

ITEM NO. 17 (L- 16)

1. Name of the subject / project : Change of tenure from Licence to Leasehold/Freehold in respect of shops situated at Lodhi Road Market .
2. Name of the Department :
Estate-I Department
3. Brief History of the subject / project :
As per Reso. No. 9 dated 3.8.2000, the issue of transfer of ownership rights regarding following markets were discussed:-

Seven markets namely Basrurkar, Begum Zaidi, Kidwai Nagar South and Central, Laxmi Bai Nagar, Nauroji Nagar and Netaji Nagar Market were transferred by L&DO to NDMC against payment for land and cost of construction. The land is on lease.

Two markets namely the Pandara Road and Prithvi Raj Road Markets have been constructed by NDMC on the land allotted on lease hold basis by L&DO.

The Lodi Road market was constructed by CPWD and transferred to NDMC on payment for land and super structure.

Five markets namely the Babar Road Market, Baird Lane Market, Janpath Market, Panchkuian Road Market and Yusuf Zai Market were constructed by NDMC on road berms. The Master Plan for Delhi provide for relocation of these markets.

The present resolution is confined ourselves to the matters related to Lodhi Road Market. This market has been purchased by NDMC from CPWD i.e. the land belongs to Council and the super structure also belongs to Council.

In view of the above discussions, the Lodhi Road Market is entirely on different footing as land & super structure both are owned by NDMC as such the Council is competent to take a decision regarding disposal of this property as per Section 141 of NDMC Act 1994. Resolution No. 9 of 3.8.2000 has allowed the disposal of Lodhi Colony Market, copy of Resolution is enclosed herewith as annexure 'A' (See pages 153 – 163) of said resolution.

As per Para 5 (iv), the premium for the land for the Lodhi Colony Market also was to be charged at the predetermined commercial rates notified by L&DO, existing on the date of transfer for the locality/area where the shop is located and the other modalities as to how much is to be paid by shop or what percentage of land cost is to be paid by the shop allottees and how much is to be paid by the residential flats allottees on the first floor was also determined in the said resolution.

Para (v) stipulated that the cost of super structure shall be the present day replacement cost less depreciation as may be worked out by the Chief Engineer(Civil) of NDMC so a careful reading of Reso. No. 9 dated 3.8.2000 makes it clear that all the issues stand already decided.

Accordingly to implement the said Resolution, the letters were written by the then Chairman to the Hon'ble Lt. Governor being the Chairman of the DDA in the cases where markets are constructed on road berm and to the Land & Development Officer in the cases where the land was on lease from L&DO to NDMC. In this whole process due to inadvertent mistake nobody noticed clearly that the case of Lodhi Road Market, Council is competent to take a decision as per Section 141 of NDMC Act and at least in the case of this market no NOC or any other clearances are required either from DDA or from

L&DO. But unfortunately, the Lodhi Road Market is also got clubbed with the cases where the NOC of third agency was required. Now it can be seen that the said resolution is existent and it gives clear mandate to transfer the Lodhi Road Market on ownership basis. It also determines the land rate which is to be charged from the transferee and how the same is to be calculated. Finally it also determines as to what percentage of the cost of the land and super structure is to be borne by the shop allottees and what percentage is to be borne by flat owner. There were various resolutions which came up after this resolution where due to misinformation the issue was discussed again & again but fortunately in none of the resolutions, Council has not reversed its decision already taken in resolution No. 9 of 2000. The Council has simply deferred the decision so the resolution No. 9 of 2000 is still valid resolution and we can proceed as per this resolution.

However, as 14 years have lapsed since this resolution was passed and now is being contemplated for implementation so if the Council deems fit, the council may like to change the cut off date as given in Para-5 (i) (C) from 3.2.2000 to 3.2.2014.

It will not be out of place to mention here that this transfer will be financially beneficial for the Council a tentative calculation sheet regarding comparison between the present cash flow accrued from the market and the cash flow which will accrued from the market after transfer of ownership right is discussed in para-4.

This market is the only market where land as well super structure is owned by NDMC, thus any decision taken in respect of this market will not have any bearing on other markets because those markets are legally on a different footing as the land on which these markets are constructed upon is not owned by NDMC.

4. Financial implications of the proposed project / subject

I. As per list there are 38 licensees in Main Market Lodhi Colony. At present Estate Department is getting Rs.3, 47,224/- per month from these shops/flats.

(a) The L&DO rate for commercial purpose in this market is Rs.92, 602/- Per Sqmtr for 2014 -15 and circle rate of GNCTD is 19.3 lacs per sq.mtr.

