

## Land Assembly Options

### 1.2 Compulsory Acquisition through Land Acquisition Act 1894: Legal provision for acquisition of Land

The Land Acquisition Act 1894, provides the basis for acquisition of land for public purpose in India. The step by step procedure involved in acquiring land through this instrument is notification of intention to acquire, joint measures of land, notification signifying the final decision to acquire land, notices to land owners to hear claims for compensation and to decide ownership, declaration of land acquisition award and finally taking over of physical possession of land. The Guwahati Metropolitan Development Authority Act, 1985, under Section 56 provides powers to the State Government for acquisition of land.

Within the framework of land acquisition through Land Acquisition Act, CIDCO in Navi Mumbai and DDA in Delhi made some special efforts for smooth acquisition process. These are:

### 1.3 CIDCO Navi Mumbai Model

The land development strategy in Navi Mumbai started with the concept of Land Banking. The entire area of Navi Mumbai was notified for acquisition, primarily to use it as a major resource for development, to achieve equitable distribution of benefits of the development to all those affected by the project of urbanisation, and to achieve a better environment. Large scale acquisition of private land and transfer of Government land and salt pan lands was taken as a prime strategy for land assembly.

### 1.3.1 A. Financing Arrangement

It was contemplated in the Maharashtra Regional and Town Planning Act, 1966, the State Government would be approached for assistance in financing Capital Expenditure. CIDCO was also supposed to raise loan in the open market and to secure funds from other financial institutions like Life Insurance Corporation of India, Housing and Urban Development Corporation of India, etc. CIDCO had an authorised capital of Rs. 5 Crores and a subscribed capital of Rs. 3.95 crores, which was fully contributed by the State Government in 1970.

It was stated in the development plan that the cost incurred by the Government on the acquisition of lands will be accounted as Government's own Capital Outlay. Section 26(v) of the Maharashtra Regional and Town Planning Act, 1966, requires that the Planning Authority submit estimates of the cost of acquisition of lands required for public purposes. The corporation then may make "On Account Advance Payments" to the Government from the proceeds of land disposal to meet the Government's outlay on the payment of compensation for compulsory acquisition.

An important feature in CIDCO's financial arrangement was that CIDCO provided a means of tapping private capital and using it for a public purpose. The initial seed capital was supposed to be a public loan which had to be returned with interest. But all development costs, including the costs of providing improved urban and social amenities had to be met by realising funds through the disposal of developed plots. Disposal had to be done by lease and not by sale as it was desired that all the land in the project should always vest in the public authority,

but the lease amount is to be realized by way of a premium paid at the time of taking possession of a plot, so that development costs are recovered as early as possible. Thus, possibility of employing private capital to use land as a resource and serve a public purpose.

### 1.3.2 B. Innovative Techniques

#### a) Voluntary Surrender/Deposit Scheme

With the acquisition of their land, the agriculturists receive substantial amounts as compensation. It is likely that these amounts be quickly spent with adverse effects on the farmers future. An innovative scheme was formulated according to which, if an owner of the land in selected areas voluntarily offers his land to Government at an agreed rate, the amount so agreed can be placed in deposit with CIDCO at a rate of interest such that the yield will approximate to the net amount the land holder now gets from his land by way of crop yield. The land holder will go on getting this yearly amount from CIDCO as interest until he wants repayment of his deposit.

#### b) Rehabilitation

Right in the initial years when CIDCO had not yet become financially self-sufficient and had neither created its individual resource base, it ventured into the complex issues related to rehabilitation which affect most of the large urban development projects. CIDCO established a rehabilitation cell and took up the task of rehabilitation by three specific measures:

(a) *Individual oriented programmes*: Education, training and providing employment to the villagers to integrate them with the urbanisation process.

(b) *Village oriented programmes*: Devising ways to upgrade the village infrastructure to bring it at par with the newly built city around them, and

(c) *Land compensation*: Making villagers effective partners in the development of the new city by sharing the assets created in the new city with them.

#### c) Entrepreneurship Development

The Project Affected Persons in Navi Mumbai are encouraged to take up petty civil work contracts from CIDCO. Necessary policies adopted by CIDCO are:

- a) Awarding works worth upto Rs. 2,00,000 and 20 percent of works worth more than Rs. 200,000 only to registered PAP contractors.
- b) Allowing 10 percent price preference over the lowest tender to PAP contractor while awarding the remaining 80 percent large contracts.
- c) Awarding sanitation (public health) and horticulture contracts exclusively to the PAP's.

