by M/o Finance, DoE

Comments of DoE	MoHUA's Observations
For successful implementation of regularization of unauthorized colonies, it is imperative that the whole programme is dovetailed with various schemes of the Government for urban infrastructure, namely, Affordable Housing Schemes [PMAY (U)], AMRUT, Swachh Bharat Mission, Drinking water (HarGharJal), Smart Cities etc. A note on the same may also be brought out vis-à-vis the provision of basic infrastructure facilities in these colonies.	The ownership is being given on "as is where is basis". DDA will prepare LAP and liberal development control norms. The Development Control Norms to be formulated by DDA are to be included in Master Plan Delhi 2021, which shall also incentivise redevelopment of UC for a better habitat. These norms will address/comply with the provisions of MoEF&CC guidelines.
It need not be stated that various local authorities	A Special Task Force is

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<p>have been given responsibility to check the menace of unauthorized colonies and there must be a mechanism of fixing accountability for unauthorized colonies. Moreover, it is incumbent on the administration to provide suitable accommodation for people migrating to NCT through affordable housing.</p>	<p>already in place under the chairmanship of VC, DDA with responsibility matrix clearly defined to address this issue.</p>
<p>From Appendix III of the DCN, it is noted that various authorities have been assigned different roles and responsibilities with specific timelines like DDA, GNCTD, MoHUA, UD Department etc. MoHUA needs to create an appropriate institutional coordination mechanism to ensure that all the activities are carried out within specific timelines.</p>	<p>Accepted. Roles and responsibilities have been clearly defined in the proposed Regulations.</p>
<p>The proposal would have to deal with a number of hurdles concerning individual rights, multi-ownership, layout plans, infrastructure, and redevelopment, etc. These issues may be incorporated / addressed in the final note.</p>	<p>This has already been taken care of in the proposal as DDA will prepare LAP with liberal development control norms.</p>
<p>The plan of action for the Redevelopment of the UCs may be further elaborated. It is stated that DDA to issue revised liberal Development Control norms for each of these UCs. The timeline for this may be indicated along with the indicative nature of these norms may be stated. It is also mentioned that DDA will take measures to protect all vacant government land. The measures to be taken by DDA may be specified.</p>	<p>This aspect can be detailed only after the delineation of UCs/Cluster of UCs.</p>
<p>DDA shall devise a mechanism to ensure that in cases of UCs falling on acquired land in categories 1 and 2, no compensation is released henceforth; including in the cases where it is already deposited with courts/LAC/other agencies. This may be elaborated in the final note.</p>	<p>Already included in the Regulations proposed.</p>
<p>It is stated that the actual/exact financial implication of the Regulations cannot be assessed due to lack of data in respect of Government land and number of transactions of sale/purchase in all the UCs. This may be justified and given the recovery of charges of land, interest rate and penalty, the financial implication to the Government may be estimated.</p>	<p>The Government is not making any investment for implementation of these Regulations except utilization of services of DDA and concerned Agencies and expenditure</p>

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	<p>in case of delineation exercise and preparation of Local Area Plan (LAP), which are in any case their normal course of work. The rates have been formulated by converting the land rate recommended by Committee headed by LG to carpet area rate in consultation with DDA and consultation as mentioned at para 4.1 of the Cabinet Note. The Government land is being conveyed at nominal rate i.e. 0.5 to 2.5 % of circle rate as the beneficiaries of this scheme are lower income group/persons, who have to pay charges on carpet area basis. Charges are being calculated presuming 100% ground coverage and 4 storey construction which is generally the case in UCs in Delhi as per report of DDA. For vacant plots, the ownership/transfer right will be granted based on the area of the plot and the nominal rates of 0.5%, 1% and 2.5% depending on the size of plots less than 100 sqm, 100 to 250 sqm and greater than 250 sqm in the government land and half of these amount if the plot is situated on the private land. The actual/ exact financial implication of the notification of Regulations cannot be assessed due to lack of data in respect of Government land and</p>
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	<p>number of transactions of sale/purchase in all the UCs.</p> <p>However, the purpose of this proposal is to give relief to lower income group of society residing in these UCs enabling them to get ownership rights, which will facilitate them to improve their habitat.</p>
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Ministry of Finance, Deptt. of Revenue

M/o Finance, DoR forwarded their comments vide OM No. T-11011/25/2019-TC dated 28.08.2019

<p>“Section 56(2)(x) of the Income Tax Act, 1961 (the Act), inter alia, provides for deeming of income in case of receipt of an immovable property by a person at the value less than the stamp duty value subject to the specified threshold (5% and Rs.50,000). Therefore, the transfer of immovable property at less than the stamp duty value may trigger the taxability in the hands of the recipient under section 56(2)(X) of the Act. However, in this connection it may be noted that the term “stamp duty value” has been defined as the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property. Therefore, if there is no difference between stamp duty value adopted for transfer and the consideration received for the transfer, the provisions of section 56(2)(x) shall not be applicable. Further, the provisions of section 56(2)(x) of the Act is not applicable if the immovable property is received from the local authority as specified under Section 10(20) of the Act. Further, Finance (No.2), 2019 has amended the provisions of section 56(2)(x) to empower the Board to exempt receipt from certain class of persons from the applicability of the provisions of section 56(2)(x).”</p>	<p>An Ordinance has been proposed to address the issue of Income Tax liability.</p>
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Ministry of Defence

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Ministry of Defence vide OM No. 8(19)/2019/D(Coord) dated 13.09.2019 has supported the proposal subject to the following:

Para Nos.	DCN comments	M/o Defence comments	MoHUA's Observations
		No unauthorized colony (UC) which has come up as part of encroachment or illegal occupation on any type of defence land be regularized.	This has been taken care of by definition of excluded area provided under para 2(a) of draft Ordinance.
		Since unauthorized settlement on defence land is prohibited as per Public Premises Eviction Act, 1971, it is recommended that words "all type of defence land" be inserted after the words "Ridge Area" in Para 3 sub para (xi) on page 7 of proposed regulations.	This has been taken care of by definition of excluded area provided under para 2(a) of draft Ordinance.
		This policy should not be applied Mutatis Mutandis for regularization of UCs on any type of defence land or Cantonment Board land in future, as the same are under ambit of provisions of Cantonment Act 2006 and/ or CLAR 1937, as well as various policies & guidelines of Ministry of Defence.	This has been taken care of by definition of excluded area provided under para 2(a) of draft Ordinance.
		Further, as whole Delhi is being covered, the authority, i.e., GNCTD while delineating/ surveying any unauthorized colonies, should associate Defence Estate Officer (DEO) Delhi and CEO,	DDA will delineate the boundaries in collaboration with Urban Local Bodies

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		Cantonment Board Delhi, so as to ensure that no defence land in Delhi, including Delhi Cantonment, is incorporated in any such scheme.	
		While approving unauthorised colonies the restriction imposed on construction activities in vicinity of defence establishments/instalment through 'Works of Defence Act, 1903' and various MoD guidelines/policies must be kept in mind.	DDA will delineate the boundaries in collaboration with Urban Local Bodies
		It has no impact on the ongoing process of rehabilitation-cum-eviction of the unauthorised occupants in 3.632 acres of land encroached upon at Princess Park, Near India Gate, New Delhi, out of a total 14 acres, as the same land has been allotted for construction of the National War Museum with the approval of the Union Cabinet in October, 2015 and May, 2016.	This has been taken care of by definition of excluded area provided under para 2(a) of draft Ordinance.

COMMENTS OF STAKEHOLDERS ON REVISED DRAFT CABINET NOTE

After incorporating the comments received from the stakeholders, with the approval of Hon'ble MoS(IC), the revised Draft Cabinet Note was circulated to Ministry of Home Affairs on 16.09.2019, Ministry of Law & Justice (Legislative

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Department), Ministry of Finance (Department of Revenue) on 17.09.2019, and Ministry of Rural Development (Department of Land Reforms) on 26.09.2019.

The comments on the revised Draft Cabinet Note received, in original, from Ministry of Law & Justice (Legislative Department) dated 20.09.2019, Ministry of Rural Development (Department of Land Reforms) dated 27.09.2019, Ministry of Finance (Department of Revenue) dated 1.10.2019 and Ministry of Home Affairs dated 01.10.2019 are placed at **Annexure : pages** The gist of the comments furnished by the stakeholders on the Revised Draft Cabinet Note is as under:

Ministry of Law & Justice, Department of Legal Affairs

Department of Legal Affairs has forwarded their comments vide FTS No. 340603/LS/2019 dated 20.09.2019

Department of Legal Affairs has intimated that the Draft Cabinet Note being a matter of policy, there appears to be no legal and constitutional objection to the same and have concurred to the proposal of this Ministry.

Ministry of Law & Justice, Legislative Department

Legislative Department has forwarded their comments vide UO No. 1(69)2019-L-1/2019 dated 19.09.2019 and 7.10.2019 and has, after discussion and suggested changes, agreed to the proposal and vetted the drafts of Ordinance and Regulations.

Ministry of Rural Development, Department of Land Resources

Department of Land Resources has forwarded their comments vide OM No.28012/14/2019-LRD dated 27.09.2019

- (i) The Registration fees as per Section 78 of Registration Act, 1908 is the executive/ administrative/ legislative jurisdiction of the State Government.
- (ii) Stamp duty are governed by the Indian Stamp Act, 1899 which is administered by Ministry of Finance.

Department of Land Resources has supported the proposal.

Ministry of Home Affairs

Ministry of Home Affairs has forwarded their comments vide OM No.A-14011/18/2019-Delhi-1 dated 01.10.2019

Ministry of Home Affairs has intimated as under:

- (a) That carpet area as per para 4.1(j) of the Cabinet Note is based on 100% ground coverage and four stories of the building as is used by DDA for Unauthorized Colonies in Delhi. As basis of calculation of rate

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of carpet area is a procedural issue, therefore, the Ministry should get the approval of the competent authority separately for this.

- (b) With regard to para 4.1(o) of the Cabinet Note, Ministry of Home Affairs has informed that while deciding the details procedure for conferring/ recognizing ownership or transfer/ mortgage rights to the residents of Unauthorized Colonies in Delhi, attention should be given that an applicant living in any property should be properly identified.
- (c) The Ministry should assure that regulations/ ordinance are legally vetted by the concerned Ministries so that the objective of proposed scheme is properly expressed/ implemented.

The rates have been formulated by converting the land rate recommended by Committee headed by LG to carpet area rate in consultation with DDA and consultation as mentioned at para 4.1 above. The Government land is being conveyed at nominal rate i.e. 0.5 to 2.5 % of circle rate as the beneficiaries of this scheme are lower income group/persons, who have to pay charges on carpet area basis. Charges are being calculated presuming 100% ground coverage and 4 storey construction which is generally the case in UCs in Delhi as per report of DDA. For vacant plots, the ownership/transfer right will be granted based on the area of the plot and the nominal rates of 0.5%, 1% and 2.5% depending on the size of plots less than 100 sqm, 100 to 250 sqm and greater than 250 sqm in the government land and half of these amount if the plot is situated on the private land. With regard to (a) above, it is stated that the competent authority to convey Government land at the reduced rate is Union Cabinet. As regards (b), necessary provision of using Aadhar Card No., E mail and Mobile No. by DDA has been incorporated in the procedure provided in the Regulations. For (c), necessary vetting has been done by Ministry of Law & Justice.

Ministry of Finance, Department of Revenue

Department of Revenue has forwarded their comments vide their email dated 01.10.2019

With regard to the proposal contained in Para 3(vi) of the proposed ordinance for addressing the income-tax liability arising out of conveyance deed has intimated as under:

“ Xxx DCN and the Ordinance may be suitably modified by dropping the provisions related to exempting a class of persons from the provision of section 56(2)(x) of the Act, in case of transfer of immovable property at a value less than the stamp duty value. Further, once the decision of the Cabinet in the regard of conferring/recognizing ownership or mortgage/transfer to the residents of unauthorized colonies (UCs) in Delhi is taken and conveyed to the D/o Revenue, the provisions of the Income-tax Rules, 1962 will be suitably modified to exempt the proposed transfers from the applicability of section 56(2)(x) of

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the Act with the approval of the Finance Minister in consultation with the Ministry of Law & Justice."

It is stated that this Ministry has proposed promulgation of Ordinance for exemption from the applicability of Section 56 of Income Tax Act in view of the urgency of the matter. Therefore, the Ministry is proceeding with the proposed Ordinance without waiting for modifications by Department of Revenue in the Income-tax Act, 1962. If suitable amendment to exempt the proposed transfer from the applicability of Section 56 of Income-tax Act, 1962 is made by Department of Revenue, this Ministry will not bring this provision in the proposed Bill.

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ANNEX -13**(REFERRED TO IN PARA 8.1 OF THE NOTE)****COMMENTS OF STAKEHOLDERS IN ORIGINAL**

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सत्यमेव जयते

राज निवास
दिल्ली-११००५४
RAJ NIWAS
DELHI-110054

Confidential
Urgent

Kindly refer to your Office Memorandum No.9/2/2015-DDVI dated 12th July, 2019 regarding furnishing comments on the proposal for framing Regulations for conferring/recognizing ownership or mortgage/transfer rights to the residents of Unauthorized Colonies (UCs) in Delhi.

