

**THE MANAGEMENT AND TRANSFER OF PROPERTIES BY
DEVELOPMENT AUTHORITIES ORDINANCE 2014
(III OF 2014)**

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TEXT

THE MANAGEMENT AND TRANSFER OF PROPERTIES BY DEVELOPMENT AUTHORITIES ORDINANCE 2014 (III OF 2014)

[14th April, 2014]

AN ORDINANCE

To enable the Development Authorities in the Punjab strategically to manage and transfer immovable properties.

WHEREAS it is expedient to manage immovable properties of the Development Authorities in a manner that furthers Government's strategic goals, prevents underutilization of such properties, regulates transfer of properties in a manner that realizes its full potential in a fair and transparent manner and, to deal with incidental matters;

AND WHEREAS Provincial Assembly of the Punjab is not in session and Governor of the Punjab is satisfied that circumstances exist which render it necessary to take immediate action;

Now, therefore, in exercise of the powers conferred under clause (1) of Article 128 of the Constitution of the Islamic Republic of Pakistan, Governor of the Punjab is pleased to make and promulgate the following Ordinance:

CHAPTER I PRELIMINARY

1. Short title, extent and commencement.— (1) This Ordinance may be cited as the Management and Transfer of Properties by Development Authorities Ordinance 2014.

- (2) It extends to the whole of the Punjab.
- (3) It shall come into force at once.

2. Definitions.—In this Ordinance:

- (a) "Authority" means Lahore Development Authority, Bahawalpur Development Authority, Dera Ghazi Khan Development Authority, an Authority established under the Development of Cities Act, 1976 (*XIX of 1976*), a Trust established under the Town Improvement Act, 1922 (*IV of 1922*), the Punjab Housing and Town Planning Agency or any other body or entity notified by the Government;
- (b) "destitute" means a disabled person permanently incapacitated, otherwise than in the performance of public duty, and cannot earn his livelihood and includes a widow or a minor orphan whose monthly income does not exceed such limit as may be prescribed;
- (c) "Government" means Government of the Punjab;
- (d) "government agency" means a department, attached department of the Government, Federal Government or any other Provincial Government, a local government or a body corporate or an autonomous body,

owned or controlled by any of any such Government or a local government;

- (e) “property” means a plot, a building, an immovable property or a site and includes earth, water, and air, above, below, or on the surface, and any improvements in the structure customarily regarded as land, and benefits arising out of land, and things attached to earth or permanently fastened to the earth;
- (f) “partner” means a private party or a government agency, with whom an Authority enters into an agreement to undertake a joint venture;
- (g) “prescribed” means prescribed by rules or regulations made under the Ordinance;
- (h) “private party” means a person, company, entity, firm, association, body of individuals, or sole proprietor, other than a government agency;
- (i) “project” means a project approved for urban development, redevelopment, or renewal, and includes larger area plan, areas specified and notified for special use, traffic control plans, classification and reclassification plans, a housing scheme or zoning scheme;
- (j) “scheme” means a development scheme prepared by an Authority;
- (k) “transaction” means transfer, disposal or lease of a property and includes any contract for purposes of transfer or lease of a property of an Authority; and
- (l) “unsolicited proposal” means a proposal, offer or bid submitted by private party for a joint venture not in response to any formal or informal request by an Authority.

CHAPTER II TRANSFER AND MANAGEMENT

3. Transfer of property.— (1) Subject to this section, an Authority shall transfer its property through open auction, allotment by ballot, or through a joint venture with a partner whereby payment may be received in such instalments as determined by the Authority.

(2) An Authority shall categorise and transfer a property up to five *marlas* in the following manner:

| Sr. # | Category | Percentage |
|-------|--|------------|
| (a) | By open auction or ballot, as may be determined by the Authority, to the general public. | 90% |
| (b) | By ballot to defence personnel who become permanently disabled or the legal heirs of the defence personnel who lay down their lives in the discharge of official duties. | 3% |
| (c) | By ballot to such persons who become permanently disabled in the performance of functions or voluntary services in relation to the affairs of the Government, other | 3% |

than police personnel, or the legal heirs of the person who die while performing such functions or services.