#### d) Strengthening of Village Infrastructure

Villages within the Navi Mumbai project area are provided Grant-in-aid (GIA) for building various village amenities and facilities. A fixed amount is annually budgeted to be utilised on providing infrastructure facility to the villages which include drainage, water supply, approach roads, construction of schools, community halls, crèches, crematoria, health centres, community toilet blocks, drains etc.

#### e) Land Compensation Schemes (GES Scheme and 12.5% Scheme)

Village sites were exempted from acquisition, with the objective of protecting the culture of the inhabitants as well as to provide for accommodating the

natural growth of the village families. With a view to accommodate the natural growth of the village families even beyond the first generation, the government of Maharashtra approved a scheme of earmarking certain area around the village as Gaothan Expansion Scheme (GES) in which plots were to be carved out and allotted to the villagers at nominal cost. The scheme was an outcome of a movement by the PAPs against the acquisition of their lands by government for the Navi Mumbai project, led by peoples representatives.

When it was first introduced as the GES Scheme, some of its features were:

- a) Ten percent of the total land of the village was fixed to be reserved for this scheme around the village. Out of this, 50% would be carved out as residential plots for the villagers and the rest for the provision of roads, open spaces and other facilities in the scheme. Each land holder would thus get 5 percent of his surrendered land back as a GES plot, subject to a minimum of 100 and a maximum of 500 sq.m.
- b) These plots would be sold at a rate which shall be twice the acquisition cost plus Rs. 5 per sq.m.
- c) Even the landless labourers whose livelihood is lost due to urbanisation were to be allotted a 40 sq.m. plot.
- d) The transfer of these plots to others was restricted.

There were many modifications made in the scheme after it was renamed as the 12.5% Compensation Scheme. These were as follows:

- a) 12.5% of the acquired land to be earmarked as a housing scheme for the villagers, 70 percent of which will be carved out as residential plots.
- b) These pockets will not be necessarily close to the original villages.
- c) The maximum permissible buildable area on plots allotted to villagers will be one and a half times higher than that permissible on other residential plots in Navi Mumbai. In addition 15 percent of the buildable

area on these plots will be permitted to be utilised for commercial purpose.

- d) There is no upper limit of plots' sizes to be returned to the villagers.
- e) Land price and restrictions on sale of this land remain the same as in the case of the earlier GES scheme.

The scheme reduced the resistances to the land acquisition by PAP's but the low development cost (Rs. 5 per sq.m.) levied did put substantial financial burden on the organization i.e. CIDCO.

#### 1.4 DDA Delhi Model

Most important initial document regarding Urban Land Policy as enunciated along with the preparation of Master Plan for Delhi in 1962 was the communication of Ministry of Home Affairs, Government of India regarding Control on Land Values in the Urban Areas of Delhi, i.e. Acquisitions, Development and Disposal of Land in Delhi. The important content of the communication are as follows:

- (I) About 8,000 acres of land should be acquired, in the first instance, under the provision of the Land Acquisition Act, 1894. The land so acquired was to be developed by various authorities i.e.
  - a) Central Public Works Department
  - b) Delhi Development Authority
  - c) Delhi Municipal Corporation
- (II) The developed land was to be provided for:

- a) Public and private institutions for public utilities and community facilities like open spaces, parks, playgrounds etc.
- b) Industrial and commercial use and
- c) Housing plots for individuals including those whose land had been acquired by the Government under this scheme.

(III) All the land acquired under the schemes would be Nazul and will vest with the President and will be given out in his name only on lease-hold basis to local bodies and private parties including co-operative societies, industrialists, individuals and institutions.

(IV) For achieving optimum utilisation of land, the following was recommended:

- a) The size of residential plots was restricted to 800 sq.yds, which was subsequently reduced to 400yds.
- b) Allotment of land only to such institutions which subserve directly the interest of the population of Delhi.
- c) Setting up of housing and other areas. Those which could be located else where to be discouraged.
- d) No plot should be allotted to any person who or any of his/her dependent relations own a house or residential plot in Delhi, New or Delhi Cantonment

(V) Encouragement to private investment in housing was envisaged through regular auction of residential plots to higher income group (general auction) where this group could also provide for rental housing.

