

BriskLumbini Apartment Resident Welfare Association

Registered as a Society under Section 9(1) of the Haryana Registration and Regulation of Societies Act, 2012 vide Registration Certificate no. 0793 dated 20.05.2019

MINTUES OF MEETING OF GOVERNING BODY **of** **BriskLumbini Apartment Resident Welfare Association**

Date 09 November 2019 at 6 p.m.

Venue Club House of Brisk Lumbini Terrace Homes, Sector 109, Gurgaon

Agenda To discuss the points arising from meeting of two members with the builder.

The Governing Body thanked two members of the RWA, Mr. VK Mutreja and Mr. Anmol Ratan Bakshi who had met Mr. Harish Gahlot, Managing Director of Brisk Infrastructure and Developers Pvt. Ltd. to try to arrange a meeting with the RWA Governing Body. These two members were invited to this meeting of the Governing Body to narrate the discussion with the builder but only Mr. Anmol Ratan Bakshi attended this meeting. These two members have reported on Whatsapp the summary of the discussion with Mr. Gahlot as follows.

1. The builder wanted the Governing Body to be reconstituted.
2. The builder wanted the Deed of Apartment to be signed by all the flat owners.
3. The builder will discuss other issues only after the Governing Body has been reconstituted.
4. The builder stated that the electricity bill has not been paid by some flat owners.
5. Mr. Bakshi asked the builder to reduce the high cost of maintenance charges to Rs.1.50 per sq. foot but did not receive any reply from the builder in the meeting.

1. Reconstitution of the Governing Body

The Governing Body discussed (i) the builder's demand for reconstitution of the Governing Body and (ii) the response of flat owners to this demand. It was decided that, as demanded by the majority of flat owners, the best way for reconstitution is election by the members. Therefore it was decided to call for election to the Governing Body.

As a first step the list of flat owners who have paid the membership fee is being published. Some flat owners have paid the fee but not submitted the membership form. They must complete the formalities required by the law (Haryana Registration and Regulation of Societies Act, 2012) to become eligible to vote in an election. Mere payment of the membership fee does not make a flat owner a member.

A notice as required by law will be issued calling for nominations for all the posts and the complete legal process will be followed transparently as per the Act.

2. High Maintenance Cost to be reduced

The most critical issue before the flat owners is the **high maintenance charges by FCFML**. The Governing Body decided that this issue must be addressed by the builder first before any other issue is taken up. This can be done by transparency in conduct of the maintenance services by FCFML or any other maintenance agency. It has been felt by the members that the cost of doing the maintenance is much less than what is charged by FCFML and the builder should reduce the charges to Rs.1.50 per square foot excluding the common area electricity charges.

3. Deed of Apartment

The Deed of Apartment is a legal document to be submitted by a buyer of a flat after the Deed of Declaration has been filed by the builder, Brisk Infrastructure and Developers Pvt. Ltd. The builder received OC (occupation certificate) issued by the Director General, Dept. of Town Planning, Govt. of Haryana, Chandigarh vide DTP letter ZP-508/SD(SB)/2016/991 dated 19.5.2016. The DoD (Deed of Declaration) filed by the builder on 2.3.2017 under section 2 read with section 11 of the Haryana Apartment Ownership Act, 1983 has several legal lacunae and illegalities.

This so-called RWA mentioned in the Deed of Declaration was never registered as required by Haryana Registration and Regulation of Societies Act, 2012. An RTI (right to information) application was made by flat owners to the Registrar of Societies, Gurgaon in 2018 who confirmed in writing that in his records no RWA existed for Brisk Lumbini Terrace Homes. Thereafter some flat owners decided to form a RWA and this RWA formed by the flat owners after a lot of difficulty was registered vide registration certificate no. 0793 dated 20.5.2019 issued by the District Registrar of Societies, Gurgaon. BriskLumbini Apartment Resident Welfare Association is the only RWA in Brisk Lumbini Terrace Homes and there is no other RWA in Brisk Lumbini Terrace Homes. Its bylaws have been approved by the government of Haryana.

The RWA mentioned in the DoD in March 2017 is defunct and does not exist. The byelaws stated in the DoD have to be replaced by the bylaws of the duly registered RWA approved by the government of Haryana in 2019. The builder has to file a revised Deed of Declaration after removing the errors in the Deed of Declaration dated 2.3.2017.

Just three examples of the mistakes and legal infirmities in the said DoD are as follows:

1. The voting right is “one vote for one flat”. The DoD has stated the voting right is as per area of the flat. This is legally invalid.
2. The flat owners together (and the RWA that represents them) have the right to the terrace of a building or any terrace over the lobby of a tower. The DoD wrongly states that some selected members have the exclusive right to the terrace. This is illegal. No individual can have the exclusive right to the terrace of any of the towers.
3. The bylaws stated in the DoD are at variance with the RWA bylaws approved by the Registrar of Societies in 2019 and need to be replaced by the bylaws of the registered RWA, namely bylaws of BriskLumbini Apartment Resident Welfare Association.

These are just three examples of legal infirmities and lacunae in the DoD filed by the builder. The Deed of Declaration has to be revised and corrected by the builder.

A flat owner can file the Deed of Apartment only after the Deed of Declaration dated 2.3.2017 has been corrected by the builder and a legally valid DoD has been filed.

4. Electricity bill should be raised by BIDPL as the PEC is in name of BIDPL

The Governing Body discussed the matter of electricity bills. The RWA had written a letter to the builder on 20.10.2019 just after the last meeting of the flat owners stating that the electricity bill should be raised by the builder BIDPL as DHBVN has provided the single point permanent electricity connection (PEC) for Brisk Lumbini Terrace Homes group residential housing project in the name of BIDPL. Every flat owner should receive the electricity bill from BIDPL. If the electricity bill is still raised by a third party with which neither any flat owner nor the RWA has any contract, then the flat owners should write the cheque in the name of Brisk Infrastructure and Developers Pvt. Ltd. which is the developer of the project and in whose name DHBVN has provided the electricity connection for the Brisk Lumbini Terrace Homes group residential housing project. The payment for the electricity bill must not be made to any other party such as FCFML.

The RWA will not be responsible for any flat owner who pays the electricity bill to any party such as FCFML and does not pay the electricity bill to Brisk Infrastructure and Developers Pvt. Ltd. If any flat owner wants to pay the electricity bill by online remittance, he should discuss the modality with the RWA which will coordinate the online payment of electricity bill to BIDPL.

The builder should also install separate meters for common areas to record the consumption of electricity in the common areas.

In summary, the RWA Governing Body states that the RWA wants to work in cooperation with the builder. All the issues can be sorted out. However, our request to the builder is to first take care of maintenance charges rate which we believe should be between Rs.1.50 and Rs.2 per square foot including common area electricity charges for a small society of our size. Once the maintenance charges is taken care, we will be willing to work with builder for the remaining points.



President of BriskLumbini Apartment Resident Welfare Association