

ITEM NO. 11 (L-02)

Copy of Reso. No. 11 (L-02)
of
Councils Ordinary Meeting
Dated... 28/08/2015

1. **Name of the Subject:**

Policy for making allotments on licence basis to Central Government/State Government including Ministries, departments of Central and State Governments, Central/State Undertakings, Constitutional/Statutory bodies, Govt. of India and State Government Undertakings and their Companies where the Central/State Government concerned owned the shareholding more than 75% etc., and renewal of such licences.

2. **Name of the Department:**

Estate Department

3. **Brief History and Detailed Proposal:**

The Estate Department deals with the management of Council premises which are given on monthly / annual licence fee basis for a specific period in accordance with the policies and guidelines laid down by the Council through resolutions from time to time.

Presently many properties are lying vacant in various buildings of the Council like Mayur Bhawan, Chandralok Building etc. Apart from this, Council has to renew the allotments made to the government bodies/entities from time to time as and when the licence expires. As per the provisions of NDMC Act, allotments can be made subject to provisions under section 141 of the NDMC Act 1994. This particular agenda proposes to deal with only a class of properties i.e. allotment on licence basis and renewal of properties in respect of Central Government/State Government including Ministries, departments of Central and State Governments, Central/State Undertakings, Constitutional/Statutory bodies, Govt. of India and State Government Undertakings and their Companies where the Central/State Government concerned owned the shareholding more than 75% etc.

At present, cases for renewal or to make any new allotments to these government bodies mentioned above are pending. As per Section 141 of the NDMC Act 1994, Chairperson may with the sanction of the Council, can lease, sell, let out, hire or otherwise transfer any immovable property belonging to the Council.

Therefore, the Department proposes authorization to Chairperson for making allotments to Central Government/State Government including Ministries, departments of Central and State Governments, Central/State Undertakings,

Constitutional/Statutory bodies, Govt. of India and State Government Undertakings and their Companies where the Central/State Government concerned owned the shareholding more than 75% etc., and renewal of such licences with retrospective effect for these classes of cases.

However, the Chairperson while exercising the delegated power shall ensure that value at such immovable property is licensed/leased shall not be less than the value at which it is transferred in normal and fair competition. For which, the Chairman may seek assistance of agencies of the Central and/or State Government such as CPWD, L&DO, MoUD, DDA, Land and Building Department of Govt of NCT of Delhi to determine the normal and fair value of the property.

The Chairperson, on completion of task in this regard, inform to the Council in due course of time.

4. Financial implication:

The proposed policy shall not only increase the revenue of the Council but also reduce the pendency of cases.

5. Implementation schedule with timelines for each stage including internal processing

The decision taken in this regard by the Council would be complied with.

6. Comments of the Finance Department on the subject:

- (i) The view of the department on para-13 recommendation, the word inter-se (underlined) needs explicitly regarding its meaning and may be clarified in the Draft Agenda in r/o govt. entities.
- (ii) The same para as stated above, it is not clear as to how the sanction has been recommended "retrospectively" (underlined) and needs clarity.
- (iii) The proposal relates to authorizing Chairperson, with reference to the provisions of section 141 and its sub sections of NDMC Act, 1994. As such, this case needs to be examined by Law Department and their opinion is also needed to be brought in Draft Agenda.

- (iv) The Department may also mention at para 9 of the draft agenda about the earlier resolution on Estate policy matter.

7. **Comments of the Department on comments of Finance Department:**

- (i) "Inter-se" means the existing rates applicable for government category class of cases at different locations of Council properties.
- (ii) Sanction has been recommended "retrospectively" to give legal sanctity to the existing allotments/renewals to government entities.
- (iii) Law Department has vetted the proposal.
- (iv) Needful done.

8. **Legal implication of the subject**

Section 141 of the NDMC Act, 1994 states as under:

"(1) The Chairperson may, with the sanction of the Council, lease, sell, let out on hire or otherwise transfer any immovable property belonging to the Council.

