

NIIB(ND)/DRS/Pol-No.18/2006
November 23, 2006



राष्ट्रीय
आवास बैंक
NATIONAL
HOUSING BANK

TO ALL REGISTERED HOUSING FINANCE COMPANIES

Dear Sir,

HOUSING LOANS – ORDERS OF THE DELHI HIGH COURT-WRIT PETITION BY KALYAN SANSTHA WELFARE ORGANISATION AGAINST UNION OF INDIA AND OTHERS- IMPLEMENTATION OF DIRECTIONS

Please refer to our Circular No. NHB(ND)/DRS/POL-12/2006 dated March 16, 2006 regarding exposure to Real Estate Sector.

2. During the hearing in the captioned Writ Petition, the Hon'ble High Court of Delhi has directed as under:

“We hereby direct that henceforth Banks will check whether the loan sought for is for authorized structure or an unauthorized structure and the Banks will obtain an undertaking on an affidavit from the parties seeking such loans that the building is constructed as per sanctioned building plans. Banks shall also ensure that the sanctioned building plans are attached with the undertaking. Let necessary directions be issued in this regard either by the concerned Ministry of Banking or the Reserve Bank of India”.

3. In this context, the Monitoring Committee constituted by the Hon'ble High Court of Delhi regarding Unauthorised Construction, Misuse of Properties and Encroachment on Public Land, has issued the following directions for immediate compliance by the banks/Financial Institutions:

A. Housing Loan for building construction

i) In cases where the applicant owns a plot/land and approaches the HFCs for a credit facility to construct a house, a copy of the sanctioned plan by competent authority in the name of a person applying for such credit facility must be obtained by the HFCs before sanctioning the home loan.

ii) An **affidavit-cum-undertaking** must be obtained from the person applying for such credit facility that he shall not violate the sanctioned plan, construction shall be strictly as per the sanctioned

plan and it shall be the sole responsibility of the executant to obtain completion certificate within 3 months of completion of construction, failing which the HFC shall have the power and the authority to recall the entire loan with interest, costs and other usual bank charges.

iii) An Architect appointed by the HFC must also certify at various stages of construction of building that the construction of the building is strictly as per sanctioned plan and shall also certify at a particular point of time that the completion certificate of the building issued by the competent authority has been obtained.

B. Housing Loan for purchase of constructed property/built up property

i) In cases where the applicant approaches the HFC for a credit facility to purchase the built up house/flat, it should be mandatory for him to declare by way of an affidavit-cum-undertaking that the built up property has been constructed as per the sanctioned plan and/or building bye-laws and as far as possible has a completion certificate also.

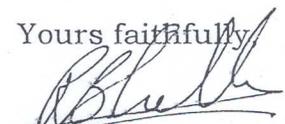
ii) An Architect appointed by the HFC must also certify before disbursement of the loan that the built up property is strictly as per sanctioned plan and/or building bye-laws.

C. No loan should be given in respect of those properties which fall in the category of unauthorized colonies unless and until they have been regularized and development and other charges paid.

D. No loan should also be given in respect of properties meant for residential use but which the applicant intends to use for commercial purposes and declares so while applying for loan.

4. Housing Finance Companies are advised to strictly comply with the above directions with immediate effect.

Yours faithfully,


(R. Bhalla)

General Manager