

**PUNJAB REAL ESTATE REGULATORY AUTHORITY**  
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### **CIRCULAR**

The matter regarding defining the promoter of a project, especially in cases where the owner of the land and the developer of the real estate project thereon are different entities, has been under consideration of this Authority for about some time. The issue has been considered in depth and the practice being followed in other Real Estate Regulatory Authorities in the country have been taken into consideration. Accordingly, the following guidelines and directions are issued for information and compliance by all concerned:-

**I. Can a project have more than one promoter ? If so, what would be their respective responsibilities and obligations?**

There is no provision in the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as "Act") which lays down that there can be only one promoter for a project. In fact, Section 2(zk) of the Act explicitly recognizes that there can be more than one promoter.


Once the project is recognized as having more than one promoter, the issue of inter-se responsibility between the promoters assumes importance. The general rule in this regard would be that all promoters are jointly liable for the functions and responsibilities under the Act. However, if there is an agreement between the promoters delineating the responsibilities of each, this shall be taken

into account while fixing liability for specific acts of omission or commission. In the absence of either (i) an agreement or understanding among promoters or (ii) a decision of a competent forum as to their respective responsibilities, the Authority will have to take a decision in the matter. The Authority will hold that promoter(s) liable for a particular act of commission or omission that, in its opinion, was responsible for the same.

**II. Where land is not fully owned by the promoter, will the landowner of the remaining part be treated as an promoter?**

This issue is actually a subset of the main issue considered above. However, there can be various kinds of agreements and relationship between the landowner and the developer; and a uniform policy cannot therefore be applied in all such different situations. Examples of such differing arrangements are as follows:-

- (i) Grant of General Power of Attorney by the landowner in favour of the developer granting all rights over the land.
- (ii) A Special Power of Attorney or an agreement in which rights of development over the land are given, but not the title therein.
- (iii) Profit-sharing arrangements between the developer and the landowner.
- (iv) Cases in which the landowner becomes entitled to a share of the developed land.



The above are only illustrative and it is clear that the relationship between the landowner and the promoter can assume different dimensions. In such situations, whether the landowner is also to be treated as a promoter will depend upon the circumstances of each case. However, for general guidance of all concerned, it is clarified that a landowner will be considered as a promoter if one or more of the following conditions are satisfied:



- (i) The landowner himself has a role in the development and management of a project.
- (ii) The landowner gives away only the rights of development over the land but not the power of sale of developed land to the developer.
- (iii) The landowner is to get a share in the profits of the project.

It is also seen in many cases payment for the land is often made by the developer in installments. In such cases merely receiving a part of the proceeds of the sale after the agreement with the developer does not make the arrangement to be one of profit-sharing.

- (iv) The landowner is to get a share in the area developed for sale before completion of a project.

If such share in the developed area is admissible only after completion of the project, the landowner is in the nature of an allottee and will not be treated as a promoter

- (v) If an agreement between the landowner and promoter specifically provides that the former will be a promoter.
- (vi) There are cases especially in relation to large projects, including Mega projects, where the original promoter sells part of the land under the original project to another promoter for development of a smaller and separate real estate project thereon. Though the area is sold yet the original promoter continues to be responsible for the provision and maintenance of common facilities for the entire project, including the area sold by it. In such cases, the original promoter will also be treated as a promoter for the smaller project.



### **III. Who is the promoter in case of regularized unauthorized colonies?**

As per current policy, all persons in whose name the Regularisation Certificate has been issued are initially treated as the promoters of the project. Subsequently however where the person(s) in whose name the regularization certificate has been issued enters into an agreement with another promoter, the above guidelines will continue to be applicable. In such cases the person in whose name the regularization certificate was issued will be considered to be a landowner and the person who subsequently enters the picture will be treated as the developer.

The above guidelines are for information of, and compliance by all concerned.



**Chairperson**