- (d) By ballot to police personnel who become permanently disabled in the performance of duties or the legal heirs of the police personnel who lay down their lives in the discharge of duties. 3%
- (e) By ballot to a person declared destitute by the Government. 1%

(3) An Authority shall transfer a property mentioned at serial Nos.2 to 5 in the Table given in subsection (2), if:

- (a) all the terms and conditions specified by the Authority for the allotment of such category of property stand fulfilled; and
- (b) the property is available for transfer in a housing scheme.

(4) An Authority shall not transfer a property under subsection (2) unless all claims of exemption by the landowners are satisfied prior to categorization of properties under that subsection.

(5) An Authority shall transfer public amenity and public utility property including property for health, education, mosques and graveyards in such manner and on such conditions as may be prescribed.

(6) An Authority shall transfer other categories of properties including commercial and industrial properties through auction, ballot or through a joint venture with a partner, as may be prescribed.

4. Management of property.—An Authority may give its property on lease or rent through auction, single or two-stage bidding, or managed through a joint venture with a partner, on such terms and conditions as may be prescribed.

5. Joint ventures.—(1) An Authority may transfer or manage its property by means of a joint venture with a partner, in which case, the Authority may:

- (a) provide equity in the form of land, structures, financial investment, development works, services, concession of rights, or a combination thereof;
- (b) receive in equity from the partner, financial investment, development works, services, developed property, structures, or a combination thereof; and
- (c) receive from or share with the partner, financial profit, or property, in any proportion and combination.

(2) A proposal for a joint venture submitted by a private party to an Authority together with a written confirmation that it is financially viable shall be treated an unsolicited proposal.

(3) An unsolicited proposal:

- (a) shall be accompanied by a feasibility study and a draft agreement;
- (b) shall be considered from all aspects, specifically technical, environmental and financial aspects by the Authority and it may seek additional information from the party submitting the unsolicited proposal; and
- (c) if approved, shall be taken to single or two-stage bidding as may be prescribed, provided that the private party that submitted the unsolicited proposal is given such preferential weightage in the

overall evaluation as may be prescribed, and also the first right to match or improve the best offer received in response to the bidding.

(4) The provisions of the Punjab Public Private Partnership Ordinance 2014 (*II of 2014*) or any other law on the subject for the time being in force shall not apply to a joint venture project undertaken under this section.

(5) The Authority shall select the partner for a joint venture through open competitive bidding through single or two-stage bidding as may be prescribed but may enter into direct contracting through a joint venture with a government agency in public interest.

(6) If the party submitting the unsolicited proposal fails to match the best offer, the Authority shall direct the successful bidder to reimburse to the party that submitted the unsolicited proposal such reasonable cost incurred on the preparation of the unsolicited proposal as the Authority, after affording an opportunity of hearing to both the parties, may determine.

(7) For purposes of undertaking a joint venture, an Authority may incorporate a company or a special purpose vehicle, to which the Authority may transfer its property intended for transferor management through joint venture.

CHAPTER III MECHANISMS

6. Ballot.— An Authority shall conduct computerised ballot for public for the transfer of property by registering, through public invitation, applicants in advance and on receipt of such earnest money as may be prescribed.

7. Auction.— An Authority shall conduct ascending auction after registering in advance and through public invitation the interested bidders and on receipt of such earnest money as may be prescribed.

8. Single stage bidding.—(1) An Authority shall conduct bidding by receiving sealed technical and commercial proposals separately from each bidder, and after initially evaluating the technical proposal on the criteria announced in advance, without opening the commercial proposal.

(2) The Authority shall open the commercial proposals of only those bidders whose technical proposals have been approved and select the bidder making the best commercial offer.

9. Two-stage bidding.—(1) An Authority shall conduct the first stage of bidding by receiving sealed proposals containing a development option along with a business plan of the proposed development on the basis of prior publication of basic information necessary to create a proposal.

(2) The Authority shall select the best development proposal from the multiple options proposed and adopt it as the criteria, after necessary modifications, for the second stage of the bidding.

(3) The Authority shall conduct the second stage of the bidding in the manner of single-stage bidding as prescribed in section 9, provided that the bidder whose proposal was selected under subsection(2) shall be allowed first right to match or improve the best commercial offer.

10. Prequalification.— (1) An Authority may prequalify bidders in case of single or two stage bidding based on their legal, technical, managerial, or financial capacity, or a combination thereof, provided that criteria for prequalification is published in advance.