(VI) The entire responsibility for acquisition, development and disposal of land under the scheme was that of the Chief Commissioner (now Lt. Governor), Delhi.

#### (a) Progress of Land Acquisition In Delhi

The large-scale land acquisition for Delhi Master Plan started in 1959. The first major notification under Section 4 of 1894 Act was issued on November 13, 1959 for 34000 acres of land. By October, 1961 by additional notifications nearly 55000 acres of land were notified for acquisition. In subsequent years upto 1965 the Government had issued notification for nearly 73000 acres (cumulative). Notification for 25000 acres were issued by 1965 under section 6 of Act as against the preliminary notification under section 4 issued for 73,000 acres. In 1966 under section 6 ,notification for another 27,000 acres were issued. Subsequent notifications were issued for land required from time to time.

#### (b) Financial Arrangement

For implementation of the scheme of 'Large Scale Acquisition, Development and Disposal of Land' in Delhi, Government initially provided a Seed Capital of Rs.5 crore to the Chief Commissioner, now Lieutenant Government Delhi, who is also the ex-officio Chairman of the Delhi Development Authority. The Revolving Fund mechanism was intended as a self financing mechanism to sustain the urban planning effort in Delhi by establishing a revolving cycle of acquisition-development-disposal-acquisition.

To operate the revolving fund. Ministry of Finance, Government of India prescribed the accounting procedure to be followed. According to this procedure, all receipts are required to be credited into the revolving fund and the expenditure is required to be met there from by drawl of cheques by Commissioner, Delhi Administration. The Rs. 5 crore revolving fund was augmented by another Rs.7.31 cores (1968-69) to meet the requirements of the scheme.

#### (c) Extra Effort

To respond to the required rate of land development to meet the growing space need of urban activities finance is needed by the development agency, although its deficiency is specially felt in the initial years. Both the agencies CIDCO and the DDA adopted some special method techniques in the initial years and later years with considerable success. Some important practices resorted by the DDA have been discussed in the section which could be of use to the development/housing agencies.

In the initial years from 1961 to 1970 the house building co-operative societies which operated in Delhi, large number of such societies were unable to purchase land in the open market. These societies asked for acquisition and allotment of land. The situation was best utilised by the Land and Building Department of Delhi administration to take money from these societies which indirectly added to the revolving fund. Thus a method was found to :

- a) Take advance money from these societies for acquisition of land at pool rate which was generally higher than the rate of acquisition and for peripheral development,
- b) To do land acquisition from the advance money,
- c) Allot land after acquisition,
- d) Do peripheral development i.e. Zonal road, water sewer and electric lines from out of the advance money.

If we examine the details of the receipts of DDA from 1961 to 1971, it becomes clear that initially till 1961 the amount received from the sale of undeveloped land was more than the amount received in the later years. This amount decreased as the organization started getting regular returns from the sale of developed land after 1970's. This clearly highlights that the organization, in need of finances during the initial years, can undertake new and innovative techniques to improve its financial positions.

Thus during the initial difficult years finances in advance were available from the societies. Similarly raw (undeveloped land) was allotted to Central Public Works Department for employee housing and Municipal Corporation of Delhi who were executing the Plan scheme of Jhuggi Jhompari resettlement. Thus substantial amount from the sale of undeveloped land became available to Delhi Administration and indirectly to the DDA. In 1970 the Government decided to shift emphasis towards the co-operative housing sector from the plotted development to group housing.

#### **(d) Self Financing Housing**

This is another scheme of advance money, though in this case, the land is already acquired and is available with the DDA when such scheme is floated. In this scheme the applicant is registered after he has paid the registration amount and he pays money in advance used for the land development and construction of houses. So far (1996) eight self financing schemes were floated in which 77672 persons were registered and 66909 were made allocations.

#### **(e) Conversion of Leasehold to Freehold**

In 1992-93 Government of India had announced the Scheme for conversion of Leasehold tenure to Freehold. Under this scheme residential plots upto certain size and flats built by DDA could be converted from leasehold tenure to freehold tenure by payment of a fixed one time amount. A sum of Rs. 167.51 crores was accumulated upto 1995-96 starting from 1992-93. This amount has been made into an 'Urban Development Fund'.

