

## **Compilation of recent decisions on Transfer of Dwelling Units (DUs) and Execution of Conveyance Deed**

Based on legal advice on the existing procedures followed by IRWO on transfer of dwelling units and execution of conveyance deed, the following has been decided:

- i) Allottees should execute Conveyance deed immediately after taking over of possession in respect of flats/dwelling units allotted to them, as soon as the completion/occupation certificate in respect of the housing scheme/project is received from the concerned Authority/Department.
- ii) To avoid legal problems, with immediate effect No Objection Certificate (NOC) for transfer of DU shall be given only in cases where completion/occupation certificate has been received and where conveyance/sub-lease deed has been executed.
- iii) If the DU has not been registered in the name of the original allottee, the same should first be registered in the name of the original allottee.
- iv) In case of transfer of DU, the transferor and transferee should ensure execution of transfer documents (conveyance/sale deed) and registration of DU as well as submission of a copy of these documents in IRWO's office within three months of issue of NOC. Otherwise NOC would be revoked.
- v) Transfer of DU shall be recognized from the date of execution of sale deed and transferee's rights shall be placed on record in IRWO only upon receipt of a copy of sale/conveyance deed.
- vi) Subsequent transfers shall not be possible unless the DU has been registered in the name of the transferee.

Transfer of any property is basically governed and controlled by three Acts, the Transfer of Property Act, 1882, the Registration Act, 1908, and the Indian Contract Act, 1872, apart from the Stamp Act. If a transfer of immovable property is inconsistent with or contrary to any of the provisions of any of the three Acts mentioned, the transfer may be void or voidable.

Accordingly, sale of an immovable property must be completed only by a deed duly registered except in case of an immovable property which is of the value of less than Rs. 100/-

### **Sub-lease deed for DUs in the projects in Noida, UP**

As per Hon. Supreme Court's ruling given on 10.9.2010, the tri-partite agreement (sub-lease deed) between Noida Authority, IRWO and the allottee on payment of requisite stamp duty, is essential. Hon. Court has given six months time to members of Societies in Noida to get the sub-lease registered, after which penalty would be leviable.

2. As such, all those allottees in Noida schemes who have not yet executed the sub-lease deed, are advised to apply to IRWO along with the requisite fee of Rs 500/- for obtaining the draft

conveyance deed format. After 9<sup>th</sup> March 2011, penalty may be levied by NOIDA for delay in registering the sub-lease deed.

### **Annexures F of IRWO General Rules**

Meanwhile, the Annexures F required for applying for transfer of Dwelling Unit by sale have also been revised. The revised formats are available on IRWO's website. Applications for transfer of DU through sale would be accepted in IRWO's office only on the revised formats with effect from 1<sup>st</sup> October 2010.