I am directed to convey that the Hon'ble Lt. Governor is in agreement with the Draft Note for the Cabinet on the above subject as it is based on the report submitted by the Committee headed by him.

Chanchal
30/7/19
(Chanchal Yadav)
Spl. Secretary to Lt. Governor

Shri M.K. Sharma
Under Secretary to the Govt. of India
Ministry of Housing and Urban Affairs
Nirman Bhawan,
New Delhi.

U.O. No.100(3)/2016/RN/211/A-3299 **Dated : 30/7/19**

m
31/7/19
Sh. Mehta

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GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF DELHI
DEPARTMENT OF URBAN DEVELOPMENT
(UNAUTHORISED COLONIES CELL)
10th LEVEL DELHI SACHIVALAYA
IP ESTATE NEW DELHI

F. No.939/DS/UC/UD/2019/ 2547
 CD-021562504

Dated 24/07/2019

To

The Director (Delhi)
 Ministry of Housing and Urban Affairs
 (Delhi Division)
 Govt. of India

SECRETARY / C.R. SECTION

Dir (DD)

Sub: Proposal for framing Regulations for conferring /recognising ownership of mortgage/transfer rights to the residents of Unauthorised Colonies (UCs) in Delhi ; Comments on the Draft Cabinet Note dated 11.07.2019, regarding.

Sir,

With reference to your letter File No.9/2/2015-DDVI dated 11th July, 2019 on the above captioned subject vide which you have forwarded a copy of the Draft Cabinet Note, on proposal for framing Regulations for conferring /recognising ownership of mortgage/transfer rights to the residents of Unauthorised Colonies in Delhi, for comments of GNCTD.

I am also directed to bring to your kind consideration that in the Draft Cabinet Note, there is no clarity on the issue of Mix Land Use. The UCs not only have residential houses but commercial units/establishments also. Therefore, mixed land use is required to be considered in these areas. For this, the norms prescribed for mix land use of street/roads may be adopted and cut of date should be 01.07.2019 or if required the norms may be further relaxed in MPD-2021.

The undersigned is further directed to forward the point wise Comments/ recommendations of GNCTD (enclosed), on the proposal contained in the Draft Cabinet Note dated 11.07.2019 in the best interests of the people residing in unauthorised colonies of Delhi.

This issue with the approval of the Competent Authority.

Encl: As above.

(Signature)
 24/7/19
 (K. C. Surender)

Additional Secretary (UC) UD DEPTT.

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Sr.No	Para No.	Contents	UD's Comments/Recommendations
1 Introduction	1.1	The Union Cabinet Constituted a Committee headed by the Lieutenant Governor of Delhi, to recommend the process for conferring/recognizing ownership or mortgage/transfer of rights to residents of UC's. This note proposes to frame Regulations to operationalise the recommendations of the Committee.	No comments required.
	2.1	Large population in Delhi reside in unauthorized colonies located on private/public land. Properties whether in the form of plot of land or built up space in these unauthorized colonies are held through General Power of Attorney (GPA), Will, Agreement to Sell and Payment & Possession documents.	No comments required.
	2.2	Press Note dated 19.07.1961 issued by Delhi Administration regarding the problems of UCs became the basis for regularisation of the first set of 103 unauthorized colonies by Municipal Corporation of Delhi (MCD) and Delhi Development Authority (DDA) up to 1962. Thereafter, Government of India (GoI) issued an order regarding regularisation on 16.02.1977 under which 567 UCs were regularised by MCD and DDA between 1979 and 1993.	No comments required.
	2.3	With the approval of Union Cabinet, the then Ministry of Urban Development (MoUD) formulated guidelines in 2001 for regularization of UCs existing as on 31.03.1993. Subsequently, the cut-off date for consideration was extended from 31.03.1993 to 31.03.2002. But this guidelines could not be implemented. The guidelines were again revised in 2007 by MoUD and issued on 05.10.2007 (Annexure-1: Pages 20-23)	No comments required.
	2.4	Based on these Revised Guidelines of 2007, Regulations for Regularization of UCs were notified on 24.03.2008 under Section 57 of Delhi Development (DD) Act, 1957 (Annexure-2:Pages 24-	The cut off date for 50% built up should be 31.03.2019 OR

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	33) and amended vide notifications dated 16.06.2008, 06.06.2012 and 01.01.2015 (Annex-3:Pages 34-40). As per extent Regulations, the UCs which were in existence as on 01.06.2014 and where more than 50% plots were built-up on the date of announcement of regularization scheme, i.e. 01.01.2015 are eligible for regularization provided they do not fall in forest areas, pose hindrances in provision of infrastructure facilities, violate the provisions of Ancient Monuments and Archaeological Sites and Remains Act, 1958 and where the state/authorities are in a position to provide basic amenities.	There should be 35% built up as on 01.01.2015.
2.5	As per the existing Regulations, the entire process of regularization is to be coordinated and supervised by Government of National Capital Territory of Delhi, (GNCTD) by giving wide publicity. Delineation of boundary of UC is the starting point of the process as per the Regulations. However, GNCTD could not delineate the boundaries of these colonies even after 11 years of issuance of the Regulations and has sought more time to complete this exercise.	
2.6	People living in these UCs have neither invested in safe structures nor could the Government create any social infrastructure on account of these colonies being situated on Government land or on land not meant for residential use. Though the Master Plan of Delhi-2021 allows for redevelopment of colonies with additional Floor Area Ration (FAR) as an incentive, no redevelopment could take place as no ownership rights exist to the residents in these unauthorized colonies.	The DDA could not keep pace with the massive influx of poor immigrant population in Delhi and failed to provide the affordable accommodations to all thereby leading to unplanned, haphazard and unauthorised development of Colonies on Public and Private Lands.
2.7	In order to conferring/recognizing ownership or mortgage/transfer rights to residents of unauthorized colonies in Delhi, a Committee headed by the Lieutenant Governor of Delhi,	The GNCTD had vide their letter dated 12.11.2015 had requested the GOI to revise the said

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		was constituted to recommend the process for conferment/recognition of rights of ownership or transfer/mortgage of property and thereby create an opportunity for redevelopment of such areas in planned manner. The composition of the Committee and Terms of reference are at Annex-4: Pages 41-42 . The report of the Committee is at Annex-5: Pages 43-138 .	regulations which finally led to the constitution of a Committee under the Chairmanship of Hon'ble L.G.Delhi.
3. Salient features of recommendations of the Committee and the proposed Regulations	3.1	The recommendations of the Committee are at page No.23 of the Report (Annex-5: Pages 61-64) and the Regulations proposed by the Committee are at page No.29 of the Report (Annex-5: Pages 67-69). The recommendations are summarised as below:- i) The Committee has noted that Section 33 of The Delhi Land Reforms (DLR) Act, 1954 restricts transfer of land less than 8 acres and Section 81 provides for vesting of agricultural land in Gram Sabha, if used for non-agriculture purpose. As DLR Act, 1954 is not applicable on urban areas, the Committee recommends that all rural villages in which these UCs fall should be declared as urban under Section 507 of Delhi Municipal Corporation (DMC) Act, 1957. ii) DDA to delineate the boundaries of the Ucs/cluster of UCs on the latest maps provided by Survey of India using software tools and technology such as remote sensing/drone surveys with the assistance of the Revenue Department, GNCTD. iii) Revenue Department, GNCTD to undertake closure of ongoing cases instituted under Section 81 as per Provisions under Section 161A (b) of DLR Act, 1954, which relate to misuse of private agricultural land for non-agriculture purpose. iv) The committee categorised the land that is to be considered for conferment of rights in the UCs in the following manner:	Agreed
		a) Category-1 Government land, including inter alia: (i) Original Gaon Sabha Land (known by different	

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	<p>nomenclatures such as Sarkar Daulatmadar, Shamlatdeh etc.) at the time of enactment of The Delhi Land Reforms (DLR) Act 1954.</p> <p>(ii) Land acquired by the government for which compensation has been paid/deposited by the acquiring agency.</p> <p>(iii) agricultural land vested under Section 81 of DLR Act of which possession has been taken.</p>	Agreed
	<p>Category 2- Agricultural land vested in Gaon Sabha under Section 81 of DLR Act of which possession has not been taken.</p>	
	<p>c) Category 3-</p> <p>(i) privately owned land.</p> <p>(ii) land that has been acquired but compensation has not been deposited by the acquiring agency.</p>	
	<p>v) Ownership should be conferred on the occupants of Government land, subject to payment of prescribed charges of land, penalty charges, and interest on late payment, if any. Once the prescribed charges are paid, titled can be conferred through a conveyance deed by DDA on behalf of the Government. DDA to lay down a simple and streamlines procedure for the Conveyance Deed and Registration of property.</p>	Conveyance Deed/Registration to be done as per the Digital Maps prepared by GSDL.
	<p>vi) Committee recommended that ownership should be recognised for the occupants of private land in the UCs, subject to payment of penalty charges and interest on late payment, if any. DDA to lay down a streamlined procedure for calculating the demand, receipt of payment and acknowledging the same. All applications to be received through a single window/online system.</p>	Agreed
	<p>vii) Hon'ble Supreme Court in Suraj Lamp Case (11.20.2011) disallowed GPA, Will and Agreement to sell as valid instruments for transfer of property. Most of the property in UCs has these instruments as ownership documents. Committee took legal</p>	The date of notification of Policy/Regulations should be the cut off date.

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	advice on the matter and recommended that a policy decision to be taken to recognise such instrument executed after 11.10.2011 till a given date notified by Government.	
	viii) The Revenue Department, GNCTD should issue necessary instructions, in consultation with DDA for exemption of Stamp Duty on the intervening transactions under the Indian Stamp Act, 1899 and for procedure to be followed for registering of land after the prescribed charges and stamp duty have been paid.	Agreed
	ix) DDA to issue revised liberal Development Control Norms for each of these UCs based on the area and location, taking into account all urban development norms/factors following the due process of law. These norms should be aimed at making these UCs habitable and incentivise redevelopment projects. Vacant Government land in the UCs should be used for creating social/common infrastructure. DDA will take measures to protect all vacant Government land.	All Government Land to be transferred to GNCTD for development of Social Infrastructure i.e. Schools, Health Facilities, Community Center etc. at category -II rates.
	x) The proposed Regulations will facilitate hassle free mortgage/transfer rights to the residents of UCs.	-----
	xi) No rights will be conferred or recognized over prohibited land, i.e. Forest Land, Land under influence zone of protected monuments, Zone O/Yamuna Flood plain, Land falling on right of way (ROW) of existing Master Plan roads, Land under ROW of High Tention Line, Ridge area and such land on which settlement is prohibited by any Act of the Central Government.	UC falling outside Yamuna Bandh should be regularised in this scheme. Forest, ASI land to be excluded from the area of UC Colonies, rest of the colony should be regularised.

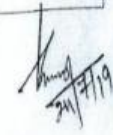
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	<p>xii) Recovery of charges of land and penalty</p> <p>a. For land categories 1 and 2, charges of land, penalty charges and interest rate on late payment (wherever applicable) will be levied and recovered.</p> <p>B. For land category 3 i.e. Land under private ownership, only penalty charges and interest rate on late payment (wherever applicable) will be levied and recovered.</p> <p>c. The category of locality (A /B / C / D / E / F / G / H as per the Circle rate notification under the Indian Stamps Act, 1899) of the UC for the purpose of determining the charges of land and penalty shall be decided on the basis of the highest category of locality of the surrounding residential area (s)</p> <p>d) Depending upon the category of land, the charges of land shall be as illustrated in Table-1 at Annex-6: Page 140:</p>	<p>No Comments required.</p> <p>No Comments required.</p> <p>c) The category of UC should be one category below the lowest of all colonies surrounding the UC or Category H.</p> <p>d. As above.</p>
	<p>xiii) Land in Category -1</p> <p>a) For plots of area less than and equal to 200 sq.m 1% of the prevailing circle rate for the residential use; and</p> <p>b) For plots of area more than 200 sq.m , 2% of the prevailing circle rate for the residential use.</p>	<p>Agreed.</p>
	<p>xiv) Land in Category -2</p> <p>Charges for category -2 will be levied as 10% of the charges of Category -1.</p>	<p>Agreed.</p>
	<p>xv). Penalty charges which shall be recovered at the rate specified below: (for land in categories 1, 2, and 3)</p>	



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	The rate at which the penalty charges will be recovered for conferment of rights shall be 50% of the rate applicable for recovering the charges of land in the corresponding category of the locality in which the UC falls and for the corresponding size of the plot. (As illustrated in Table-2 at Annex-6: Page 141)	Agreed.
	xvi) <u>Interest rate on late payment shall be recovered at the rate specified below: (for land in categories 1, 2 and 3)</u> The rate at which interest will be recovered on late payment beyond one year for the date of the notification of the regulation, shall be 8% per annum Simple Interest. This will be charged on all the above dues.	Agreed.
	xvii) The amount levied (both for land charges and penalty) shall be rounded off to nearest Rs.100 after calculating the amount for the entire plot.	Agreed.
	xviii) DDA shall devise a mechanism to ensure that in cases of UCs falling on acquired land in categories 1 and 2, no compensation is released henceforth; including in the case where it is already deposited with courts/LAC/other agencies.	Agreed.
	xix) Recovery of only the land charges and penalty charges will be for one year from the date of notification of the Regulations. Thereafter, simple interest will also be charged on these charges along with land charges and penalty charges. The illustration of calculation of rate for recovery of charges and penalty is at Annex-6: Pages 139-141.	Agreed.
	xx) The regulations will be issued in accordance with the Article 239A read with Entry 18, List -II Seventh Schedule of Constitution of India by the DDA under Section 57 of DD Act, 1957.	Agreed.

