

**DELHI DEVELOPMENT AUTHORITY
LAND DISPOSAL DEPARTMENT**

No.PS/Dir.(RL)/2016/Misuse Policy/164

Dated: 05.05.2016

OFFICE ORDER

Sub: **New comprehensive Policy for levying Misuse Charges in supersession of all previous policies on the same subject.**

The comprehensive policy on Misuse Charges has been approved by the Authority vide Item No. 70/2016 Dated 27.04.2016. The approved policy is as follows:-

[I] Type of cases and proposed action. Following are the various types of cases that are likely to be encountered when applicant applies for settling of misuse charges. Applicant is requested to identify the category in which his case lies and take action accordingly for filling self assessment application

Cat.	Type of case	Action proposed
1[a]	Cases where report about misuse is available on file but Show Cause Notices were not issued.	Affidavit from the applicants along with recent photographs of property and certification by way of Affidavit from two witnesses/registered RWA certifying that there is no misuse of the respective property may be accepted in lieu of inspection of DDA and no misuse charges to be levied.
[b]	Cases where report about misuse is available on file and Show Cause Notices were issued but the allottee denied violations but no further/ inspection was undertaken by DDA.	Affidavit from the applicants along with recent photographs of property and certification by way of Affidavit from two witnesses/registered RWA certifying that there was and is no misuse of the respective property may be accepted in lieu of inspection of DDA and no misuse charges to be levied.
[c]	Cases where report about misuse is available on file and Show Cause Notices were issued but there was no response from the allottee.	Misuse charges to be levied for a period from the date of initial date of detection upto : <ul style="list-style-type: none"> • three years after the last report about the misuse OR • the date of first sale after the last report about the misuse, whichever is earlier.
[d]	Cases where report about misuse is available on file and Show Cause Notices were issued and allottee informed about removal of violations but no further action/inspection was undertaken by DDA.	Affidavit from the applicants along with recent photographs of property and certification by way of Affidavit from two witnesses/registered RWA and misuse charges to be levied for a period from the date of initial date of detection upto the date of removal of violation by the applicant.
2	Cases where report about misuse is available on file and Show Cause Notices were issued and allottee informed about removal of violations. During inspection removal of violations confirmed by the DDA officials	Misuse charges to be levied for the period from initial the date of detection upto the date of removal of violations.

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3 [a]	Cases where report about misuse is available on file and Show Cause Notices were issued and allottee informed about removal of violations and further inspection was undertaken by DDA confirming existence of violations at the time of inspection. After confirmation of violation next SCN was also issued negating reply to the allottee about removal of violations but there was no response from the allottee.	Affidavit from the applicants along with recent photographs of property and certification by way of Affidavit from two witnesses/registered RWA certifying that is no misuse in the property as on date.
[b]	Cases where report about misuse is available on file and Show Cause Notices were issued and allottee informed about removal of violations and further inspection was undertaken by DDA confirming existence of violations at the time of inspection. After confirmation of violation next SCN was also issued negating reply to the allottee about removal of violations but no further action/inspection was undertaken by DDA.	Misuse charges to be levied upto three years from the date of 2 nd confirmation OR from the date of first sale after the 2 nd confirmation about the misuse, whichever is earlier.
[c]	Cases where report about misuse is available on file and Show Cause Notices were issued and allottee informed about removal of violations and further inspection was undertaken by DDA confirming existence of violations at the time of inspection. After confirmation of violation, SCN was not issued negating reply of the allottee about removal of violations.	
4.	Cases where the lease has been determined on the ground of misuse.	Affidavit from the applicants along with recent photographs of property and certification by way of Affidavit from two witnesses/RWA certifying that there was and is no misuse of the respective property may be accepted in lieu of inspection of DDA. Misuse charge for the period from initial date of detection upto the date of filing of conversion application along with restoration charges. The process of restoration will remain the same and competent authority will be Hon'ble L.G. for restoration of determination of lease.
5.	Cases where property was misused by the tenant without the connivance or knowledge of the owner and owner has filed suit for eviction with misuse of the property as one of the ground for eviction.	In such cases, in case the owner has filed a suit for eviction of the tenant and misuse of the property is one of the terms of reference for eviction then 10% of misuse charges from the date of filing of court case till the date of disposal of case or filing application for conversion, whichever is earlier. The owner will have to submit the proof of filing of court case as well as the filing date of disposal of the case and will also have to show that one of the grounds for filing of suit for eviction was misuse of the leased property.

