

**SUBJECT NO. 23**

**Sub:- VUDA – PLG – VSP – Approval of layouts – release of final layout –release of mortgaged plots-guide lines framed - Regarding.**

- Ref:-**
1. VUDA Board Resolution No.33, dt: 15.05.2002
  2. GO.Ms.No.345 MA&UD dt: 30.06.2006
  3. GO.Ms.No.276 MA&UD, dt: 02.07.2010.
  4. Letter addressed to the Principal Secretary to the Govt. vide this office letter LT No.332/2012/L1 dt 06-09-2012.
  5. Govt. Letter No.21697/M2/2012 dt 1-10-2012.

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Kind attention is requested to the reference 4<sup>th</sup> cited where in it was requested the Government to clarify whether the layouts can be renewed where the layout conditions are fulfilled and mortgaged plots are yet to released. In reply to the above, the government have clarified that the layouts cannot be renewed and instructed to take necessary steps to dispose the mortgaged plots to fulfill the layout conditions.

In this regard, it is to submit that as per lay out norms in vogue the layout developer has to complete the development of layout in full shape within the stipulated time. In many instances the developer, is leaving the layout without developing after obtaining the L.P number and selling away the plots. In such situations, the general public who has purchased the plots in said lay out are becoming the victims and approaching VUDA for taking action against the developer. In view of the above, from the year 2004, VUDA is being insisted the developer to mortgage 25% of plotted area to VUDA till completion of layout and the mortgaged portion used to be release only after completing the layout in full shape. Further in the year 2006, the % of mortgaged area was reduced to 15% and completion period for layout was enhanced to 3 years.

Since the mortgage clause was adopted from the year 2004, the layouts approved from 2004 were listed out and out of them, the layouts pending for issuing final approval were taken out. Accordingly after perusal of the record, it was noticed that there are about 108 Nos. of layouts pending for release of mortgage area up to April 2013. The layouts approved in the year 2011 to till date were not taken in to consideration since they still have time to complete the layout. The list is enclosed as **annexure I** for perusal.

In The above layouts, in most of the cases, the developmental works have been carried out but QCC check has to be taken up. Where as they have completed the works after lapse of the layout development period .Since there is no renewal clause, it was not taken the decision to release the layouts. Some of the developers are repeatedly approaching and asking for release of mortgaged plots since they have completed the development of layout in all aspects.

In view of the above, the matter was examined and observed that many of the mortgaged plots were already sold by the developer to various individuals thro unregistered agreements and the registration was not taken up since they are under mortgage with VUDA. It was noticed that almost 19,000 plot owners will be put to hardship if the layout permission is cancelled or 25% of them will be put to hardship if mortgaged plots are disposed through auction. It was also observed that there are cases wherein the developers have applied for release of mortgaged plots after developing the infra structures in time but due to administrative delay the final layouts were not released and delay, period varies differently in different cases and few of them, subsequent to the notices, have requested for time period to develop.

As seen from each and every file it was noticed that all 108 cases are falling in any one of the following 6 categories.

1. The developer failed to develop the layout in full shape and did not approach VUDA for release of plots.

2. The developer completed the layout within the stipulated time and handed over the roads and open spaces to concerned local body but the local body has not given clearance in time.
3. The developer developed the layout in all aspects but not handed over the open spaces and roads to local body in time or never.
4. The developer completed the layout in all aspects except paying the NALA conversion charges. In this connection, the Hon'ble High court has given direction to release the final layout without insisting the NALA conversion charges.
5. Some of the Developers have completed the layout in all aspects and QCC and urban forestry wing have certified the layouts but in view of pending of the decision whether to collect the renewal charges or not, the layouts are pending.
6. Other specific reasons like not submission of required NOCs etc.,

Then planning wing was ordered to issue show cause notices to the Developers for the delay on their part. Further a meeting was conducted with the Developers and APREDA (A.P. Real Estate Developers Association) members on 14-05-2013 and explained the consequences for not developing the layouts in time. Further, the following modalities are framed.

The delays are categorized into four types based on occurrence

**I. Delay between the due date of completion of infra structures by the developer and his intimation to the Authority on the development status**

- This is the actual delay on the part of the developer in developing the layouts with infra structures as per the proceeding and the developer has to be penalized for the delay. Prior to GO MS No.276 dated 2.7.10, the period of development is one year and after the GO, the period of three years and the GO cannot be applied retrospectively.

- For the layouts approved prior to 2.7.10, the VUDA Board Resolution No.33 dated 15.5.2002 have to be applied as this resolution is not modified till the period when the GO MS No.276 has started implementation.

In the resolution, under the heading, **Extension of Time for Layout**, it was resolved that

- *First two renewals are being given by charging Rs.1/- per sq.m on layout area. Beyond that, the layout would be cancelled.*
- *For revalidation or renewal, Rs.2/- per sq.m on site area can be collected on layout area. This should be one time extension and validity period not to exceed one year.*
- *Such validation shall be approved maximum within a period of one year from the date of cancellation of layout.*

Beyond the delay as approved by the above board resolution, it is decided to levy penalty of **Rs.3/-** per sq.m of the layout area **as an one time exercise** to those layouts where the developers have responded for the notice given by VUDA and for those, who have not responded, the necessary steps to auction the mortgaged plots has to be initiated as per the clarification given by Government for auctioning of mortgaged plots in this regard.

## **II. Delay between the intimation of development of infra structures by the developer and visit of inspection team / quality control cell and its remarks for the satisfactory development of the infra structures**

- It is the delay on the official side to inspect and give his remarks for the development done by the developer.
- This is not actually the wrong of the developer and hence, he cannot be penalized for the same.
- But if the development of infra structure is not satisfactory, he will be informed to rectify the same.