Kumar
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4 MOHUA'S observations on the Recommendations	4.1	The Ministry agrees with the recommendation of the Committee with the following modifications:	No comments required on the part of GNCTD.
	4.2	Committee has recommended conferring/recognizing ownership or mortgage/transfer rights in 1797 colonies as listed by Urban Development Department, GNCTD. These colonies were identified as per criteria laid down in the Regulations notified in 2008. It has also been recommended that three colonies inhabited by affluent section of society namely Sainik Farm, Mahindru Enclave and Anant Ram Dairy may be excluded. However, subsequently with the approval of Union Cabinet, unauthorised colonies, which were existence as on 01.06.2014 and were more than 50% plots were built-up on the date of announcement of regularisation scheme, i.e. 01.01.2015 were made eligible for regularization. GNCTD was directed to identify such other colonies, which have become eligible due to change of cut-off dates. GNCTD has not completed the delineation of such colonies despite repeated reminders and has sought two more years i.e. upto 2021 to do the needful.	The principles of equity and inclusiveness have not been followed; inasmuch as, three colonies i.e. Sainik Farms, Mahindru Enclave and Anant Ram Dairy have been left outside the purview of Regularisation process thereby hanging their fate in the balance. There is no merit in categorising some colonies as affluent and others as non affluent. Affluent people could be residing in any unauthorised colony. The affluent status should be based on the plot sizes for which higher charges for the public land, penalties and development charges etc should be collected.
	4.3	Therefore, in the first phase, exercise for conferring/recognizing ownership or mortgage/transfer rights to residents of UCs will be done only in 1797 colonies. This will not included 3 colonies inhabited by affluent section of society. GNCTD will be directed to expedite identification of such other colonies fulfilling the criteria of the Notification dated 01.01.2015 for regularisation of UCs, which will be considered in the second phase.	The cut off date for Regularization of UCs in second phase should be 01.07.2019. After the cut off date 01.07.2019 any extension of unauthorised colony or development of new unauthorised colony should not

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		be allowed. If any new colony comes after 01.07.2019 or extension of any unauthorized colony takes place after this date, the area SDM, SHO and the concerned Dy. Commissioner OF MCD should be held responsible.
4.4	Orders will be issued by Revenue Department, GNCTD for charging the Stam duty for last transaction only and not to insist upon stamp duty for intervening transactions for registration of property in these UCs. General Power of Attorney (GPA), Will, Agreement to Sell and Payment & Possession documents to be accepted as documents for transfer of property even after 11.10.2011 till a date as notified by Revenue Department, GNCTD in respect of these Unauthorized Colonies.	Agreed
4.5	Local Area Plan for these Ucs will be prepared by DDA on behalf of the urban local bodies. The Development Control Norms are to be prepared by DDA for these UCs by engaging renowned experts in the field of urban planning so as to ensure all future development aspects are addressed comprehensively for urban renewal.	For one time only the DDA should prepare Local Area Plan for the UCs on behalf of Urban Local Bodies.
4.6	The Committee's recommendation for late payment with simple interest @8% per annum may be levied after one year from the date of issuance of notifications of the Regulations.	There should be some scheme for credit linking of Financial Institutions to enable the poor inhabitants of UCs, to avail interest free/minimal interest loan to pay for the cost of their land, penalty, cost of conveyance charges, registration and stamp duty charges etc.
4.7	The Regulations of 2008 notified for regularisation of UCs as ammended from time to time with the approval Union Cabinet	Agreed.

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		latest being dated 01.01.2015 do not address the issue of Conferring/Recognizing ownership or mortgage/transfer rights to residents of UCs. The proposed regulation will address all issues comprehensively including conferring/recognizing ownership or mortgage/transfer rights to residents of UCs. Therefore, the Regulations at Annex-7: pages 142-147, will be issued in supersession of the existing Guidelines of 2007 and Regulations notified in 2008.	
5 Justification	5.1	The need for these Regulations has arisen, as without recognition of rights of ownership no redevelopment can take place in these UCs. The acceptance of the recommendations of the Committee will facilitate easy and hassle free recognition of ownership or mortgage /transfer right to the residents of UCs in Delhi which will facilitate development/redevelopment of UCs and will make them better habitable.	
6 Inter-Ministerial Consultation	6.1	This Note is being circulated to Ministry of Law and Justice (Department of Legal Affairs), Department of Land Resources, Ministry of Home Affairs, Ministry of Finance, MoEF&CC, Ministry of Defence, Ministry of Railways, Ministry of Culture and Govt. of NCT of Delhi. Their comments and Ministry's observation thereon are at Annex-..... pages. They are summarised as below.....	No comments required on the part of GNCTD.
7 Financial Implication	7.1	The Government is not making any investment for implementation of these Regulations except utilization of services of DDA/GNCTD and expenditure in case of delineation exercise and preparation of Local Area Plan (LAP), which are in any case their normal course of work. The actual/exact financial implication of the Regulations can not be assessed due to lack of data in respect of Government land and number of transactions of sale/purchase in all the UCs.	No comments required on the part of GNCTD.

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8. Approval Sought	Approval of the cabinet is solicited, for acceptance of the recommendations of the Committee as modified by the Ministry and notifying the Regulations (Annex-7 Pages 142-147), for conferring/recognizing ownership or mortgage/transfer rights to residents of 1,797 UCs in Delhi in the first Phase and in the other colonies to be identified by GNCTD in the Second phase, in super session of the existing Guidelines/Regulations.	No comments required on the part of GNCTD.
9	The Statement showing the Implementation Schedule is at Appendix 1	No comments required on the part of GNCTD.
10	The statement on Equity, Innovation and Accountability is at Appendix 2	
11	The statement on roles, responsibilities and timelines is at Appendix 3	
12	The note has been approved by the Minister of State (Independent Charge) for Housing and Urban Affairs.	

NOTE

- (i) The Appendix 'A' Annexure-1 of the Draft Cabinet Note contains a tentative list of 1797 Unauthorized Colonies. The list requires some modification; inasmuch as the three colonies namely, 1. Jan Chetna Sangam Mandawali Unche Par (Regn No. 53 LOP), 2. Bhikam Singh colony, Vishwas Nagar (Regn No. 755) and 3. Nehar bazaar Sudhar Samiti Maujpur (Regn No. 55 LOP) have been cancelled vide orders dated 09/10/2014, dated 20/07/2016 and dated 10/09/2014 respectively (copy enclosed).
- (ii) Besides the above, 3 colonies namely, 1. Indra Park Extension Part-2 (Regn No. 1002 A), 2. Indraprasth Colony Part-1 Burari (Regn No. 1368) and 3. Indra Park, Indra Market (Regn No. 1610) do not find mention in the tentative list of unauthorized colony supplied. The Government of India may like to amend the list accordingly.

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(iii) Besides the above, Sainik Farms Western Avenue (Regn No. 1295) was considered for deletion due to its being categorized as Affluent Colony. The formal order for cancellation has since not yet been issued that is why Sainik Farms Western Avenue finds its place in the list of 1797 unauthorized colonies. Since the draft Cabinet Note explicitly mentions that the 3 Affluent Colonies including Sainik Farms Western Avenue (Regn No. 1295) shall not be considered for regularization, hence the name of Sainik Farms Western Avenue may be deleted from the list of 1797 unauthorized colonies sent by Ministry of Housing & Urban Affairs.

[Handwritten Signature]
26/7/19

SECRET
F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

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1356854/2019/O/O US(DD-VI)

F. No.14-1/2019- IA.III
 Government of India
 Ministry of Environment, Forest and Climate Change
 (IA-III Section)
 Indira Paryavaran Bhawan
 Jorbagh Road, New Delhi-3

Date: 25th July, 2019

Office Memorandum

Subject: Draft Note for the Cabinet on the Proposal for framing Regulations for conferring/recognizing ownership or mortgage/transfer rights to the residents of Unauthorized Colonies (UCs) in Delhi - Reg.

The undersigned is directed to refer to OM No. 9/2/2015-DD VI dated 11th July, 2019 from Ministry of Housing and Urban Affairs (Delhi Division) seeking comments on the above mentioned subject matter, and to communicate observations/comments of this Ministry as under:-

- (i) The instant proposal is only for framing regulations for conferring/recognizing ownership or mortgage/transfer rights to the residents of 1,797 Unauthorized Colonies (UCs) in Delhi in the first phase and in the other colonies to be identified by the Government of National Capital Territory of Delhi (GNCTD) in the second phase, in super session of the existing Guidelines/Regulations.
- (ii) In the process of recognising ownership the concerned Urban Local Bodies/ State Government may initiate suitable environmental conservation and protection measures in such clusters viz. proper drainage, plantation, sewage treatment, solid waste management etc. in accordance with extant guidelines / environmental statutes.
- (iii) If redevelopment of these colonies involves construction of buildings with built-up area $\geq 20,000$ sq.m. and/or Township and Area Development projects covering an area of >50 ha, prior Environment Clearance will be required from the concerned regulatory authority as per the extant provisions of the EIA Notification, 2006 and its amendments under the Environment (Protection) Act, 1986. The related provisions for buildings/area development projects requiring prior environment clearance is extracted as follows:

(1)	Project or Activity (2)	Category with threshold limit		Conditions if any (5)
		A (3)	B (4)	
6	Building or Townships	Construction projects or Area Development projects and		The term "built up area" for the purpose of this notification is the built up or covered area on all floors put together including its basement and other service areas, which are proposed in the buildings and construction projects. Note 1. The projects or activities shall not include industrial shed, universities, college, hostel for educational
5 (a)	Building and Construction projects	$\geq 20,000$ sqm and	$< 1,50,000$ sqm of built-up area	

*etc
7/25/19*

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Government of India
Ministry of Housing & Urban Affairs

1356854/2019/OIO US(DD-VI)

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			institutions, but such buildings shall ensure sustainable environmental management, solid and liquid waste management, rain water harvesting and may use recycled materials such as fly ash bricks. Note: General Condition shall not apply.
8.	Township and Area Development projects	Covering an area of >50 ha and or built-up area >1,50,000 sqm.	A project of Township and Area Development Projects covered under this item shall require an Environment Assessment Report and be appraised as Category 'B1' Project. Note: General Condition shall not apply.

- (vi) The construction project would also incorporate green building features, rain water harvesting system, energy efficient lighting, water conservation, sewage effluent treatment/disposal, solid waste management including construction and demolition waste, vehicle parking etc.
- (vii) Further, the proposal, if involves diversion of forest land, would require the forest clearance under the Forest (Conservation) Act, 1980. Further, in case of project/activity (or even part of it) falling within the eco-sensitive zone around the National Park or the Wildlife Sanctuary, shall require clearance under the Wildlife (Protection) Act, 1972 also. Both these Acts are administered by this Ministry.

2. It is further suggested that post conferring recognizing ownership rights, the owners may be required to contribute towards development of civic infrastructure to the local body. This can be incorporated as a part of MoU/HA Guidelines.
3. With the above observations, the Ministry supports the proposal.
4. The issue with approval of Hon'ble Minister for Environment, Forest and Climate Change:

J. Nair
(Dr. Subrata Bose)
Secretary
Tel: 011-24095422

To: Shri Rahul Kashyap
Director (DEH)
Ministry of Housing and Urban Affairs (New Delhi),
Nirman Bhawan, New Delhi.

SECRET
F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

E-1359JSD

Ministry of Law and Justice
Department of Legal Affairs

EO No. 335753/LS/2019

✓
F/A

✓ The Ministry of Housing and Urban Affairs (MoHUA), has forwarded a draft Note (DCN) for cabinet for examining it from the Legal and Constitutional angle on the subject "framing Regulations for conferring/recognizing ownership or mortgage/ transfer rights to the residents of unauthorized colonies (UCs) in Delhi."

2. In the Introductory para, it is stated that The Union Cabinet constituted a Committee headed by the Lieutenant Governor of Delhi, to recommend the process for conferring/recognizing ownership or mortgage/ transfer rights to residents of UCs. This Note proposes to frame Regulations to operationalise the recommendations of the Committee.