**(f) Land Acquisition Related - Alternative Plot Scheme :**

The provisions for alternative residential plots to the land owners whose land was acquired was in the scheme of Large Scale Acquisition, Development and Disposal of land. The policy followed was to allot alternative plots of area equivalent to 40 percent of the area of land acquired from the persons concerned, subject to a maximum size of 800 sq.yds. and minimum size of 125 sq.yds initially. The cases where the land acquired was less than 150 sq.yds. were not considered for allotment of any plot. The maximum size of plot was reduced from 800 sq.yds. to 400 sq.yds. and later to 250 sq.yds.

**(g) Fixation of minimum price of land acquisition**

Land in Delhi is acquired under the provisions of the Land Acquisition Act. The price to be paid is the market price as per the act. However the market price as worked out by the Government is usually less than the free market price as the registered sales for the nearby land are generally less because of many factors. The result of this state of affairs was that farmers were eager to sell off land to un-authorised colonisers rather than the Government, which resulted in large number of unauthorised colonies. Delhi Government in 1989 decided a minimum rate of Rs. 6 lakh per acre as floor price which for most of the area was almost 3 times the price being fixed as per the Land Acquisition Act. Thus the farmers became quite eager to give land to DDA rather than the unauthorised coloniser. Subsequently this rate was increased to Rs 13 lakh per acre and it is further enhanced from time to time.

**1.5 Greater Noida Model**

The Greater Noida Model, had certain features and after effects which have been itemized below based on the presentation made by the Chief Planner, Greater Noida. These are:

**(a) Problems faced by acquiring body**

- The land acquisition process is very time consuming – which in turn delays the process of urban development.
- Interest burden on the amount is deposited with SLAO/DM, which directly effects cost.
- Unauthorized constructions taken place during the process of acquisition.
- Uncertainty on compensation rate.
- Enhancement of rate in revisions/appeals in different courts.

**(b) Problems faced by farmers**

- Low compensation rate
- Variation of rate due to belting system
- Delay in compensation distribution
- No proper rehabilitation policy (housing and employment)
- Problems in the payment of compensation

**(c) In 1994, Greater Noida also faced the following problems:**

- Agitation from farmers stopping the development work
- Stay orders obtained from local / high court

- Agitation was supported by Builders / Colonizers and cooperative societies, who had purchased land before the creation of the authority.

**(d) The Authority negotiated with the farmers on:**

- Compensation rate
- Compensation distribution process

An out of court settlement was made after the declaration of award and submitted in the District Judge court during references. The above mentioned policy was adopted for a single village.

**(e) In 1996-97, villagers again started agitation for:**

- Increase in compensation rates decided in 1994 (Rs 110/- per sq. yard).
- Employment / Jobs in the local industries
- Allotment of developed plots in the schemes at cheaper rate for family expansion

**(f) Negotiations were made to arrive at:**

- Compensation rate linked to Consumer Price Index
- Rate is revised at every financial year (Rs. 110/-per sq. yard in 1994, increased to Rs 139/- per sq. yard in 1997 and Rs 232/- per sq. yard in 2002)
- Compensation rate irrespective of location (No belting system)
- Additional 15% on basic rate as rehabilitation package.
- Allotment of 10% of the acquired land or 5% of net developed land for residential use adjacent to village abadies (Plot sizes 40 sqm. – 2500 sqm.)

- Payment of development charges by the villagers.
- Distribution of compensation through special camps to reduce harassment and corruption.
- In case of urgency – land on the fixed rate can directly be purchased from villagers.

In Noida, where villagers, whose land were acquired, were eligible to get a developed plot in the schemes. The value of plots were 5 to 6 times the allotment rate. Noida also adopted the similar policy like Greater Noida i.e. A uniform land compensation rate is fixed for whole of development area for each financial year linked with Consumer Price Index (CPI).

Now in 2002, Noida/Greater Noida do not have any dispute in the land acquisition for the last 5 years. They have a Land Bank of 2000-3000 Acres (800 to 1200 ha.)