(2) In case the process of prequalification is adopted, the prequalified bidders alone shall be entitled to participate in the subsequent competition.

(3) If the prequalified bidder retains the lead role, he may form an association, alliance, joint venture, consortium, or any other form of partnership with any other person or non-prequalified bidder for submitting the bid.

CHAPTER IV TRANSPARENCY

11. Principles of bidding.—An Authority, while engaging in open competitive bidding, shall ensure that the bidding is conducted in a fair and transparent manner which results in the best return to the Authority.

12. Public notice.— An Authority shall give at least fifteen days prior public notice of any intended transaction by publishing it in at least two leading newspapers printed in English and Urdu, as well as on its website.

13. Public disclosure.— (1) An Authority shall publish results of a transaction on its website within ten days of the execution of the transaction.

(2) An Authority shall publish an annual digest of the transactions that are available.

(3) The digest shall be available for sale at such price as the Authority may fix *inter alia* to defray the cost on the publication and sale of the digest.

(4) An Authority shall make public the proceedings relating to all the transactions along with related documents and shall maintain such records of transactions for a minimum period of five years or for such additional period as the Authority may determine.

14. Geo-referenced inventory.—(1) An Authority shall maintain a geo-referenced inventory of its property with valuation, usage, and any income being earned from the properties.

(2) An Authority shall publish the geo-referenced inventory on its website and shall annually update the inventory at the end of each fiscal year.

15. Compliance audit.—An Authority shall carry out an annual third-party audit of each transaction for evaluating regulatory and procedural compliance of the transaction and shall take appropriate remedial and other necessary action in the light of the audit report.

16. Appellate Tribunal.— (1) The Government shall, by notification in the official Gazette, constitute an Appellate Tribunal.

(2) Any person aggrieved from a final order passed by an officer, authority or agency of an Authority regarding transfer, lease or any other matter consequential thereto may, within fifteen days from the date of receipt of the order, prefer an appeal against the order to the Appellate Tribunal.

(3) The Government may, in the prescribed manner, regulate the procedure and proceedings before the Appellate Tribunal.

17. Appeal.— Any person aggrieved from a final order passed by the Appellate Tribunal may, within thirty days, prefer an appeal against the order to the Lahore High Court Lahore.

CHAPTER V MISCELLANEOUS

18. Categorization.—(1) At the time of sanction of a scheme, an Authority shall:

- (a) categorize the properties or plots in the scheme as residential, commercial, industrial, public building or public amenity properties and such other category as may be prescribed; and
- (b) indicate the number of properties or plots, area covered by the properties or plots and any public utility areas in the scheme.

(2) An approved scheme shall not be altered or amended except with the prior approval of the Authority.

19. Special dispensation.— Notwithstanding anything contained in this section, Government may, in such special circumstances as may be prescribed, allow transfer or lease of a property in such manner, at such rate and on such terms and conditions as it may determine.

20. Rules.— The Government may make rules for carrying out the purposes of this Ordinance.

21. Regulations.— An Authority may, subject to this Ordinance and the rules, make regulations for carrying out the purposes of this Ordinance.

22. Committees.— An Authority may constitute such financial, technical and advisory committees as may be deemed necessary for carrying out the purposes of this Ordinance and the committee shall exercise such powers and perform such functions as may be delegated or assigned by the Authority or as may be prescribed.

23. Power to delegate.— An Authority may, subject to such conditions as may be prescribed, delegate any of its functions under this Ordinance to an officer of the Authority, or a committee, or an agency, or a company, or a special purpose vehicle legally established by the Authority, except the power to make regulations, approve the budget or a scheme or a joint venture.

24. Repeal and savings.—(1) The Disposal of Land by Development Authorities (Regulation) Act 1998(*XII of 1998*) is hereby repealed.

(2) The repealing of the Act under subsection (1) shall not:

- (a) revive anything not in force or existing at the time when the repeal takes effect;
- (b) affect anything done, action taken, orders passed, instruments made, notifications issued, proceedings initiated by an Authority under the repealed Act; or
- (c) affect any obligation or liability acquired, accrued or incurred under the repealed Act; or
- (d) affect any proceeding instituted, continued or enforced under the repealed Act, and any such proceeding instituted, continued or enforced under the repealed Act, shall be deemed to be instituted, continued or enforced under this Ordinance.