



**Capital Development Authority
(Secretary CDA Board Office)**

CONFIDENTIAL

No. CDA-1307/BM-SCB/2016/

Islamabad July 29, 2016

Subject: **Minutes of 13TH CDA Board Meeting for the Year 2016.**

13th CDA Board meeting for the year 2016 was held on **July 29, 2016 (Friday) at 11:30 A.M and 02:30 P.M**, in the Conference Room of Executive Block, CDA Headquarter, Islamabad under the Chairmanship of Chairman, CDA.

2. Following attended the meeting:

- 1) Mr. Maroof Afzal, (In Chair)
Chairman, CDA
- 2) Mr. Waseem Ahmed Khan,
Member (P & D), CDA
Member Estate, CDA (*Look after charge*)
- 3) Mr. Sana Ullah Aman
Member (Environment), CDA (*Look after charge*)
FA/Member, CDA (*Look after charge*)
- 4) Mr. Amer Ali Ahmed
Member (Admin.), CDA
- 5) Mr. Asif J Shahjahan (T.I.),
Secretary CDA Board.

3. Chief Commissioner ICT and Commissioner Rawalpindi as members of the Board could not attend the meeting. In addition to the Chairman/ Members, DDG(L&E), Director EM-1(East), DDG(Law), Director (Law), Addl. Legal Advisor (Raja Adnan & Mr. Kashif Ali Malik), Director B.C, Director BNP, D.M.Legal, BNP, Mr. Abdul Hafeez Sheikh, CEO BNP, Mr. Qamar Afzal, Legal Counsel for BNP also attended the meeting. Meeting commenced with the recitation of "Holy Quran" by Mr. Asif J Shahjahan (T.I.), Secretary CDA Board. Thereafter agenda item was taken up for discussion and the following decisions

were made:-

13.1 DECISION DATED MARCH 08, 2016 "SUBMISSION OF INQUIRY REPORT AND FOLLOW UP"
10786/1307/BM/'16
29-07-'16/13TH

In pursuance of Honorable Islamabad High Court judgment dated 03,03,2016 passed in writ petition No. 3755/2014 titled BNP (PVT) LTD versus CDA etc., the Board of Capital Development Authority convened a Board meeting on 29th of July 2016 to give an opportunity of hearing to the petitioner M/s BNP (PVT) LTD.

2. POINT OF VIEW OF CEO, BNP (PVT) LTD.

Mr. Abdul Hafeez Sheikh, CEO, BNP (PVT) LTD along with his legal team attended at 11:30 am and articulated his point of view. He however mentioned that as the time was changed from 2:30 pm therefore he could not bring his council. The board considered his point of view and decided to reconvene at 2:30 pm and afford an opportunity to him to fully explain his point of view. Accordingly the meeting was held at 2:30 in which Mr. Pasha appeared with his council Mr. Qammar Afzal and pleaded his case. Details are as follows:

- That the project is of sponsors and CDA should also own the project.
- That the entire case revolves around a para raised by Public Accounts Committee, CDA, according to him had defended the same before the PAC and now apparently is taking a different stance, all process of allotment and subsequent actions have been executed as per laid down parameters of lease agreement and strictly in accordance with law.
- That re-scheduling had been ratified already by CDA Board in the past after due process and hence this matter be considered closed.
- That as a result of malafide action of sealing the premises by CDA, M/s BNP (PVT) LTD has approached the court of law for justice.
- That the court has declared the sealing as unlawful act.
- That the premises be un-sealed to avoid further loss to the company and timely completion of the project.
- That the case is sub-judice and therefore further decision be restricted until disposal of the case from the courts.

As regards to delay in construction of the Hotel, he added:

- That delay in construction of Hotel was caused due to various factors as stated below:
 - a. Due to earthquake in October 2005, the project was put on stand-still and got delayed due to late approvals from CDA for re-scheduling.