3. In Para 2 of the DCN, the background of the proposed legislation is explained in terms that Large population in Delhi reside in unauthorised colonies located on private/public land. Properties whether in the form of plot of land or built up space in these unauthorised colonies are held through General Power of Attorney (GPA), Will, Agreement to sell and Payment & Possession documents. It has been further stated that as per the existing Regulations, the entire process of regularization is to be coordinated and supervised by Government of National Capital Territory of Delhi, (GNCTD) by giving wide publicity. Delineation of boundary of UC is the starting point of the process as per the Regulations. However, GNCTD could not delineate the boundaries of these colonies even after 11 years of issuance of the Regulations and has sought more time to complete this exercise.

4. Further in para 2.6 & 2.7, it is stated that people living in these UCs have neither invested in safe structures nor could the Government create any social infrastructure on account of these colonies being situated on Government land or on land not meant for residential use. Though the Master Plan of Delhi-2021 allows for redevelopment of colonies with additional Floor Area Ratio (FAR) as an incentive, no redevelopment could take place as no ownership rights exist to the residents in these unauthorized colonies. In order to conferring/recognizing ownership or mortgage/ transfer rights to residents of unauthorized colonies in Delhi, a Committee, headed by the Lieutenant Governor of Delhi, was constituted to recommend the process for conferment/recognition of rights of ownership or transfer/mortgage of property and thereby create an opportunity for redevelopment of such areas in a planned manner. The composition of the Committee and Terms of reference are at Annex- 4; Pages 41-42. The report of the Committee is at Annex-5; Pages 43-138.

5. Further, Para 3 of the DCN relates to salient features of recommendations of the Committee & proposed regulations whereas the observations of MoHUA on the said recommendations are given at para 4 of the DCN wherein it is stated that the MoHUA agrees with the recommendations of the Committee with some modifications mentioned therein.

6. Para 5 of the DCN provides the Justification of the Proposal wherein it is stated that the need for these Regulations has arisen, as without recognition of rights of ownership no redevelopment can take place in these UCs. The acceptance of the recommendations of the Committee will facilitate easy and hassle free recognition of ownership or mortgage/transfer right to the residents of UCs in Delhi which will facilitate development/redevelopment of UCs and will make them better habitable.

7. Para 7 of the DCN deals with the Financial implications wherein it is stated that the Government is not making any investment for implementation of these Regulations except utilization of services of DDA/GNCTD and expenditure in case of delineation exercise and preparation of Local Area Plan (LAP), which are in any case their normal course of work. The actual/exact financial implication of the Regulations cannot be assessed due to lack of data in respect of Government land and number of transactions of sale/purchase in all the UCs.

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8. Vide para 8, approval of the Cabinet is solicited for acceptance of the recommendations of the Committee as modified by the Ministry and for notifying the Regulations (Annex-7: Pages 142-147), for conferring/recognizing ownership or mortgage/ transfer rights to residents of 1,797 UCs in Delhi in the first phase and in the other colonies to be identified by GNCTD in the second phase, in super session of the existing Guidelines/Regulations.

9. It is stated by the Administrative Department that the Draft Cabinet Note has the approval of Minister of State (Independent Charge) for Housing and Urban Affairs.

10. With regards to the projected benefits arising out of the enactment of the said legislation, it is stated that "Regulations will ensure planned development & urban renewal. This will improve living conditions of large number of people living in UCs in Delhi".

11. We have examined the matter. As per the Cabinet Note the large population in Delhi residing in unauthorized colonies located on private/public land. The residents of unauthorized colonies are in possession of the properties through the General Power of Attorney (GPA), Will, Agreement to Sell and Payment & Possession documents. It is an established law that these documents are not authorized documents to confer the ownership rights, therefore, the ownership rights cannot be given to the persons those are residing on the unauthorized land. The Mortgage deed can be executed between the owner of the land and the Mortgagee, as such, Mortgage right is not relevant in the present context. It may be advisable to confer the **Transfer Rights** to the residents on the lines of the lease-hold rights.

12. With respect to the approval sought for other colonies "to be identified by the GNCTD in the second phase", it may be pointed out that each case has to be examined based on its own facts and merits, therefore, the "in-principle" approval cannot be granted in anticipation. As and when in the second phase colonies will be identified by the GNCTD, a fresh cabinet note w.r.t. those colonies may be moved for seeking approval of the cabinet.

13. Subject to observation made in para 11 and 12 above, the proposal contained in the present DCN is a matter of policy and there appears to be no Legal or Constitutional objection to the same. Hence, we may concur in.

May kindly see.



(Dr. Anju Rathi Rana)
 Joint Secretary and Legal Advisor
 25.07.2019

Law Secretary

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 Law Secretary
 JSSA (Dr. RA)
 MDHUA
 Deptt. of Legal Affairs
 Dy. No. 335753
 Date: 30/07/2019
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SECRET
F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

No.F.14/11/2019-CDN
Government of India
Ministry of Culture
(Coordination Section)

Shastri Bhawan, New Delhi
Dated the 16th July, 2019

OFFICE MEMORANDUM

Subject: Proposal for framing Regulations for conferring/ recognizing ownership or mortgage/ transfer rights to the residents of Unauthorized Colonies (UCs) in Delhi.

The undersigned is directed to refer to the Ministry of Housing and Urban Affairs' Office Memorandum No. 9/2/2015-DDVI, dated 11th July, 2019 on the above mentioned subject and to state that Ministry of Culture supports the proposal and has no specific comments to offer.

2. This has the approval of competent authority.

Sunita
(Sunita)

Under Secretary to the Government of India
Tel. 23070987

Director (Delhi)
(Kind Attention: Shri Rahul Kashyap)
Ministry of Housing and Urban Affairs
Nirman Bhawan
New Delhi

US (Sunita)
16/7/19

16/7/19
S. Malhotra

SECRET
F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

भारत सरकार GOVERNMENT OF INDIA
रेल मंत्रालय MINISTRY OF RAILWAYS
(रेलवे बोर्ड RAILWAY BOARD)

No. 2019/LML-I/14/39

New Delhi, Dated: 01/08/2019

OFFICE MEMORANDUM

Sub: Proposal for framing Regulations for conferring/recognizing ownership or mortgage/transfer rights to the residents of Unauthorized Colonies (UCs) in Delhi-Remarks from Ministry of Railways.

The undersigned is directed to refer to Ministry of Housing and Urban Affairs (Delhi Division)'s O.M. No. 9/2/2015-DDVI dated 11/07/2019 forwarding therewith a copy of Draft Cabinet Note proposal for framing Regulations for conferring/recognizing ownership or mortgage/transfer rights to the residents of Unauthorized Colonies (UCs) in Delhi for the comments of Ministry of Railways.

2. As per **Section 2(31) of the Railways Act, 1989** which is an Act of the Central Government, all the land under the control of Ministry of Railways has been included in the definition of "Railway". Further, as per **Section 147 of the Railways Act**, encroachment on and trespass through the Railway land is illegal and a punishable offence.

3. Moreover, Railway has no surplus land and it has undertaken plans to undertake various other Railway related developmental works on its vacant land. Railway is continuously striving to remove encroachment from its land with the help of local administration, RPF and by taking action under PP(E) Act, 1971.

4. In view of the above, it would not be possible for Ministry of Railways to accede to the aforesaid proposal of regularizing unauthorized colonies/settlements upon Railway's land. It is therefore requested that para 3.1(xi) of the draft Cabinet Note may be modified as under:-

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Ministry of Housing & Urban Affairs

'No rights will be conferred or recognized over prohibited land, i.e Forest Land, Land under influence zone of protected monuments, Zone O/Yamuna flood plain, Land failing on right of way(ROW) of existing Master Plan road, Land under ROW of High Tension Line, Ridge area, land under Ministry of Railways and such land on which settlement is prohibited by any Act of the Central Government.'

The aforesaid modification is necessary to safeguard the interest of Ministry of Railways.



(Chander Shekhar)
Joint Director/Land & Amenities
Railway Board

Ministry of Housing and Urban Affairs,
(Delhi Division), Nirman Bhawan,
New Delhi
(Attention Shri Rahul Kashyap, Director/Delhi)

SECRET
F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

No. 30(12)/PFC-I/2019
Government of India
Ministry of Finance
Department of Expenditure
[Public Finance (Central-I) Division]

North Block, New Delhi,
Dated: 13.08.2019

OFFICE MEMORANDUM

Subject: Draft Cabinet Note- Proposal for framing Regulations for conferring/recognizing ownership or mortgage/transfer rights to the residents of Unauthorized Colonies (UCs) in Delhi.

Reference is invited to Ministry of Housing and Urban Affairs' (MoHUA) O.M. No. 9/2/2015-DDVI dated 11.07.2019 vide which a Draft Cabinet note on the above mentioned subject has been circulated for inter-Ministerial consultations..

2. The Draft Cabinet Note is considered. In this regard, the undersigned is directed to convey the support of Department of Expenditure to the proposal of MoHUA with the following comments:

- I. At para 2.4 of proposal, it is stated that as per extent regularization, the UCs which were in existence as on 1st June, 2014 and where more than 50% plots were built –up on the date of announcement of a regularization scheme i.e. 1st January, 2015 are eligible for regularization provided they do not fall in forest areas, pose hindrance in provision of infrastructure facilities, violate the provisions of Ancient Monuments and Archaeological Sites and Remains Act, 1958 and where the State / Authority are in a position to provide basic amenities. In this regard, it may be clarified as to which authority would need to certify with regard to the fact of 50% plots were built up on the date of announcement of regularization scheme i.e. 1st January, 2015 and the methodology adopted to certify the accuracy of this fact.
- II. One of the important aspects of regularization of unauthorized colonies is creation of proper social / common infrastructure which may include drainage pipes, sewer lines, piped drinking water facilities, toilets, proper roads, parks and other civic amenities concerning hygiene and sanitation. Similarly, it needs to be ensured that the buildings, conforms to the safety norms.
- III. In view of para (II) above, the regularization of unauthorized colonies have financial implication for the Government in terms of establishing basic

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infrastructure facilities and this financial implication which may need to be borne by the local authorities, Delhi Government and MoHUA may be clearly brought out with timelines for provision of the same to these colonies. It may also be clarified as to how the safety standards of the buildings in these unauthorized colonies would be ensured by the local authorities.

- IV. At para 2.5 of the DCN, it is stated that GNCTD could not be delineate the boundaries of these colonies even after 11 years of issuance of the regularization and has sought more time to complete this exercise. The reasons for failure of the GNCTD may be brought out in this regard, along with the detailed timelines for completion of this exercise by GNCTD. Unless and until this exercise of delineation of boundaries is completed by DDA with the assistance of Revenue Department of GNCTD, the present proposal would not be possible to implement within the given timelines.
- V. At para 2.6 of the DCN, it has been stated that the Master Plan of Delhi-2021 allows for redevelopment of colonies with additional Floor Area Ratio (FAR) as an incentive, however, no redevelopment could take place as no ownership rights exist to the residents in these unauthorized colonies. The issue of redevelopment of these colonies may be clarified as to whether the Government indents to take up the responsibilities of redevelopment of these unauthorized colonies or these will be left to the private builder / developers. Since multi ownership is there in most of the cases as flats have been constructed on such properties, how the redevelopment work would be carried out is not very clear.
- VI. At para 4.2 of the a DCN, it is stated that three colonies inhabited by affluent sections of society namely, Sainik Farm, Mahindru Enclave and Anant Ram Dairy may be excluded from the regularization of the unauthorized colonies. In this regard, the objective and transparent criteria utilized to exclude these three colonies may be elaborated in the final note.
- VII. At para 3.1 of the DCN, it has been stated that ownership should be conferred on the occupants of Government land, subject to payment of prescribed charges of land, penalty charges, and interest on late payment. The specific amounts / rates of these charges may be clearly stated along with the likely financial implication to the Government of India / local authorities / Government of Delhi in terms of receipts.
- VIII. If the occupant of the Government land don't pay the requisite charges for a long period of time it may not be advisable to keep the case pending for a long time

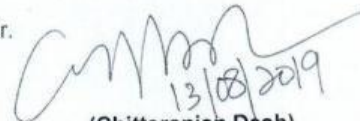
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and, therefore, there may be a cut off date or definitive period prescribed for the payment of such charges beyond which the ownership of these lands may not be transferred to the illegal occupants for expeditious completion of the regularization process.