## 1.6 Gujarat Model

### (a) Town Planning Schemes

The Town Planning Schemes, popularly known as T.P. Schemes, are prepared and implemented under the Gujarat Town Planning & Urban Development Act. 1976. In fact the T P Schemes are in vogue since 1917 A.D. It is a German model, adopted by England and effectively implemented in Gujarat & Maharashtra. The schemes were first prepared under the Bombay Town Planning Act 1915, then the Bombay Town Planning Act 1954, now revised as the GTP & UD Act 1976. Provision of Town Planning Scheme in all these three acts remains more or less same, with some variation.

The Town Planning Scheme is an instrument to implement the master plan/development plan. The Town Planning Scheme may be prepared for an area as envisaged in the Sec. 40 of the GTP & UD Act 1976 for areas.

- Under the course of development
- Already developed
- or likely to be developed in near future

The process of preparation of Town Planning Schemes in Gujarat has been discussed below in detail.

#### (i) Draft Scheme

An Appropriate Authority selects an area of 90 to 100 Ha. approximately and prepares a draft T.P. Scheme in consultation with the Chief Town Planner, Gujarat State. Master Plan proposals like roads and land reserved for Public purpose or for the purpose of appropriate authority are incorporated in draft T.P. Scheme.

The entire area is surveyed along with revenue records which helps in updating the revenue record. Any dispute about land ownership is resolved first by appropriate authority, who prepares draft T.P. Scheme and then solved by the Town Planning Officer when he draws preliminary and final scheme (Sec. 53). All owners of individual land (survey number or its fragments), known as “original plot (O.P.)” are listed and shown on map. These lands are then reconstituted giving appropriate shape for optimum development and each owner is given an independent land with direct access from T.P. scheme road. These are known as semi final plots. Thus each land has access from TP Scheme roads. To acquire roads and land reserved for public purpose, reconstitution of plot is done after judicious deduction of land from each original plot (O.P.). Such deducted lands are accumulated as per reservation of lands. Thus the proposals of Master Plan

are implemented through reconstitution of plot without indulging into land acquisition process. The infrastructure, like water supply, drainage, street light etc. are laid down on roads, and estimates are prepared by the appropriate authority. Each owner is served notice for “Hearing” and his opinion/objection/suggestion are recorded and as far as possible incorporated in the draft scheme. As per provisions made in the Act, owners meetings are conducted by the appropriate authority. The draft scheme is then submitted to the state government by the appropriate authority for sanction.

#### (ii) The Preliminary Scheme

The State government then appoints a Town Planning Officer (TPO) as a Quasi Judicial Officer. The TPO then divides the draft scheme into preliminary scheme & final scheme. The Town Planning officers conducts fresh survey, makes changes in draft T.P. Schemes and he, serves notice to each owner of original plot for hearing. The preliminary scheme consists the physical part i.e. ownership, area statement, extent to which an original plot is proposed to a final plot (Reconstitution) and services to be provided in the scheme. The preliminary scheme is then submitted to the state government for sanction. As soon as the preliminary scheme is sanctioned;

- all lands (roads & Reservations) vest absolutely in appropriate activities, free from encumbrances.
- all reconstituted plots become the subject.

#### (iii) The Final Scheme

After the submission of preliminary scheme, the Town Planning officer then draws the final scheme consisting the financial part of T.P. Scheme. These are, values of original plot, semi-final plot, final plot, cost of scheme, compensation (±) incremental values contribution, betterment charge etc. All these values are decided after giving “sufficient opportunities” to each owner of plot. The



difference between S.F. value & O.P value is given as  $\pm$  compensation. The difference between Final Plot value & O.P. value is known as incremented value. Each owner, so benefited in T.P. Scheme will have to give 50% of incremented value as “Contribution”. All lands so acquired for roads & public purpose by way of reconstitution, cost of implementation is met with by contribution. e.g. the provision of infrastructure facility, reconstitution of plot and ownership generally result in to “unearned profit” to each landowner who generally does not object for some deduction of his land.

The final scheme is then, submitted to the state government. After obtaining sanction, the appropriate authority starts collection of betterment charge.

This model eliminates acquisition process by way of reconstitution of land. The cost of infrastructure is recovered through contribution. All urban centres in Gujarat successfully Implement Development Plan by way of T.P. Scheme. The appropriate authority has not to incur any land acquisition, cost or cost of infrastructure. There is cent per cent public participation as all land owners are heard by the appropriate authority at draft TP Scheme stage and Quasi Judicial Officer at Final Stage.