- b. Approval of building plans based on revised parameters framed in the light of seismic changes.
- c. On the objection of CAA, decrease of height of the tower.
- d. Filing of civil suit against CDA claiming that the company had sustained loss due to failure of the authority to obtain the requisite NOC from CAA.
- e. Initiation of investigations by law agencies also affected to slow down the pace of work. However, piling has already been commenced at site.
- f. They claimed that an application had been submitted to CDA regarding intimation of applicable height of Hotel Tower and the same is allegedly yet to be replied.

As regards to Service Apartments, he added:

- a. Service Apartment concept is in line with CDA regulation for service apartment, high rise building and multi units.
- b. At the time of transfer of rights to the owners, a managing committee shall be constituted within amongst the owners to look after the services which shall be regulated by CDA.
- c. As per clause 2.6, rights can be leased.

He concluded with the request once again to de-seal the premises.

DECISION

The Board after hearing point of view from both parties and carrying out deep analysis of the arguments presented, observed/decided the case on the following basis:

- That BNP Group (comprising of i.e. Bismillah Textile (Pvt) Ltd, ii. Niagara Mills (Pvt) Ltd, iii. Paragon City (Pvt) Ltd, iv. Belhasa International Company LLC, participated in the bidding process and was declared as the highest bidder.
- BNP (Pvt) Limited, formerly known as, 'Elite Home Fashions (Pvt) Limited', which was a 'separate business entity' from the 'BNP Group', without participating in the entire bidding process managed to sign the sale deed with CDA on 28.07.2005.
- That as per company ordinance 1984, any private limited company that under goes into such agreement under such circumstances is bound to

declare both present and former names of the companies side by side on all legal contracts for at least a period of one year.

- That the several relaxations are extended to BNP Group from time to time in contradiction to rules and regulations which facilitated the developer to the detriment of the CDA and thus caused huge loss to the CDA.
- That the BNP Group affected these changes in terms & conditions and are accountable for their actions at appropriate forum.
- That without seeking completion certificate, the petitioner has committed a serious violation of CDA laws and regulations by handing over possession to third parties as has been mentioned in his writ petition filed in Islamabad High Court. The creation of third party interests without obtaining 'completion certificate' or permission from CDA was absolutely illegal and amounted to fraud.
- That as regards the involvement of CDA officials in this project at the relevant times, the Board decided that appropriate action may be initiated by the competent forums.
- That the site which was initially declared as hotel site and auctioned as one; is not utilized yet, which was an integral part of the project. This along with several other issues pointed out above is a clear violation of CDA by-laws

Accordingly, the Board decided to cancel the lease agreement/allotment of M/s BNP (PVT) LTD, in accordance with law after completing due process. The concerned directorate should complete all codal formalities in this regard.

**Action By: Member (P&D). Member Estate
DDG(L&E). Director BC**

13.2 DECISION ON ISLAMABAD HIGH COURT'S JUDGMENT.

13.3 EXTENSION IN COMPLETION PERIOD OF APARTMENT PROJECT IN ZONE- II, ISLAMABAD. (ZARKON HEIGHTS).

13.4 REFUND OF BID SECURITY/ EARNER MONEY OF RS. 6.125(M) TO M/S AEC & CO

13.5 ADJUSTMENT OF DIMENSIONS OF PLOT NO. 1435 & 1435-A SECTOR I-14/1, ISLAMABAD. (WAFaqI MOHTASIB CASE).

- 13.6 DELAY IN PAYMENT OF OUTSTANDING AMOUNT TO THE CONSULTANT M/S AHED ASSOCIATES FOR THE DESIGN OF CDA HEADQUARTER BUILDING AT MAUVE AREA G-8/4 ISLAMABAD.
- 13.7 ALLOTMENT OF PLOT (MST. BI GUL FATIMA D/O JAM ZAMAN SHAHWAS).
- 13.8 DISCRIMINATION IN ALLOTMENT OF PLOTS- SHOUKAT MEHMOOD AND TWO OTHERS.
- 13.9 ALLOTMENT OF PLOT FOR OFFICE ACCOMMODATION OF COMPETITION COMMISSION OF PAKISTAN.

The above items 13.2 to 13.9 could not be discussed.

The meeting concluded with a word of thanks to and from the Chair.