- IX. At para 3.1 (vii) it is stated that Hon'ble Supreme Court in Suraj Lamp (11.10.2011) disallowed GPA, Will and Agreement to sell as valid instruments for transfer of property. Committee took legal advice on the matter. In this regard, the legal advice given may also be stated in the final note.
- X. The Government has already regularized 670 unauthorized colonies as evident from para 2.2 of the DCN. It may be clarified if any further unauthorized colonies have been regularized after the issuance of revised guidelines of 2007 for regularization of UCs. With regard to the unauthorized colonies already regularized, it may also be clarified whether these colonies have undergone the desirable redevelopment process and basic / common infrastructure has been provided to them.
- XI. For successful implementation of regularization of unauthorized colonies, it is imperative that the whole programme is dovetailed with various schemes of the Government for urban infrastructure, namely, Affordable Housing Schemes [PMAY (U)], AMRUT, Swachh Bharat Mission, Drinking Water (Har Ghar Jal), Smart Cities etc. A note on the same may also be brought out *vis-à-vis* the provision of basic infrastructure facilities in these colonies.
- XII. It need not be stated that various local authorities have been given responsibility to check the menace of unauthorized colonies and there must be a mechanism of fixing accountability for unauthorized colonies. Moreover, it is incumbent on the administration to provide suitable accommodation for people migrating to NCT through affordable housing.
- XIII. From Appendix III of the DCN, it is noted that various authorities have been assigned different rules and responsibilities with specific timelines like DDA, GNCTD, MoHUA, UD Department etc. MoHUA needs to create an appropriate institutional coordination mechanism to ensure that all the activities are carried out within specific timelines.
- XIV. The proposal would have to deal with a number of hurdles concerning individual rights, multi-ownership, layout plans, infrastructure, and redevelopment, etc. These issues may be incorporated / addressed in the final note.

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- XV. The Plan of action for the Redevelopment of the UCs may be further elaborated. It is stated that DDA to issue revised liberal Development Control norms for each of these UCs. The timeline for this may be indicated along with the indicative nature of these norms may be stated.
- XVI. It is also mentioned that DDA will take measures to protect all vacant Government land. The measures to be taken by DDA may be specified..
- XVII. DDA shall devise a mechanism to ensure that in cases of UCs falling on acquired land in categories 1 and 2, no compensation is released henceforth; including in the cases where it is already deposited with courts/LAC/other agencies. This may be elaborated in the final note.
- XVIII. It is stated that the actual/exact financial implication of the Regulations cannot be assessed due to lack of data in respect of Government land and number of transactions of sale /purchase in all the UCs. This may be justified and given the recovery of charges of land, interest rate and penalty, the financial implication to the Government may be estimated.
3. This issues with the approval of the Finance Minister.



(Chittaranjan Dash)
Director (PFC-I)
Tel No. 23093109
[chittaranjan.dash@nic.in]

Ministry of Housing and Urban Affairs
[Shri Durga Shankar Mishra, Secretary],
Nirman Bhawan,
New Delhi - 110011

SECRET
F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

File No. P-12020/5/2017-RD/Housing
Government of India
NITI Aayog
(Managing Urbanization Vertical)

Sansad Marg, New Delhi,
Dated: 3rd September, 2019

OFFICE MEMORANDUM

Subject: Proposal for framing Regulations for conferring/recognizing ownership or mortgage/ transfer rights to the residents of Unauthorized Colonies (UCs) in Delhi.

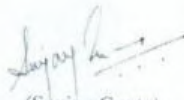
The undersigned is directed to refer to O.M. No. No.9/2/2015-DDVI dated 30.07.2019 on the subject mentioned above forwarded to NITI Aayog for comments. The proposal has been examined in NITI Aayog and the following are the comments:

- a. Regularization of unauthorized colonies without provisioning for drainage, Sewage and Solid Waste Management and other basic infrastructure has no meaning. In fact, it will become incumbent upon the respective Municipalities to fulfill the need of these basic services, besides the redevelopment needs. This would require huge expenditure which cannot be fully met by government funding. As such, innovative methods/tools for implementation as well as financing would be required which need to be worked out well before the regularization process starts. This may include monetization of land value, increased FARs, offering Transfer of Development Rights and developing a robust business model to attract private sector participation and PPP models need to be developed to bring in private sector efficiencies and capital. A roadmap for redevelopment of the UCs and also provisioning of basic services based on a business model with innovative methods/tools for implementation as well as financing be prepared and considered to be made a part of the Cabinet Note.
- b. There is need to use increased FAR to provide good infrastructure creation. We must ensure that no further encroachment takes place in Delhi. Substantial part of Delhi is unplanned and illegal. We are allowing illegality and then legitimizing it with this process. The land mafia which did this made money and is now getting away scot free. They have cheated innocent

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Ministry of Housing & Urban Affairs

people by selling Panchayat Land. If no action is taken against them, this will keep getting replicated and hence, action against them must be taken.

- c. Financial outlays for funding required for the redevelopment of these UCs as well as providing basic facilities and infrastructure, therein, may also be worked out and tied up well in advance.
 - d. The registration of the properties be linked with Aadhaar /PAN card.
2. This issues with approval of Vice Chairman, NITI Aayog.


(Sanjay Gupta)
Economic Officer (MU)
Tel. No. 23042351

To,

Sh. M.K.Sharma,
Under Secretary,
Ministry of Housing and Urban Affairs,
(Delhi Division),
Nirman Bhawan, New Delhi.

SECRET
F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

F. No. 8(19)/2019/D(Coord)
 Bharat Sarkar / Government of India
 Raksha Mantralay / Ministry of Defence

Room No. 229, South Block,
 New Delhi, dated the 13th September, 2019

OFFICE MEMORANDUM

Subject:- Draft Note for Cabinet on- "Proposal for framing regulations for conferring/recognizing ownership or mortgage/transfer rights to the residents of Unauthorized Colonies (UCs) in Delhi"- regarding.

The undersigned is directed to refer to the Ministry of Housing and Urban Affairs' Office Memorandum No. 9/2/2015-DDVI dated 11th July, 2019 on the above subject and to convey that Ministry of Defence supports the proposal subject to the following:

- (i) No Unauthorized Colony (UC) which has come up as part of encroachment or illegal occupation on any type of defence land be regularised.
- (ii) Since unauthorised settlement on defence land is prohibited as per Public Premises Eviction Act 1971, it is recommended that words "all type of defence land" be inserted after the words "Ridge Area" in Para 3 sub para (xi) on page 7 of proposed regulations.
- (iii) This policy should not be applied Mutatis Mutandis for regularisation of UCs on any type of defence land or Cantonment Board land in future, as the same are under ambit of provisions of Cantonment Act 2006 and / or CLAR 1937, as well as various policies & guidelines of Ministry of Defence.
- (iv) Further, as whole Delhi is being covered, the authority i.e. GNCTD while delineating / surveying any unauthorised colonies, should associate Defence Estate Officer (DEO) Delhi and CEO, Cantonment Board Delhi, so as to ensure that no defence land in Delhi, including Delhi Cantonment, is incorporated in any such scheme.
- (v) While approving the unauthorized colonies the restriction imposed on construction activities in vicinity of defence establishments/ instalments through 'Works of Defence Act, 1903' and various MoD guidelines / policies must be kept in mind.
- (vi) It has no impact on the ongoing process of rehabilitation-cum-eviction of the unauthorised occupants in 3.632 acres of land encroached upon at Princess Park, Near India Gate, New Delhi, out of a total of 14 acres, as the same land has been allotted for construction of the National War Museum with the approval of the Union Cabinet in October, 2015 and May, 2016.

2. This has the approval of Hon'ble Raksha Mantri.

(B. Senapati)
 Deputy Secretary to the Government of India
 Tele/Fax: 011-23015187

To
 Housing
 Ministry of Housing and Urban Affairs,
 [Kind attention Shri Rahul Kashyap, Director(Delhi)]
 Delhi Division, Nirman Bhawan,
 New Delhi-110001

US(DDVI)
 13/9/19

SECRET
F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

COMMENTS RECEIVED ON REVISED DRAFT CABINET NOTE

Ministry of Law and Justice
 Department of Legal Affairs

FTS No. 340603/LS/2019

The Ministry of Housing and Urban Affairs (MoHUA) has forwarded a revised draft Note for the Cabinet (F/A) seeking its approval for (i) notifying the Regulations for conferring/recognising ownership or transfer/mortgage rights to the residents of unauthorised colonies (UCs) in Delhi and for (ii) Promulgating an Ordinance, namely, "The National Capital Territory of Delhi for conferring/recognizing rights of Ownership or Transfer/Mortgage to the Residents of Unauthorised Colonies in National Capital Territory of Delhi and Consequential Benefits Ordinance, 2019", for our comments. Copies of both regulations and Ordinance are placed at Annex VII and VIII respectively.

2. In the Introductory Para, it is stated that with the approval of the Union Cabinet, MoHUA constituted a Committee headed by the Lieutenant Governor of Delhi, to recommend the process for conferring/ recognizing ownership or mortgage/ transfer rights to residents of UCs in Delhi. The proposal in the present draft Note for the Cabinet is to frame Regulations and promulgating of an Ordinance to operationalise the recommendations of the Committee. It also proposes liberal Development Control Norms within the Master Plan for Delhi (MPD)-2021 for UCs to incentivize urban renewal.

3. Para 2 of the draft Note provides the background of the proposal stating that large population in Delhi reside in UCs located on private/ public land. Properties, whether in the form of plot of land or built up space, in these UCs are generally held through General Power of Attorney (GPA), Will, Agreement to Sell, Payment and Possession documents. Press Note dated 19.07.1961 issued by Delhi Administration regarding the problems of UCs became the basis for regularization of the first set of 103 unauthorised colonies by Municipal Corporation of Delhi (MCD) and Delhi Development Authority (DDA) up to 1960. Thereafter, Government of India (GoI) issued an order regarding regularisation on 16.02.1977 under which 567 UCs were regularized by MCD and DDA between 1979 and 1993. With the approval of the Union cabinet, the then Ministry of urban Development (MoUD) formulated guidelines in 2001 for regularization of UCs existing as on 31.03.1993. Subsequently, the cut-off date for consideration was extended from 31.03.1993 to 31.03.2002. But these guidelines could not be implemented. The guidelines were again revised in 2007 by MoUD and issued on 05.10.2007.

4. Further, in Para 2.4 to 2.7 of the draft Note, it is stated that based on these Revised Guidelines of 2007, Regulations for regularization of UCs were notified on 24.03.2008 under Section 57 of Delhi Development Act, 1957 (DD Act) and amended vide notifications dated 16.06.2008, 06.06.2012 and 01.01.2015. As per extant Regulations, the UCs, which were in existence as on 01.06.2014 and where more than 50% plots were built-up on the date of announcement of regularization scheme, i.e., 01.01.2015, are eligible for regularization provided they do not fall in forest areas, pose hindrances in

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provision of infrastructure facilities, violate the provisions of Ancient Monuments and Archaeological Sites and Remains, Act, 1958 and where the state/authorities are in a position to provide basic amenities. As per the existing Regulations, the entire process of regularization is to be coordinated and supervised by Government of National Capital Territory of Delhi, (GNCTD) by giving wide publicity. Delineation of boundary of UC is the starting point of the process as per the Regulations. However, GNCTD could not delineate the boundaries of these colonies even after 11 years of issuance of the Regulations and has sought more time upto 2021 to complete this exercise. People living in these UCs have neither invested in safe structures nor could the Government create any social infrastructure on account of these colonies having developed without approved Layout Plan (LOP). In the absence of basic amenities the residents of these colonies are living in uninhabitable conditions. Though the Master Plan Delhi-2021 allows for redevelopment of colonies with 50% additional Floor Area Ratio (FAR) as an incentive, no redevelopment has taken place so far as the residents do not have ownership rights. In order to confer/ recognize ownership or mortgage/ transfer rights to residents of UCs, a Committee, headed by the Lieutenant Governor of Delhi, was constituted, with approval of the Union Cabinet, to recommend the process for conferment/recognition of rights of ownership or transfer/mortgage of property and thereby create an opportunity for redevelopment of such areas in a planned manner. The composition of the Committee and Terms of reference are at Annex-4: Pages 26-27. The main Report is at Annex-5: Pages 28-67.

5. Para 3 of the draft Note relates to the recommendations of the Committee and the Regulations proposed by the Committee which are placed at Annex-5: pages 42-48. Para 4 of the draft Note relates to MoHUA's proposals after consultations with stakeholders, wherein it is, *inter alia*, stated that Central Government to promulgate an Ordinance recognizing General Power of Attorney (GPA), Will, Agreement to Sell, Purchase and possession documents, in the light of the Hon'ble Supreme Court judgment in Suraj Lamp Case, which will be special one-time relaxation for this purpose for the residents of UCs.

6. Para 5 of the draft Note relates to proposed Regulations wherein it is stated that in order to address the issue of lack of ownership or mortgage/transfer rights to the residents of UCs and consequential benefits that will accrue in the form of development, redevelopment leading to a livable habitat upon conferring such rights to them, new set of draft Regulations in supersession of all existing Guidelines and Regulations regarding UCs in Delhi have been prepared and are at Annex-7 Pages 71-77.

7. Para 6 of the draft Note relates to promulgation of Ordinance, wherein it is stated that in order to implement the proposal to confer /recognize ownership or mortgage rights to the residents of UCs and to address various issues incidental thereto, an ordinance needs to be promulgated as the Parliament is not in session.

8. Para 7 of the draft Note relates to Justification of the proposal wherein it is stated that it is estimated that about 40 lakhs population of Delhi resides in UCs

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spread over about 175 Sq Km (approx.43,000 acres) at present. The Central Government has tried to solve various problems of physical and social infrastructure and development/redevelopment of these UCs by issuing Guidelines and Regulation from time to time. These Guidelines/Regulations have not shown desired results due to non-operationalization of the same by GNCTD during the last 11 years. UCs are predominantly inhabited by lower income people who are providing their services for the growth and prosperity of the notional capital. It is imperative that being a part of capital's economic ecosystem they are provided with a clean, secure and healthy living environment. No development/ redevelopment in UCs can take place without security of ownership and rights to mortgage/ transfer properties. The notification of proposed Regulations and promulgation of the proposed Ordinance is expected to address all the UCs' issues comprehensively.