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[II] Rules:

Following rules have to be followed by the applicant as well as the management wing of DDA while filling of the self assessment application and processing of the same by DDA later.

- (I) Misuse charges in respect of the misuse which is/was continuing after the date of submission of conversion application, the quantum of misuse charges shall be worked out upto date of such application.
- (II) In case applicant does not submit affidavit from two witnesses/ registered RWA then his conversion application will be rejected due to non-submission of documents.
- (III) The unsettled cases where the demand of misuse charges has been raised by DDA but the lessee has not deposited it and consequently their cases of conversion are pending will be reviewed and fresh calculation to be done as per the new policy. However cases where misuse charges have already been paid by the applicant will not be re-opened and no refund will be made on this account.
- (IV) So far as determination of the date of receipt of application for conversion is concerned, it should be the date on which a conversion application has been received in the prescribed format with full conversion charges and processing fee in the bank in conformity with the circular issued by Director (LC) vide no. F.4 (2)/2002/AO (R)/Misc./152 dated 14.12.2003. Non submission of any document/ information will not affect the date of conversion application if application is prescribed format is submitted with required conversion charges and processing fees.
- (V) Random checking will be carried out in 5% cases. Misrepresentation/ concealment of facts will invite levy of penalty which will be double of differential amount of unpaid misuse charges + 15% interest per annum as well as criminal prosecution and may also lead to cancellation of Conveyance Deed. Action will also be taken against neighbour (2 witnesses)/RWA member for giving the false affidavit which may include criminal prosecution as well as penalty.
- (VI) In such cases, however, where unauthorized construction or misuse stands reported on record, after submission of conversion application, a letter may simultaneously be sent to the Building Department of the DDA or MCD (if services of the area stand transferred) for violation of building bye-laws for taking appropriate action under relevant law/ regulation. However, this will not affect the conversion applicant and same will be processed as per policy.
- (VII) The applicant to be provided copy of the survey report/file within 2 working days of applying for conversion along with method of calculating misuse charges and a period of two weeks to deposit charges.
- (VIII) In case application for conversion is rejected due to non-submission of documents, the amount deposited by the applicant to be directly remitted to the bank account of the applicant through ECS. The applicant will be asked to submit ECS details along with application including cancelled cheque in order to ensure timely refund to the applicant in case of rejection of application.

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- (IX) Since neighbour/office bearer of registered RWA who was residing in the Society may not be easy to find, therefore, the applicant may submit an affidavit from the existing member of RWA or any existing neighbor. Moreover the neighbor will be defined as a person residing in the colony for a period of at least 5 years and will have to submit proof of residence along with I.D Proof with his affidavit.
- (X) The applicants who apply within first six months of implementation of the policy will not have to pay any interest charges on the misuse charges calculated as per new formula and thereafter interest charge of 12% compounded every six months will have to be borne by the applicant. In the old pending cases where the demand has already been raised and the applicant wishes to clear the misuse charges as per old policy, will have the option to do so within first six months of implementation of the new policy without paying any interest charges on the demand raised. However, if he does not come forward within first six months for settling the old demand then he will have to apply afresh in the new policy and interest charges as applicable in the new policy will be levied on the calculated misuse charges.

[III] FORMULA FOR CALCULATION OF MISUSE CHARGES:

- (a) For calculation of Misuse Charges the base rates in various zones are as follows. The applicants is requested to identify the location of his property and apply the applicable base rate in the formula for calculation of Misuse Charges.

S.No.	Zone	Base Rate*
1.	Central, South & Dwarka	Rs.11,200/-
2.	West, North, East & Rohini	Rs.7,800/-
3.	Narela	Rs.3,100/-

*Base rate is related to the commercial rate for conversion and will be revised as and when the commercial rate for conversion are revised and the present rates are linked to rate of 2016-17.

- (b) Depending on the number of years the applicant has misused the property, the time duration factor has been introduced in the formula and the applicant is requested to identify the number of years of Misuse and apply the applicable time duration factor in the formula.