- The revised development period should be taken into consideration for penalizing the developers as the delay occurring at this stage is wanted and actually rests with the developers.

Hence, it is decided to levy a **penalty of Rs.3.50/- per sq.m** for the delay happening between the date of communication of defects in the development made by the developers till the date of satisfactory development of infra structures as confirmed by the inspection team subsequently.

The issue of delay in the visit of the inspection team was brought to the notice during the meeting and hence,

- It is ordered that the Joint Inspection team from VUDA & GVMC will visit the layouts on every third Friday to avoid delays.
- But in those cases, wherein already, the roads and open spaces are already handed over to the local bodies, the joint team visit is not warranted and the VUDA's inspection team can visit and give its remarks.
- In all new layouts and in the old layouts where the handing over of roads and open spaces are not completed, joint team has to visit and give its remarks.
- The proforma for joint Team's visit and remarks is Annexed (Annexure-II).

### **III. Delay between report of satisfactory development of infra structures by the QCC team and the completion of formalities like handing over of roads and open spaces to the concerned local body**

This delay is only procedural and the developer cannot be penalized for this.

### **IV. Delay between completion of formalities and order of VC for release of mortgaged plots**

This delay is also procedural and the developer cannot be penalized for this as well.

## **V. NALA issue**

Vide the following Court case, the issue of NALA was put into finality. The order is repeated for clarity purpose

In batch of Writ Petitions Nos.16695, 21416 and 9792/2010, vide common judgment dated 9.7.2010, the Honourable High Court has ordered as below:

*"It is lastly urged by the petitioners that insistence on clearance under the 2006 Act, even where a land ceased to be agricultural prior to the enactment of that legislation cannot be sustained in law. In this regard, it needs to be observed that there is no indication to the effect that the enactment is retrospective in operation. It is only from the date on which, the Act came into force, that no piece of land which was ear marked for agriculture and is shown as such in the revenue records, can be put to non-agricultural use.*

*In case, the land was already put to residential or other use, much before the said Act came into force a permission under it cannot be insisted. This, however, is a matter, which needs to be verified by the concerned authority. If the petitioners are able to prove that the land has been put to non-agricultural use much before the Act came into force, they cannot be required to obtain the permission under that Act.*

For the foregoing reasons, the writ petitions are disposed of holding that,

- a. *It shall be competent for the Urban Development Authorities or the Local Authorities, as the case may be, to insist on submission of clearance / permission under the 2006 Act as a condition precedent for releasing of layouts*
- b. *The land has been put to non-agricultural use before the 2006 Act came into force, such clearance / permission shall not be insisted.*

The Andhra Pradesh Agricultural Land (Conversion for Non-Agricultural Purposes) Rules, 2006 (APALR, 2006) in consonance with the AP Act No.3 of 2006 explains the following provisions

**Competent Authority – RDO** who receive the applications for conversion of Agricultural land for non agricultural purposes

**Rule 6(i)** – For the purpose of calculation of conversion fee, the basic value as notified by government from time to time, for the land as on the date of application shall be taken into account

**Rule 6(iv)** – In case of deemed conversion, the date for the purpose of calculation of basic value shall be the date earliest of the following dates

1. Date of Detection of conversion by competent authority
2. Date of entry into village accounts by village officer / Panchayat Secretaries
3. Date of application by owner / occupiers.

Further, the cases pending with VUDA will come into two categories

- a. Got interim order / final order from the Honourable High Court for the release of layout; and release of final layout but not for release of mortgaged properties
- b. The developers have not given any report from the competent authorities that the lands under layout conversion have not proved that the land has been put to non-agricultural use much before the Act came into force and hence, they cannot be required to obtain the permission under that Act. To this effect, none of the developers have brought certificate from the competent authority under the Act.

Few developers have requested that they are ready to give the equivalent value of the money under NALA as Bank Guarantee for release of mortgaged properties. For this, which date should be considered for calculation of basic value under the Act – has to be

decided. Since The Competent Authority is RDO, this provision cannot be made available to the Developers.

As per the above guide lines, as a one time settlement, the pending 108 layouts are being tackled. With the above task VUDA is benefiting in terms of financial aspect and the individual plot owners who have purchased these plots also will get benefit. Further the developers also can be insisted for developing these layouts in full shape, with some delay on their part for which they are penalized.

In view of the above, the decision taken by the Vice Chairman may be placed before the board for ratification. if agreed, draft agenda put up may be approved.



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Sl No	Subj ect No	Subject	RESOLUTIONS
21	21	VUDA – UFD – Aforestation works – Raising of plantation along the Nalla at Paradesipalem layout and Avenue plantation at Ozone Valley with an estimated amount of Rs. 48,39,200/- – Draft subject placed before VUDA Board – Perusal and approval – Reg.	DUE TO MODEL CODE OF CONDUCT DUE TO 4 <sup>TH</sup> ORDINARY ELECTIONS TO THE GRAM PANCHAYATS, THE ITEM IS POSTPONED FOR THE NEXT MEETING
22	22	VUDA – PLG – VSP – Enhancement of processing fees for approval of layout, Buildings, Industrial plans etc. - Reg.	DUE TO MODEL CODE OF CONDUCT DUE TO 4 <sup>TH</sup> ORDINARY ELECTIONS TO THE GRAM PANCHAYATS, THE ITEM IS POSTPONED FOR THE NEXT MEETING.
23	23	VUDA – PLG – VSP – Approval of layouts – release of final layout – release of mortgaged plots-guide lines framed - Regarding.	Ratified the action taken and directed to see that penalty increases on every year of delay exponentially.

CHAIRMAN, VUDA

20/12/13