9. Para 8 & 9 of the draft Note relate to Inter-Ministerial Consultations and Financial implications respectively. The gist of comments of consulted Ministries/Departments and observations of MoHUA are placed at Annex-9: Pages 84-101. The projected benefit/result of the proposal are mentioned in Appendix-I of the draft Note, wherein it is stated Regulations and Ordinance will bring big relief to 40 lakh people and result in development and redevelopment of UCs for urban renewal.

10. In terms of Para 10 of the draft Note, approval of the Cabinet is solicited for (i) notifying the Regulations for conferring/recognizing ownership or transfer/mortgage rights to the residents of unauthorized colonies (UCs) in Delhi and (ii) for Promulgating Ordinance to make special provisions for the National Capital Territory of Delhi for conferring/recognizing rights of ownership or transfer/mortgage in favour of the residents of unauthorized colonies who are possessing their properties on the basis of Power of Attorney, agreement to Sell, Will, Possession Letter and other miscellaneous documents including payment documents and consequential benefits and for the matters connected therewith or incidental thereto.

11. As regards framing of Regulations, it is stated that based on the Guidelines of 2007 for Regularization of Unauthorized Colonies in Delhi (No. 9/2/2015-DD-VI dated 05.10.2007). Regulations of 2008 (S.O. 683 (E) dated 24.03.2008) were issued and have been amended *vide* notifications dated 16.06.2008, 06.06.2012 and 01.01.2015. These Regulations do not provide the process for conferring/recognizing ownership or mortgage/transfer rights to residents of UCs. Therefore, now in supersession of the aforesaid Guidelines/Regulations, a new set of Regulations have been framed and the same are to be notified in accordance with Article 239AA read with Entry 18 of the List-II under the Seventh Schedule of the Constitution of India by the DDA under Section 57 of the DD Act, 1957.

12. Article 123 of the Constitution of India empowers the President to promulgate an Ordinance as the circumstances appear to him to require when -:

- (a) Both Houses of Parliament are not in session.
- (b) He is satisfied that circumstances exist which render for him to take immediate action.

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13. As regards proposal to promulgate Ordinance namely "The National Capital Territory of Delhi for conferring/recognizing rights of Ownership or Transfer/Mortgage to the Residents of Unauthorised Colonies in National Capital Territory of Delhi and Consequential Benefits Ordinance, 2019", Annexure-8, Page No. 80 of the Draft Ordinance reads as under:

".....AND WHEREAS the Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action."
"NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance:-....."

14. It is pertinent to mention here that earlier, vide E.O. No. 335753/LS/2019 dated 26.07.2019, a draft Note for the Cabinet on the similar subject was examined and concurred in by this Department with the approval of the Hon'ble MLJ, subject to certain observations at Para 11 and 12 of that Note (F/B). Pursuant to our comments, the MoHUA has decided for promulgation of an Ordinance to allow registration of these Instruments as a onetime measure.

15. In view of the above, the matter contained in the draft Note being a matter of policy, there appears to be no legal and Constitutional objection to the same. We may concur in the proposal. The proposal being relatable to framing of regulations and promulgation of an ordinance as well, the same may be forwarded to Legislative Department for further action on their part.

May kindly see.

(Ravindra Kumar Choudhary)
Assistant Legal Adviser
Dated-19/09/2019

JS & LA (Dr. Anju Rathi Rana)

Law Secretary

Secretary, Legislative Deptt.

Rathi
19/09/19

JS
19/9/19

JS - copy sent
20/9/19

Leg - 1

निधि कार्यालय (निधि) (अ.प्र.)
Secretary Office (LD)
अ. सं./Dy. No. 108.7
दिनांक/Date 20/9/2019

Through Adv - B

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Miscd.
20/09/2019

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निधि कार्य विभाग
Deptt. of Legal Affairs
अ. सं./.....(बी.)
Dy. No. 340603/LS/2019 (B)
दिनांक/Date 20/9/2019

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F.No.1(69)/2019-L.I

MINISTRY OF LAW AND JUSTICE
 LEGISLATIVE DEPARTMENT

Sub: The National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Ordinance,2019 and National Capital Territory of Delhi (Regulation of Unauthorised Colonies) Regulations, 2019.

The Ministry of Housing and Urban Affairs has forwarded the draft Note for the Cabinet on the subject cited above seeking comments of this Department. The proposal has been discussed with Shri. Rahul Kashyap, Director, Shri Sharma, Under Secretary of the administrative Ministry and Shri. S.D.Sharma, Chief Legal Adviser of the Delhi Development Authority and a draft Ordinance and regulations has been prepared as per Note for Cabinet and discussed in this Department.

2. In regard to the draft National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Ordinance,2019. It is observed that in the proposed definition of expression "unauthorised colony" reference of Delhi Development Authority notification number S.O.683(E), dated 24th March, 2008 has been given for identification of such unauthorised colonies. In the said definition it is further mentioned that *the Central Government may identify other unauthorised colonies as also local authorities may identify other affluent colony and bound by the boundaries as may be fixed by the Delhi Development Authority and as per the cut off date that may have been fixed by the Central Government from time to time.* The said definition is self- contradictory because under the said notification number S.O.683(E) dated 24th March, 2008 no such identification has been made by the Delhi Development Authority. Further, it is also observed that under any definition clause, the provisions relating to future actions/contingencies which are related to certain past actions may not be included. Therefore, the said definition has been suitably revised in this Department in order to make it self-explicit and self-contained.

3. In regard to the National Capital Territory of Delhi (Regulation of Unauthorised Colonies) Regulations, 2019, on examination it is observed that ,-

(i) in the draft regulation in paragraph 1, in clause (f), wherein the expression 'locality' has been defined a reference of section 47A of the Indian Stamp Act,1899 has been given. However, we could not lay hands over any such provision in the said Act. Further, in paragraph 2, under the heading 'Category 1', in item (iii), it is mentioned that "*Agricultural land vested under section 81 of DLR Act, with or without possession*". However, under the said section 81, no provision is there in regard to vesting of any Agricultural land as stated therein. The aforesaid issues need clarifications from the administrative Ministry;

(ii) in draft paragraph 4 relating to 'recovery of charges', in sub-paragraph 4.5 reference of Table-1 and Table-2 has been given. However, no such Tables have been found in the draft. Therefore, the same may be inserted at appropriate place of the draft. Further, in sub-paragraph 4.2 *inter alia* it has been mentioned that the Delhi Development Authority shall notify the locality applicable for each unauthorised colonies. However, it is not clear as to under which law and in what manner the same will be notified by Delhi

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Development Authority. The said phrase also inclined towards further sub-delegation;

(iii) in paragraph 5 relating to 'conferment of rights'. The contents of sub-paragraph 5.5 which empowers the DDA to lay down detailed procedure for submission of application to the appropriate authority and other matter related to processing of application, lead towards further sub-delegation because the draft regulations are itself in the form of subordinate legislation. Therefore, under one subordinate legislation further empowering the same authority for certain other works is not permissible. Accordingly, the administrative Ministry may reconsider the provision and make it self-explicit and self-contained by annexing the form of application and by describing the manner of processing of application in the proposed regulation itself. Likewise the details of the 'Dispute resolution mechanism for redressal of grievance', as proposed in the draft, is required to be elaborated at appropriate place in the draft itself;

(iv) the contents of paragraphs 6,8,9,11,12 and 13 of the draft regulations are in the nature of further sub-delegation which is not permissible under the subordinate legislation in terms of various directions given by the Parliamentary Standing Committees on Subordinate Legislation from time to time. Therefore, the same needs reconsideration by the administrative Ministry.

4. Subject to the aforesaid, the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Ordinance,2019 has been drafted and the National Capital Territory of Delhi (Regulation of Unauthorised Colonies) Regulations, 2019 has been vetted and modified from drafting point of views in this Department and copies of the revised drafts are place below. The administrative Ministry may go through the same in order to ascertain that the revised drafts meet with their intention and requirements and accordingly confirm the same in order to enable this Department to obtain concurrence from the competent authority.

S. S. S.

(Sathish Murugan P)
Assistant Legislative Counsel
20/9/2019

DLC (Dr.S.K.Srivastava)

S. S. S.
20/9/2019

DLC (Shri. R.S.Jayakrishnan)

R. S. Jayakrishnan
20/9/19

AS(Shri.K.Biswal)

K. Biswal
20/09/19

Ministry of Housing and Urban Affairs

m/o Law & Justice, Legislative Deptt. U.O No-1(69)2179-2.I. dt. 20/09/19

Recd comments of AS immediately.

L. S. S.
20/9

US (AS)

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[TO BE PUBLISHED IN THE GAZETTE OF INDIA , EXTRAORDINARY,PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Housing and Urban Affairs

NOTIFICATION

New Delhi, the September, 2019

G.S.R.(E).– In exercise of the powers conferred by section 57 of the Delhi Development Act, 1957 (61 of 1957) and in supersession of the Regulations for Regularisation of Unauthorised Colonies in Delhi published *vide* notification number S.O 683 (E), dated the 24th March, 2008, except as respects things done or omitted to be done before such supersession, the Delhi Development Authority, with the previous permission of the Central Government, hereby make the following regulations, namely:–

1. Short title and commencement.– These regulations may be called the National Capital Territory of Delhi (Regularisation of Unauthorised Colonies) Regulations, 2019.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. Definitions.– In this regulations, unless the context otherwise requires,–

(a) "unauthorised colony" shall have the same meaning as assigned to it in clause (b) of section 2 of the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Ordinance, 2019;

(b) "local authorities" means the Delhi Municipal Corporation established under the Delhi Municipal Corporation Act, 1957 (66 of 1957) or the New Delhi Municipal Council established under the New Delhi Municipal Council Act, 1994 (44 of 1994) or the Delhi Development Authority

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established under the Delhi Development Act, 1957 (61 of 1957), legally entitled to exercise control in respect of the areas under their respective jurisdiction;

(c) "carpet area" shall have the same meaning as defined in clause (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(d) "locality" means classification of colonies as A / B / C / D / E / F / G / H determined as per the circle rate notified under section 27 and section 47A of the Indian Stamps Act, 1899 (2 of 1899) as applicable to the National Capital Territory of Delhi;

(e) "resident" shall have the same meaning as assigned to it in clause (a) of section 2 of the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Ordinance, 2019.

3. Classification of land.— The category of land that are to be considered for conferring or recognising ownership or transfer or mortgage rights shall be as follows:—

(a) Category 1 of land shall include the following, namely:—

(i) original Gaon Sabha land at the time of enactment of the Delhi Land Reforms Act, 1954 (8 of 1954);

(ii) land acquired by the Government for which compensation has been paid or deposited by the acquiring agency;

(iii) agricultural land vested **under section 81** of the Delhi Land Reforms Act, 1954 (8 of 1954) with or without possession.

(b) Category 2 of land shall include the following, namely:—

(i) private land; and

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(ii) land that has been acquired but compensation has not been deposited by the acquiring agency.

4. Exclusion. – Under these regulations, no rights shall be conferred or recognised-

(a) over prohibited land, that is, land falling in reserved or notified forests, land identified as protected or prohibited area by the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958), land falling in Zone-O, Yamuna Flood Plain, land falling in right of way of existing roads, land under right of way of high tension lines, land falling in ridge area of Delhi and land reserved or protected under any other law; and

(b) vacant land.

5. Assessment of charges. – (1) The assessment of charge from a resident shall be calculated on carpet area basis for each unit.

(2) For a resident holding multiple properties, the rate of charges shall be determined by clubbing carpet areas of all properties of the resident in all unauthorised colonies.

(3) If a resident does not apply for conferment of rights on all his properties simultaneously, and it is discovered that he has paid charges at a lower rate on account of non-disclosure of all his properties, the charges at appropriate rates shall be payable on all the properties including the properties where the rights have already been conferred.

(4) The locality of the unauthorised colony for the purpose of determining the charges shall be decided on the basis of the highest locality of the surrounding residential areas.

(5) The charges to be recovered from category-1 land shall be as follows:—

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Sl. No	Where cumulative carpet area of a resident in all the properties in all unauthorised colony is	Charges
(1)	(2)	(3)
1.	(a) less than 100 sqm	Carpet area x $\frac{1}{4}$ x 0.5% of circle rate of locality in terms of 4.2 above
2.	(b) More than (or equal to) 100 sqm but less than 250 sqm	Carpet area x $\frac{1}{4}$ x 1% of circle rate of locality in terms of 4.2 above
3.	(c) Greater than or equal to 250 sqm	Carpet area x $\frac{1}{4}$ x 2.5% of circle rate of locality in terms of 4.2 above

(6) The charge for the classification of land in Category-2 shall be fifty per cent. of charges applicable to land in Category-1.