Period (in years)	Factor
0 to 5	1
Above 5 and less than 10	1.25
Above 10	1.50

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- (c) Finally the applicant will have to identify the historical factor which is based on the period during which the misuse was carried out and apply the same into the formula. The table for identifying historical factor is as follows:-

Period (in years)	Historical Factor
Prior to 1.4.1985	0.25
1.4.1985 to 31.3.1995	0.50
1.4.1995 to 31.3.2005	0.75
1.4.2005 upto date	1

In case the Misuse is over lapping in more than one of the above mentioned period then factor of the period in which the period of misuse is larger will be taken into consideration.

The formula for calculation of Misuse Charges will be as follows:-

- (i) In cases where area of misuse is not clear or ambiguous or disputed :-

Base rate of the Zone x 25% of the area of the plot in sq. mtr. x time factor X historical factor

- (ii) In cases where area of misuse is clear and not in dispute and has been accepted by the applicant and DDA.

Base rate of the Zone x total area under misuse in sq. mtr. x time factor X historical factor

Illustrations

The illustrations are given below to explain the application of the formula.

- [1] Suppose an allottee is having a plot of 200 sq. mtr. in Safdarjung Enclave and has misused the property for five years during the period 1979 to 1984. The misuse charges (25% of the plot area) are as under:-

- [a] Base rate of property will be = Rs.11,250/-
 [as the same falls in Central, South and Dwarka Zone]
 [b] Plot area is 200 sq. mtr. and 25% of the same is = 50 sqm.
 [c] Since the period of misuse was 5 years, therefore, time factor = 1
 [d] Misuse was prior to 1.4.85, therefore, historical factor is 0.25

Now by application of the above formula, the result is as follows:-

$$11,200 \times 50 \times 1 \times 0.25 = \text{Rs. } 1,40,000/-$$

- [2] Suppose an allottee is having a plot of 100 sq. mtr. in Paschim Vihar and has misused the property for ten years during the period 1986 to 1994. The misuse charges (25% of the plot area) are as under:-

- [a] Base rate of property will be Rs.7800/-
 [as the same falls in West, North, East and Rohini Zone]
 [b] Plot area is 100 sq. mtr. and 25% of the same is = 25 sqm.
 [c] Since the period of misuse was 5 years, therefore, time factor = 1.25
 [d] Misuse was during the period from 1986 to 1994, therefore, historical factor is 0.50

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Now by application of the above formula, the result is as follows:-

$$7,800 \times 25 \times 1.25 \times 0.50 = \text{Rs. } 1,21,875/-$$


- [3] Suppose an allottee is having a plot of 100 sq. mtr. in Narela and has misused the property for ten years during the period 2010 to 2015. The area of misuse is 20 sqm. and is accepted by the applicant and DDA.

[a] Base rate of the property will be [as the same falls in Narela Zone]	=Rs.1600/-
[b] Misuse area is 20 sqm. without dispute	= 20 sqm.
[c] Since the period of misuse was 6 years, therefore, time factor	= 1.25
[d] Misuse was during the period 2010-15, therefore, historical factor is	= 0.50

Now by application of the above formula, the result is as follows:-

$$1600 \times 20 \times 1.25 \times 1 = \text{Rs. } 40,000/-$$

The policy becomes operational with immediate effect.


(Subu R)
Commissioner(LD)

Copy to:

1. OSD to VC
2. Engineer Member, DDA
3. Finance Member, DDA
4. Pr. Commissioner(LD&H)
5. Commissioner-cum-Secretary for information.
6. All Directors of LD Department
7. Director(LC)
8. Director(Systems) with the request to upload on the website of DDA.


Commissioner(LD)

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**DELHI DEVELOPMENT AUTHORITY
LAND DISPOSAL DEPARTMENT**

No.PS/Dir.(RL)/2016/Misuse Policy/178

Dated: 06.06.2016

09.6.2016

ADDENDUM

Sub: New comprehensive Policy for levying Misuse Charges in supersession of all previous policies on the same subject.

Please refer to the policy on the above cited subject which was circulated on 5.5.2016. It is clarified that the above policy is solely applicable for the properties of Delhi Development Authority having residential use only and for the branches namely Old Scheme Branch, Lease Administration Branch(Resdl.), Lease Administration Branch (Rohini) and Cooperative Society Branch of Land Disposal Department. The remaining contents of the policy circulated vide No.PS/Dir.(RL)/2016/Misuse Policy/164 dated 05.05.2016. will remain same.

07 Jun 2016
(SUBUR)
Commissioner (LD)

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4. Pr. Commissioner (LD&H).
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07 Jun 2016
Commissioner (LD)