Value as per L&DO rate	Value as per circle rate
2842 sq.mtr. X 0.926 lacs = 26.31 crores	2842 sq.mtrs. X 19.35 lacs = 549.92 crores.

(b) For residential properties above the flats the rate of L&DO are Rs. 37734 per sq. mtr. And the circle rate of GNCTD is 6.45 lacs per sq. mtr.

Value as per L&DO rate	Value as per circle rate
1420.78 sq.mtr. X 0.377 lacs = 5.36 crores	1420.78 sq.mtr. X 6.45 lacs = 91.64 crores

II. In addition to above one time capital gains, the Council is going to have following recurring income.

(a) For Commercial portion – Interest income of Rs. 3 crores per annum i.e. Rs. 25 lacs per month if the capital gain is as per L&DO's rates. Interest income of Rs. 66 crores per annum i.e. 5.5 crore per month if capital gain is as per GNCTD circle rates.

(b) For Residential portion - Interest income of Rs. 65 lacs per annum i.e. Rs. 5.5 lacs per month if the capital gain is as per L&DO's rates. Interest income of Rs. 11 crores per annum i.e. 90 lacs per month if capital gain is as per GNCTD circle rates.

(c) Property tax earnings of Rs. 16 lacs per annum i.e. 1.33 lacs per month.

- (d) Savings to the Council of the amount being spent for maintenance of the property including the consumables and salary of the employees.
- (e) If it is assumed that the market on being transferred on ownership basis will change hands through proper sale deed even once in 5 years, the transfer duty gains to the Council will be 25.62 crores i.e. approx. 5 crores per year which comes to Rs. 43 lacs a month.
- (f) All the above earnings are recurring & not one time.

III. In comparison of the likely income as explained above right now the Council is earning licence fee of 3.47 lacs per month only which comes to 41.64 lacs per annum.

5. Implementation schedule with timeliness for each stage including internal processing:
Not applicable.
6. Comments of the Finance Department on the subject:
This is an amending resolution the clause being amended does not have any financial implications thus No comments sought .
7. Comments of the Department on comments of Finance Department:
No comments required
8. Legal implications of the subject/Project: -

This market is the only market where land as well super structure is owned by NDMC, thus any decision taken in respect of this market will not have any bearing on other markets because those markets are legally on a different footing as the land on which these markets are constructed upon is not owned by NDMC.

A chart containing data of transfer of licence from year 2000 till date is enclosed as (Annexure-"B" See Pages 164 - 165)

9. Details of previous Council Resolution, existing law of Parliament and Assembly on the subject:

Reso. No. 9 dated 3.8.2000	Passed by Council
Council Reso. No. 3 (i) dt 3.2.2000	Deferred
Council Reso. No. 3 (i) dt.28.1.2002	Considered. Resolved by the Council that Information is noted and proposal in case of 5 markets existing on road berms i.e. Mpl. Market Janpath, Con. Circus, Panchkuin Raod, Baird Lane and Babar Road is approved on the same terms & conditions as already approved in case of other 10 markets.
Council Reso. No.07 (L-01) dt. 21.4.2010	Rescinded/withdrawn
Council Reso. No.04 (L-07) dt. 6.2.2014	Information noted
Item No.07(L-11) dated 10.9.2014	Put up for information of members in Council Meeting

10. Comments of the Law Department on the subject:
11. Comments of the Department on the comments of the Law Department:
Not applicable.

12. Certificate by the Department that all Central Vigilance Commission (CVC) guidelines have been followed while processing the case:
Not required.

13. Recommendations

The Council may like to amend Reso. No. 9 dated 3.8.2000 to the effect that the cut off date as given in Para-5 (i) (C) is changed from 3.2.2000 to 31.12.2014 or any date as deemed fit by Council. The decision of the Council may be implemented immediately in anticipation of confirmation of the minutes.

COUNCILS DECISION

The Chairperson prima facie explained that even though DDA has a clear policy for conversion to freehold, this agenda item is under consideration since 24.07.2014, we may wait for the full Council's Meeting in which elected MLAs and M.P. are also present.

Secondly, there was a resolution dated 12.09.2014 moved by Sh. K.S. Tanwar, the then Vice Chairperson, which may refer. In any case, this resolution may not be straightway adopted, as prior to this, Ministry of Home Affairs is also seized of this matter. The extant Hon'ble High Court & Apex Court orders have also to be kept in view and discussed by the Council before taking up this agenda item for a final decision.


16/2/15
For Secretary
New Delhi Municipal Council
Palika Kendra, New Delhi