### Stages of Preparation of the Town Planning Scheme

The preparation of a Town Planning Scheme in Gujarat involves following stages:

- Declaration of Intention to make a Scheme by appropriate authority
- Preparation of Draft TP Scheme
- Publication of Draft TP Scheme (within one year)
- Inviting Suggestions/Objection
- Submission to State Government for Sanction (4 months from publication)

- Sanction by State Govt. & appointment of Town Planning Officer
- Splitting up of TP Scheme- Preliminary Scheme and Final Scheme
- Preliminary Scheme: Survey, Hearing of each owner, reconstitution of each original plot to Final plot, Reservation for public purpose
- Final Scheme: Cost of Scheme, Compensation, Incremental value, contribution on each plot.
- Award of preliminary scheme (one year from appointment)
- Sanction of TP Scheme & land vest absolutely in appropriate authority.
- Implementation of TP Scheme
- Award of Final Scheme by Town Plan Officer
- Constitution of Board of Appeal & hearing
- Submission of Final TP Scheme
- Sanction of Final Scheme by State government
- Appropriate Authority gets betterment accrued on each plot
- Variation of TP Scheme (if required)

### 1.7 The Gurgaon (Haryana) Private Developers Model

Gurgaon in Haryana and is only 30 km. away from the national capital, New Delhi. The Haryana development & Regulation of Urban Areas Act of 1975 enables private developers to apply for licenses to assemble parcels of land in a designated area. After assembly, the developer would apply for permission to develop, which is permitted by Haryana Urban Development Authority under a set of conditions such as allotment of a fixed proportion of plots to the middle income groups on no profit and not loss basis and also to the poor on subsidized basis. The plan for the land is prepared by the private developer and is got approved as per provisions of the relevant laws.

The agreement between the owner of land, or developer, intending to set up a colony (hereinafter called the owner) and the Director, Town and Country Planning, Haryana contains the following conditions.

- a) The owner shall deposit 30% of the amount realised by him from plot holders, from time to time, within 10 days of its realisation in a separate account in a scheduled bank and this amount shall be used only for internal development of the colony.
- b) The owner shall undertake to pay proportionate external development charges with a break-up of 25% within one month and the balance 75% in two years in four equal half-yearly installments. Interest at the rate of 18% per annum shall be charged on deferred payments.
- c) If there is any delay in payment of installments, penal interest at the rate of 3% per month on the belated amount shall be charged in addition.
- d) Enhanced compensation on land, if any, will be payable by the owner.
- e) Some amount has been added for the construction of internal community buildings in the external development charges and for this, no recovery shall be made from the plot holders. However, grants will be given by the HUDA for the internal buildings constructed by the owner of the colony.
- f) The owner shall pay electrification charges directly to the Haryana State Electricity Board (HSEB). No external development charges would be recovered from the EWS/LIG categories.
- g) The owner shall be responsible for the maintenance of services for a period of 5 years from the date of issue of completion certificate or transfer of services to the local authority whichever is earlier.
- h) The owner shall complete the internal development works within two years of the grant of the license. The owner shall pay a service

charge on the total plotted area of the colony, excluding areas for social infrastructure.

- i) The owner shall give requisite land for the water and sewage treatment works, oxidation ponds at his own cost till the external sewerage system is completed by the Haryana Urban Development Authority (HUDA).
- j) The owner shall reserve 20% of the total number of residential plots for the EWS/LIG. For the allotment of these plots, the owner shall invite applications and would allot only to eligible persons falling in this category by draw of lots.
- k) The owner shall further reserve 25% of the residential plots for allotment on 'No Profit No Loss' basis and would also allot the applicants registered with him via draw of lots. Lot of these plots, 75% would be allotted in the general category and the balance 25% to – (i) Non-Resident Indians (NRIs) against foreign exchange; ii) alternate allotment to those whose lands were required by the owner, and iii) 5% at the discretion of the owner.
- l) The balance 55% residential plots of 125 sq.m. and above would be sold by the owner in the free market subject to the condition that he will not get a net profit of more than 15%
- m) The owner shall submit the list of allottees to the Director twice a year.