(7) Depending upon the category and locality of land, the charge, based on circle rate as on date, are illustrated at Table-1 and Table 2 of Annex-13:Pages

.....

.....

(8) The charges shall be valid for a period of one year from the date of notification of this regulation and thereafter, eight per cent. per annum simple interest shall be recovered on late payment of charges beyond one year from the date of the notification of the regulation.

(9) The amount levied shall be rounded off to nearest Rs. 100 after calculating the amount for the entire property or unit.

(10) The residents shall have option to pay the charge in three equal instalments.

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(11) The residents who are paying the entire charges in one instalment shall immediately be granted the ownership or mortgage or transfer rights, as the case may be.

(12) The residents who opt to deposit the charge in instalments shall be conferred provisional ownership or mortgage or transfer rights after depositing two-third of the total payable charge, which shall be converted into permanent rights after full and final payment of entire amount due on account of charge.

6. Conferment of rights.– (1) The conferment of rights on land under the footprint of the building shall be in proportion to the carpet area of the floor held by the applicant.

(2) In cases where the total carpet area of a floor in a building exceeds the plot area, (*i.e.* having projections beyond plot area), rights shall be conferred only in respect of the plot area.

(3) In cases where the total carpet area of ground floor in a building is less than the plot area (*i.e.* ground coverage is less than hundred per cent.), rights shall be conferred only in respect of the land under the building footprint.

(4) Without going into the current usage of the property, rights shall be conferred for residential purposes only.

~~(5) The Delhi Development Authority shall lay down detailed procedures for submission of application to the appropriate authority, processing and verification of applications, and issuance of conveyance deed or authorisation slip for conferring or recognising ownership or transfer or mortgage rights to the residents of unauthorised colony in Categories 1 and 2 after payment of applicable charge or interest and stamp duty.~~

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(6) The payment of charges, and interest on late payment, if any, for all category of land, shall be collected by the Delhi Development Authority and kept in the 'Special Development Fund'.

~~(7) The Boundaries of the unauthorised colony or cluster of unauthorised colonies shall be delineated by the Delhi Development Authority with the assistance of concerned agencies.~~

~~(8) The Delhi Development Authority shall lay down detailed process and procedure to ensure correct identification of resident applicant to avoid multiple applicants applying for the same property.~~

(9) The Delhi Development Authority shall prepare Local Area Plan and DCNs for all unauthorised colonies or clusters of unauthorised colonies and make necessary amendments in the Master Plan for Delhi (MPD)-2021, 2021 and Urban Building Bye Laws for Delhi (UBBL)-2016 to pave the way for planned redevelopment of the existing units on the "as is where is" basis.

(10) No ownership or mortgage or transfer rights shall be conferred on vacant land under these regulations.

~~(11) The Delhi Development Authority shall provide for a dispute resolution mechanism for redressal of grievances.~~

[F. No.....]

(Name of the Officer)
Designation

6

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Legislative Department
 Draft Ordinance
 20th September, 2019

	THE NATIONAL CAPITAL TERRITORY OF DELHI (RECOGNITION OF PROPERTY RIGHTS OF RESIDENTS IN UNAUTHORISED COLONIES) ORDINANCE, 2019	
	Promulgated by the President in the Seventieth Year of the Republic of India.	
	An Ordinance to make special provisions for the National Capital Territory of Delhi for recognising unauthorised colonies by securing the rights of ownership or transfer or mortgage in favour of the residents of such colonies who are possessing properties on the basis of Power of Attorney, Agreement to Sale, Will, possession letter or any other documents including documents evidencing payment of consideration and for the matters connected therewith or incidental thereto.	
	WHEREAS there has been phenomenal increase in the population of the National Capital Territory of Delhi in the last few decades owing to migration and other factors but development of planned housing colonies have not kept pace with the requirements of a burgeoning population resulting in the increase of unauthorised colonies.	

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	AND WHEREAS number of unauthorised colonies have been identified in the National Capital Territory of Delhi on the basis of applications made by the Residents Welfare Associations for regularisation in pursuance notification number S.O. 683(E), dated the 24 th March, 2008;	
	AND WHEREAS the properties in these colonies are not being registered by registering authority and thereby the residents do not have any title documents in respect of such properties and the Banks and financial institutions do not extend any credit facilities in respect of said properties.	
	AND WHEREAS the ownership of the properties in unauthorised colonies have been transferred several times through registered or un-registered or notarised Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration and stamp duty on these multiple transactions have neither assessed nor been paid;	
	AND WHEREAS the Supreme Court in the case of Suraj Lamp & Industries (P) Ltd. <i>Vs.</i> State of Haryana & others <i>vide</i> its judgment dated the 11 th October, 2011 had held that sale agreement/general Power of Attorney or Will transactions are not 'transfers' or 'sales' and that such transactions cannot be treated as completed transfers or conveyances and they can continue to be treated as existing agreement of sale;	
	AND WHEREAS keeping in view the socio-economic conditions of the residents of these unauthorised colonies and ground realities, it is desirable to recognise and confer rights of ownership or transfer or mortgage to the residents of such colonies on the basis of Power of Attorney, Agreement to Sale, Will, possession letter and other miscellaneous documents including documents evidencing payment of consideration and to facilitate development or re-development that may improve existing infrastructure, civic and social amenities which may lead to better quality of life;	
	AND WHEREAS it is expedient to have a law to recognise and confer rights of ownership or transfer or mortgage to the residents of unauthorised colonies as one time special measure;	
	AND WHEREAS the Parliament is not in session and the President is satisfied that circumstances exist which render it necessary for him to take immediate action.	
	NOW, THEREFORE, in exercise of the powers conferred by clause (1) of article 123 of the Constitution, the President is pleased to promulgate the following Ordinance: —	

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	<p>1. (1) This Ordinance may be called the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Ordinance, 2019.</p>	Short title, extent and commencement.
	<p>(2) It extends to the National Capital Territory of Delhi.</p>	
	<p>(3) It shall come into force at once.</p>	
	<p>2. In this Ordinance, unless the context otherwise requires, —</p> <p>(a) “resident” means a person having physical possession on the basis of a registered sale deed or latest set of Power of Attorney, Agreement to Sale, Will, possession letter and other miscellaneous documents including documents evidencing payment of consideration in respect of a property in unauthorised colonies and includes their legal heirs but does not include tenant, licensee or permissive user;</p> <p>(b) “unauthorised colony” means a colony or development comprising of a contiguous area, where no permission has been obtained for approval of layout plan; and has been included in the list of 1797 colonies identified by the committee constituted <i>vide</i> O.M.No.9/2/2015-DDVI, dated the 8th March, 2019 of the Ministry of Housing and Urban Affairs (Delhi Division).</p>	Definitions.
2 of 1899. 16 of 1908. 43 of 1961.	<p>3. (1) Notwithstanding anything contained in the Indian Stamps Act, 1899, the Registration Act, 1908 as applicable to the National Capital Territory of Delhi and the Income-tax Act, 1961 or any rules or regulations or bye-laws made thereunder and the judgment of the Supreme Court in the case of Suraj Lamp & Industries (P) Ltd. <i>Vs.</i> State of Haryana, <i>vide</i> its judgment dated the 11th October, 2011, the Central Government may, by notification by the Official Gazette, regularise the transactions of immoveable properties based on the latest Power of Attorney, Agreement to Sale, Will, possession letter and other miscellaneous documents including documents evidencing payment of consideration for conferring or recognising right of ownership or transfer or mortgage in regard to an immovable property in favour of a resident of an unauthorised colony in the National Capital Territory of Delhi.</p>	Recognition of property rights.
	<p>(2) The Central Government may, by notification published in the Official Gazette, fix charges on payment of which transactions of immoveable properties based on the latest Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration for conferring or recognising right of ownership or transfer or mortgage in regard to an immovable property in favour of a resident of an unauthorised colony in the National Capital Territory of Delhi through a conveyance deed.</p>	

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	(3) The stamp duty and registration charges shall be payable on the amount on which conveyance-deed is to be executed.	
	(4) Any resident of an unauthorised colony having registered or un-registered or notarised Power of Attorney, Agreement to Sale, Will, possession letter and other documents including documents evidencing payment of consideration shall be eligible for right of ownership or transfer or mortgage through a sale deed on payment of charges referred to in sub-section (2).	
	(5) No stamp duty and registration charges shall be paid to any previous sale transactions prior to any transaction made under sub-section (4).	
	(6) The tenants, licencees or permissive users shall not be considered for conferring or recognising right of ownership under this Ordinance.	
	(7) The amount mentioned in conveyance deed or sale deed executed under this section shall not be a basis for calculating income - tax under the Income-tax Act, 1961.	43 of 1961.
Excluded category.	<p>4. An unauthorised colony or part thereof falling in excluded category shall not be eligible for conferring or recognising rights of ownership or transfer or mortgage under this Ordinance.</p> <p><i>Explanation.</i> – For the purposes of this section, “excluded category” means the land falling in reserved or notified forests, land identified as protected or prohibited area by the Ancient Monuments and Archeological Sites and Remains Act, 1958, land falling in Zone-O, Yamuna Flood Plain, land falling in right of way of existing roads, land under right of way of high tension lines, land falling in ridge area of Delhi or land reserved or protected under any other law for the time being in force.</p>	24 of 1958.

President.

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SECRET
IMMEDIATE

No.28012/14/2019-LRD
 Government of India
 Ministry of Rural Development
 (Department of Land Resources)

"G" Wing, N.B.O. Building,
 Nirman Bhawan, New Delhi-110 011

Dated: 27th September, 2019

OFFICE MEMORANDUM

Subject: Revised Draft Note for the Cabinet for conferring / recognizing ownership or transfer / mortgage rights to the residents of Unauthorized Colonies (UCs) in Delhi.

The undersigned is directed to Ministry of Housing and Urban Affairs O.M. No.9/2/2015-DDVI dated 26.9.2019 on the subject mentioned above and to say that the Registration fees as per section 78 of the Registration Act, 1908 is the executive/ administrative / legislative jurisdiction of the State Government. Stamp duty are governed by the Indian Stamp Act, 1899 which is administered by Ministry of Finance.

2. This Department has no objection and supports the proposal.
3. This issues with the approval Hon'ble Minister of Rural Development.

G. K. Dhakate
 27/9/19
 (Gopal Kisan Dhakate)

Under Secretary to the Govt. of India
 Tel.No.23044621

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NR
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 To _____

US(DDVI)
 The Ministry of Housing and Urban Affairs,
 Nirman Bhawan,
 New Delhi.
 (Kind Attention : Shri Rahul Kashyap, Director)

SECRET
F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

Ministry of Housing and Urban Affairs
(Delhi Division)

Subject: MoHUA's comments on the note of Ministry of Law & Justice (Legislative Department) on the NCP (Recognition of property rights on UCs) Ordinance 2019 and NCTD (Regulation of UCs) Regulations.

The undersigned is directed to refer Ministry of Law & Justice, Legislative Department (LD)'s UO No. 1(69) 2019-L.I dated 20.09.2019, on the subject noted above and to forward herewith MoHUA's comments thereon as follows:

- i. Para 2 of the observation of LD on draft Ordinance: The definition of unauthorized colonies has been revised and a new section 4 has added in the draft ordinance to take care of identification of additional colonies. MoHUA has no objection to the revised definition prepared by the Ministry of Law & Justice subject to deletion of " for the purpose of this ordinance".
- ii. Name of the Ordinance: Ministry of Law & Justice has renamed the title of the ordinance on the ground that property rights include ownership, mortgage and transfer rights. MoHUA has no objection.
- iii. Exclusion of list of affluent colonies from Ordinance: Ministry of Law & Justice has shifted this exclusion from definition clause to Section 5 of Ordinance. MoHUA desires that the schedule of list of affluent colonies should be put in Regulations as proposed in the draft cabinet note and Section 5 of the Ordinance be amended accordingly.
- iv. Para 3 of the LD observation of draft Regulations:
 - a. In clause (f) wherein the expression locality has been defined and reference to section 47 A of Indian Stamp Act has been deleted by LD, MoHUA has no objection to the change.
 - b. In paragraph 3 of the Regulation under the heading category 1 item (iii) LD has reworded the said provision by deleting the word "vested". MoHUA has no objection.
 - c. The illustrative tables referred in 4.5 are available at Page 167-168 of the draft Cabinet note. MoHUA requests that this may be retained as proposed as an Annexure in the draft cabinet note.
 - d. MoHUA agrees with the suggestion for laying down detailed procedure for submission and processing of application in the

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Regulations itself and accordingly the proposed procedure is annexed in the draft Regulations Annexure I.

e. As suggested by LD, details of dispute resolution mechanism has been prepared and included in the Regulations.

f. Regarding para 6 of draft Regulations, it is proposed to be retained in the Regulations with revised formulations as under:

"DDA to ensure that in cases of UCs falling on acquired land, no compensation is released henceforth, including in cases where it is already deposited with Courts/Land Acquisition Collector/Other Agencies and no resident or his predecessors in interest shall claim such compensation"

g. Regarding para 8 of draft Regulations, it is proposed that it should be retained with following revised formulation:

"Boundaries of UCs/clusters of UCs will be delineated by DDA."

h. Regarding para 9 of draft Regulations, it is proposed that it should be retained with following revised formulation:

"DDA to ensure correct identification of resident applicants."

i. Regarding para 11 of draft Regulations, it is proposed that it should be retained with following revised formulation:

"Conveyance deed will be issued for residential purpose only irrespective of current use. After preparation of Local Area Plan and Development Control Norms for UCs, land use will be decided accordingly."

j. Regarding para 12 of draft Regulations, it is proposed that it should be retained with suggested changes for avoiding any ambiguity.

k. Regarding para 13 of draft Regulations, it is proposed that it should be retained with following revised formulation:

"Identification of new colonies as per section 4 of the National Capital Territory of Delhi (Recognition of Property Rights of Residents in Unauthorised Colonies) Ordinance, 2019, will be completed by DDA in two years."

