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# THE GANDHIDHAM CHAMBER OF COMMERCE & INDUSTRY

(ESTD. 1953)

"CHAMBER BHAVAN", Plot No. 71, Sector 8, Post Box No. 58,

GANDHIDHAM - Kachchh - 370 201.

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No. GCCI / 638

Date:05.01.2019

Shri Mansukhbhai L. Mandaviya  
Hon'ble Minister of State  
Chemicals and Fertilizers, Shipping,  
Road Transport and Highways  
Transport Bhawan, Sansad Marg,  
New Delhi-110001

## Sub: Exorbitant recovery of transfer fees

Dear Sir,

We, The Gandhidham Chamber of Commerce & Industry has been working in close liaising with the Deendayal Port Trust in the overall development of this region. Deendayal Port Trust (formerly known as Kandla Port Trust) is administrator of the land of this township. The land was initially allotted on 99 years lease basis from 1955-58 onwards on auction / tender basis. The auction / tender was conducted on the basis of the rates fixed by the Kandla Port Trust which was equal to the development cost. Thus the development of the plot was the base for allotment which treated as the market value of the plot over which the tenderer was quoting a premium. In addition to above, a ground rent of 2 ½% of the development charges and premium quoted was recovered annually.

- 1) The above system of allotment of land on the basis of development charges continued upto 1980 and thereafter the rates based on the market conditions were considered. After constitution of the Tariff Authority of Major Ports, the rates fixed by them were treated as the market rate from 01.01.1999. However, the above rates were not implemented till 2010 due to the decision taken by the Port in the aftermath of Cyclone in 1998 followed by Earthquake in 2001. The implementations of the rates were not acceptable by the general public and there were agitations and Bandh in this area.
- 2) As can be seen from above, the Board had been allotting the plots on the basis of the development cost and thereafter on the market rates fixed by the Board and from 01.01.2004, the allotment has been made on the basis of the rates fixed by the TAMP. As regards the transfer and mortgage fees, the TAMP has clarified that they are not having any authority to fix the above rates as the same are as per the contract conditions, i.e. terms of lease entered between Deendayal Port and the lessees. As per the terms and conditions of the lease deed, at the time of transfer of assignment of the premises the lessor shall be entitled to claim and recover from the lessee effecting the transfer or assignment 50% of the unearned increase i.e.



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the difference between the lump sum development charges already paid and the market at the time of transfer.

- 3) It is further submitted that as per above terms and conditions, the Board had been fixing the market values, which was always on the basis of the Development cost till 2010. Thus the Board had been fixing the market rates for the purpose of recovery of transfer fees which was always mentioned as an increase in percentage of the development cost. This system has been continuing since 1958 to 2010. As such there was no reason or cause for the Board to change from the above system by switching over to the rates fixed by the TAMP, which could be applied only for the fresh allottees. Thus the Board changed the system of fixation of market rates for the purpose of recovery of transfer fees, which was done without consulting the lessees. Not only this, but due to change in the system, the rates earlier ranging from Rs.18 – 121 per square meter as prescribed by the Board upto 2010 was increased to Rs.440-3200 with retrospective effect fixed by TAMP for allotment. Few illustrative examples are given under:

	Sq. mts	Upto 01.01.2004(DC)	01.01.2014 to 19.10.2014	2010-2014
Residence	100	900	22,000	3,90,000
NU 10 B & 3	100	1,800	40,000	12,00,000
Commercial (Sector – 8 )	500	21,500	4,00,000	30,00,000
Commercial (Sector – 9 )	500	26,250	6,00,000	62,50,000
Comp. Sector 1A	140	9,870	2,24,000	12,88,000

- 4) Surprisingly, it is noticed that whenever there will be again increase as and when the TAMP rates from 01.01.2014 was also approved. The issue was thereafter continuously taken up directly by the Gandhidham Chamber, etc. and considering the huge increase and opposition from the public, the rates w.e.f. 01.01.2009 was implemented prospectively w.e.f. 21.12.2014. The Board passed a resolution to waive the retrospective implementation and to work out a methodology to lessen the impact of multiple transfers of the same plot. This brought some relief to local public and appreciated by one and all.



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- 5) The recovery of transfer fees by DPT, has been examined by the Ministry in the light of agreement between the lessor (Deendayal Port Trust) and lessee and various legal opinions. It is felt that there is a written agreement between the lessor and lessee and two parties bound by the terms and conditions of the agreement. Para 6(1)A(1) of the lease deed given contractual rights to DPT to recover 50% of the unearned increase as transfer fees for approving any transfer, which has been informed to us vide letter dated 04.08.2018. We feel that the above opinion given by the Law Ministry is not in accordance with the terms and conditions of the lease deed. Our submission is that the practice of fixing market rate the basis of development cost worked out from time to time is required to be followed, which cannot be changed by accepting the market rates fixed by the other authorities.
- 6) It may not be out of place to say and submit that due to the high transfer fees coupled with the stamp duty and registration charges payable to the State Government, about 75% of the rates are required to be parted with each time a transaction takes place which will only force the public to stop taking permissions and registration and to find out some other ways to avoid the payment resulting in revenue loss.
- 7) From above submission, it is very clear that the Board has been charging the transfer fees based on the market rates fixed on the basis of the development charges till 01.01.2004 and therefore the switching over to the rates recommended by the TAMP is not tenable and reasonable as per the terms and conditions of the lease deed. Thus the longstanding practice is required to be followed, particularly when the "TAMP has clarified that they have no authority to fix transfer fee and mortgage fees". Further, the Port should not fix arbitrary rates and continue to recover more than what is permissible under the terms and conditions of the lease.

In view of the above reasons, we request you to consider the above facts and fix the market rates equal to the present-day development cost, in line with the contract conditions, and till such time no recovery based on TAMP rates, which is irrational and unscientific, may be made, which otherwise is applicable only for the purpose of allotments.

Thanking you.

Yours faithfully,

  
Dinesh Gupta  
President