(2) The consideration for which any immovable property may be sold, leased or otherwise transferred shall not be less than the value at which such immovable property could be sold, leased or otherwise transferred in normal and fair competition.

(3) The sanction of Council under section 140 of this section may be given either generally for any class of cases or specially for any particular case.

(4) Subject to any conditions or limitation that may be specified in any other provisions of this Act the foregoing provisions of section 140 and this section shall apply to every disposal of property belonging to the Council made under, or for any purpose of this Act.

(5) Every case of disposal of property under sub-section (1) of section 140 shall be reported by the Chairperson without delay to the Council."

In the above legal provision, attention is invited to Section 141(2), wherein it is stated that the renewal is subject to value which is normal and fair competition.

This proposed agenda proposes for allotment and renewal only to particular classes of cases as mentioned in the subject matter above. Since they are government bodies/entities, the rates/rent/premium of licence fee have to be distinguished from that of the private entities. The premium to be charged from these entities cannot be ascertained through action. They can be charged premium in normal and fair competition applicable inter-se among government entities mentioned above.

9. **Details of previous Council Resolutions on the subject:**

Resolution No.06 dated 18.3.1999

Resolution No.9(L-01) dated 30.9.2004

Resolution No.5(L-08) dated 06.2.2014

Resolution No.16(L-03) dated 20.6.2014

Resolution No.15(L-04) dated 27.8.2014

10. **Comments of the Law Deptt.**

Section-141 provides the provision for disposal of immovable property and under sub-section-1 of Section-141 of the NDMC Act the Chairman may with the sanction of the council, lease, sell, let out on hire or otherwise transfer any immovable property belonging to the Council. Sub-Section-2 of Section-141 further provides that the consideration for which any immovable property may be sold, leased or otherwise transferred shall not be less than the value at which such immovable property could be sold, leased or otherwise transferred in normal or fair competition.

In view of above if the Department is ensure that the draft agenda for allotment of the space is not in violation of the said section of the NDMC Act then the Department may proceed the case accordingly.

11. **Comments of the Department on the comments of the Law Deptt:**

The allotments are to be made as per the existing rates that are applicable inter-se in these class of cases. In case of revision, the revised rates shall apply.

12. **Certification by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case.**

There are no guidelines on the subject being a policy decision.

13. **Recommendations:**

- (i) Council properties to Central Government/State Government including Ministries, departments of Central and State Governments, Central/State Undertakings, Constitutional/Statutory bodies, Govt. of India and State

Government Undertakings and their Companies where the Central/State Government concerned owned the shareholding more than 75% etc., can be allotted on licence basis as per the existing rates that are applicable inter-se in these class of cases. In case of revision, the revised rates shall apply. The Council may sanction or authorize the Chairman to make allotments & renewals of above said government bodies/entities under the NDMC Act, 1994, retrospectively.

- (ii) Chairperson is also authorized to revise their licence fee from time to time.
- (iii) Chairperson shall cause to lay before the Council the list of properties so disposed to the government entities mentioned above before the Council.

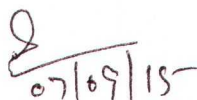
15. Draft Resolution

To be decided by the Council.

COUNCIL'S DECISION

In view of the provisions of section 141 of the NDMC Act, 1994, the Council resolved to sanction that :

- (i) Properties of the Council can be allotted to Central Government / State Government including Ministries, Departments of Central / State Governments; Central / State Undertakings; Constitutional / Statutory Bodies; Central / State Government Undertakings and their Companies where the Central / State Government concerned owned the shareholding more than 75% etc. on license basis as per the existing rates that are applicable inter-se in these class of cases by the Chairperson, NDMC.
- (ii) Sanction is accorded that the Chairperson, NDMC may revise licence fee from time to time to get fair consideration of such assets to the Council;
- (iii) The Chairperson, NDMC shall cause to lay before the Council the list of such properties so disposed of to such Government bodies / entities, within a period of three months from the date of such decision.


 07/09/15
 For Secretary
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