2. The draft Regulations have been revised to retain the required provisions of Regulations of 2008 in the starting para.

3. In the draft Ordinance the following two paras may be retained in the Preamble as under:

"AND WHEREAS in Delhi the Stamp Duty on the instruments of transfer is levied as per circle rates or the sale consideration mentioned in the instrument whichever is higher. "

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"AND WHEREAS as per the provision of section 56 of Income Tax Act, 1961, in the case of transfer of immovable property at a value lesser than the stamp duty value, adopted or assessed or assessable by any authority of the Central Government or State Government for the purpose of payment of stamp duty in respect of an immovable property, may trigger the taxability in the hands of the recipients unless receipt thereof is exempted by the Central Board of Direct Taxes in respect of certain class of persons."

4. Definition of Affluent UCs has to be retained in the Regulations as under:

"Affluent unauthorized colonies", for the purpose of these Regulations, are 69 colonies as per list Annexure to these Regulations, which includes Sainik Farms, Mahendru Enclave and Anant Ram Dairy, and any other such colonies identified by DDA. These shall be considered subsequently under separate regulations."

5. Exclusion clause under section 4 of draft Regulations has to include affluent UCs as proposed in the draft cabinet note.

6. In the draft Ordinance, in section 4(iii), the following revised formulation is proposed:

"Has more than fifty percent built up plots as on 1st January, 2015"

7. The following formulation regarding Income Tax may be included as a separate section in the Ordinance:

"Notwithstanding anything contained in section 56 of the Income-tax Act, 1961, where the amount of consideration calculated on the basis of circle rate exceeds the amount of consideration in conveyance deed or sale deed, the amount so exceeds shall not be chargeable to income-tax under the head 'income from other sources'."

8. The words "specified in Schedule annexed to this Ordinance" appearing in the last sentence under Explanation in section 5 of the draft Ordinance, may be deleted, as there will be no schedule to the Ordinance. The list will be annexed to the Regulations.

9. The draft revised Ordinance and revised Regulation is attached for kind consideration.

M. K. Sharma

(M. K Sharma)

Under Secretary to the Govt of India

The Secretary, Ministry of Law & Justice, Legislative Department
Ministry of Housing and Urban Affairs ID No.9/2/2015-DDVI dated 30th
September, 2019

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Encls AA

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F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

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गृह मंत्रालय/भारत सरकार

यूटी प्रभाग

नार्थ ब्लॉक, नई दिल्ली

दिनांक 01 अक्टूबर 2019

कार्यालय ज्ञापन

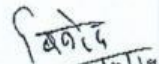
विषय:- आवासन और शहरी कार्य मंत्रालय का दिल्ली की अनाधिकृत कॉलोनियों के निवासियों को स्वामित्व या बंधक/स्थानान्तरण अधिकारों को प्रदान करने/पहचानने हेतु प्रस्ताव ।

अधोहस्ताक्षरी को आपके मंत्रालय के दिनांक 16.09.2019 के कार्यालय ज्ञापन संख्या 09/02/2015. डी.डी.वि.आई., जिसमें दिल्ली की अनाधिकृत कॉलोनियों के निवासियों को स्वामित्व या हस्तांतरण/बन्धक अधिकार प्रदान करने/पहचान देने हेतु पुनरीक्षित कैबिनेट नोट पर इस मंत्रालय से टिप्पणियाँ देने का अनुरोध किया था, का उल्लेख करने का निर्देश प्राप्त हुआ है।

2. इस संबंध में इस मंत्रालय की टिप्पणियाँ निम्नलिखित हैं:-

- (क) कैबिनेट नोट के मसौदे के para-4.1(j) के तहत, कार्पेट क्षेत्र दर, 100 प्रतिशत Ground Coverage और चार माले के भवन पर आधारित होगा, जो कि दिल्ली विकास प्राधिकरण द्वारा अनाधिकृत कॉलोनियों के लिए इस्तेमाल होता है। चूंकि कार्पेट क्षेत्र दर के आधार का निर्धारण एक प्रक्रियात्मक विषय है, इसका अनुमोदन मंत्रालय को पृथक रूप से सक्षम प्राधिकारी के आदेशों से लेना चाहिए।
- (ख) कैबिनेट नोट के मसौदे के para-4.1(o) के तहत स्वामित्व/बन्धक/स्थानान्तरण अधिकार देने की विस्तृत प्रक्रिया निर्धारित करते समय इस बात पर विशेष ध्यान देना होगा कि किसी एक संपत्ति में रहने वाले आवेदक की सही पहचान की जा सके।
- (ग) मंत्रालय इस बात को सुनिश्चित करे कि विनियमों/अध्यादेश की विधिक जाँच संबंधित मंत्रालयों द्वारा करा ली जाए, जिससे कि प्रस्तावित योजना के उद्देश्य को सही रूप से प्रकट/लागू किया जा सके।

3. इसे माननीय गृहमंत्री जी के अनुमोदन से जारी किया गया है ।


(सी.पी. विनोद कुमार)

अवर सचिव, भारत सरकार

दूरभाष-23093608

सेवा में,

सचिव,

आवासन और शहरी कार्य मंत्रालय,

निर्माण भवन, नई दिल्ली ।

SECRET
F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

F.No.T.11011/25/2019-TC
 Government of India
 Ministry of Finance
 Department of Revenue
 TC Section

Room No. 227 D, North Block
 New Delhi, 10th October, 2019

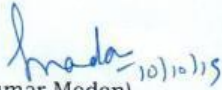
OFFICE MEMORANDUM

Subject: Revised Draft Cabinet Note for conferring/recognizing ownership or mortgage/transfer to the residents of unauthorized colonies (UCs) in Delhi.

The undersigned is directed to refer to M/o Housing and Urban Affairs' OM No. 9/2/2015-DDVI dated 16th September, 2019 enclosing therewith the revised Draft Cabinet Note on the above subject and to convey the comment of D/o Revenue as in the Annexure enclosed.

2. This issues with the approval of Hon'ble Finance Minister.

Encl: A/a


 (Anil Kumar Madan) 10/10/19
 Under Secretary to the Government of India
 Tel: 23095484

M/o Housing & Urban Affairs

[Kind attention: Sh. Rahul Kashyap]
 Director (Delhi Division)
 Nirman Bhawan, New Delhi
 Tel: 23062387

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Government of India
Ministry of Housing & Urban Affairs

ANNEXURE

Comments of D/o Revenue - Revised Draft Cabinet Note for conferring/recognizing ownership or mortgage/transfer to the residents of unauthorized colonies (UCs) in Delhi.

It has been observed that the Revised Draft Cabinet Note has been sent to the D/o Revenue for comments on specific issue of exemption of income-tax liability on the residents of unauthorized colonies (UCs) while conferring/recognizing ownership or mortgage/transfer rights to them. The relevant para of the revised DCN is reproduced as under:-

"8. INTER-MINISTERIAL CONSULTATION

8.1The gist of comments of consulted Ministries/Departments and observations of MoHUA are at Annex-9: Pages 84-101. The comments of consulted Ministries/Departments in original are at Annex-JO: Pages 102-129. This revised Cabinet Note is being circulated to Department of Revenue (Ministry of Finance) for comments on the specific issue of exemption of Income Tax liability on the residents of UCs, while conferring/recognizing ownership or mortgage/transfer rights to them, as proposed in the Ordinance (Annex-8: Pages 78-83), Ministry of Home Affairs, as it is nodal Ministry for Union Territories, and Ministry of Law for vetting the proposed Regulations and the Ordinance".

Further, 'para 3(vi)' of the proposed ordinance for addressing the income-tax liability arising out of conveyance deed executed below notified circle rate reads as under.-

"3. (vi) Amount mentioned in conveyance deed/sale deed executed under these presents on the charges and stamp duty assessed as per the direction of government at the rate lower than circle rate shall not be a basis for calculating income tax under the Income-tax Act, 1961".

In this regard it is stated that the comments of D/o Revenue which were sent vide OM dated 28th August, 2019 (copy enclosed) on the original DCN have been duly incorporated in the revised Draft Cabinet Note. In the said OM, it was stated that section 56(2)(x) of the Income-tax Act, 1961 ('the Act') provides for deeming of income in case of receipt of an immovable property by a person at a value less than stamp duty value subject to the specified threshold (5% and Rs 50,000). It was also stated that by virtue of clause (XI) of proviso to clause (x) of sub-section (2) of section 56 of the Act as amended by the Finance (No.2) Act, 2019, Central Board of Direct Taxes (CBDT) is empowered to exempt receipt from certain class of persons from the applicability of provision of section 56(2) (x) of the Act.

In this connection it may be noted that exemption from applicability of section 56(2) (x) of the Act can be provided either by amending the provisions of the Income-tax Act, 1961 or by prescribing exemption under Income-tax Rules, 1962 under clause (XI) of proviso to clause (x) of sub-section (2) of section 56 of the Act. The para 3(vi) of the proposed Ordinance will not be able to provide the desired exemption under the Income-tax Act, 1961. As Central Board of Direct Taxes (CBDT) is empowered to exempt receipt from certain class of persons from the applicability of provision of section 56(2) (x) of the Act by virtue of clause (XI) of proviso to clause (x) of sub-section (2) of section 56 of the Act, it is suggested that to provide exemption from the applicability of section 56 (2)(x) of the Act to proposed transfers, the provisions of the Income-tax Rules, 1962 may be suitably amended. In this connection, it may be noted that amendment to the provisions of the Income-tax Rules, 1962, being subordinate legislation, does not require approval from the Cabinet or issuance of an ordinance but can be carried out with the approval of the Finance Minister.

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Therefore, it is suggested that the revised DCN and the Ordinance may be suitably modified by dropping the provisions related to exempting a class of persons from the provision of section 56(2)(x) of the Act, in case of transfer of immovable property at a value less than the stamp duty value. Further, once the decision of the Cabinet with regard to conferring/recognizing ownership or mortgage/transfer to the residents of unauthorized colonies (UCs) in Delhi is taken and conveyed to the D/o Revenue, the provisions of the Income-tax Rules, 1962 will be suitably modified to exempt the proposed transfers from the applicability of section 56(2)(x) of the Act with the approval of the Finance Minister in consultation with the Ministry of Law & Justice.

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F. No. 9/2/2015-DD VI
Government of India
Ministry of Housing & Urban Affairs

F.No.T.11011/25/2019-TC
 Government of India
 Ministry of Finance
 Department of Revenue
 TC Section

Room No. 227 D, North Block
 New Delhi, 28th August, 2019

OFFICE MEMORANDUM

Subject: Proposal for framing Regulations for conferring/recognizing ownership or mortgage/transfer to the residents of unauthorized colonies (UCs) in Delhi.

The undersigned is directed to refer to M/o Housing and Urban Affairs' OM No. 9/2/2015-DD-VI dated 19th August, 2019 on the subject mentioned above and to convey the comments of D/o Revenue as under:

"Section 56(2)(x) of the Income Tax Act, 1961 (the Act), inter alia, provides for deeming of income in case of receipt of an immovable property by a person at the value less than the stamp duty value subject to the specified threshold (5% and Rs. 50,000). Therefore, the transfer of immovable property at less than the stamp duty value may trigger the taxability in the hands of the recipient under Section 56(2)(x) of the Act. However, in this, connection it may be noted that the term "stamp duty value" has been defined as the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of an immovable property. Therefore, if there is no difference between stamp duty value adopted for transfer and consideration received for the transfer, the provisions of Section 56(2)(x) shall not be applicable. Further, the provisions of Section 56(2)(x) of the Act is not applicable if the immovable property is received from the local authority as specified under Section 10(20) of the Act. Further Finance (No. 2), 2019 has amended the provisions of Section 56(2)(x) to empower the Board to exempt receipt from certain class of persons from the applicability of the provisions of Section 56(2)(x)."

2. This issues with the approval of Revenue Secretary.

Anil Kumar Madan
 (Anil Kumar Madan)
 Under Secretary to the Government of India
 Tel: 23095484

M/o Housing and Urban Affairs

[Kind attention: Sh. K Sanjay Murthy]
 Additional Secretary
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