

MINUTES OF MEETING

of Members of BriskLumbini Apartment Resident Welfare Association

Disclaimer:

These are revised Minutes of the Meeting. The earlier version of the MoM in which the first item stated in these revised MoM was missed from inclusion is hereby withdrawn and is deemed cancelled and superseded by these revised Minutes of the Meeting.

Date 01 December 2019 at 3 p.m.

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

Agenda To discuss the developments since the last meeting held on 20.10.2019, and decide the future course of action by the RWA.

Attendance The meeting was attended by 40 flat owners.

1. Waiver of 14 days' notice for calling this General Body Meeting of Members

It had been pointed out by a member that fourteen days' notice is needed for calling a General Body Meeting of Members. As a procedural step, the first item taken up was to seek and approve waiver of this notice.

The president proposed that the members present waive this notice of fourteen days. The members raised their hands in approval and the proposal was accepted unanimously by a show of hands.

2. Presentation of maintenance charges and profiteering by the builder

Cdr. Sushil Kumar, vice president of the RWA, made a presentation on LED screen showing

- (a) the amounts charged by the builder through its maintenance agency FCFML;
- (b) the amounts furnished by FCFML in its audited accounts to the government.

The audited accounts submitted by FCFML to the government for the first financial year ended 31.3.2017 showed only Rs.34 Lakh collection of maintenance charges for the flats whereas the collection should have been about one crore in 8 months of maintenance from 1.8.2016 to 31.3.2017 based on the rate of Rs.2 per square foot charged by FCFML for the total area of 6.28 lakh square feet.

This means that in all likelihood the builder was not paying any maintenance charges for the flats not sold by him, and the owners who had bought the flats were funding the entire expenses of FCFML including the share which the builder should have paid. Again the audited accounts of FCFML showed a profit on collection of Rs.34 lakh for 8 months. This means that the expenses were about Rs.4 lakh per month.

FCFML has charged for maintenance at these rates:

- @ Rs.2.00 from 1.8.2016 to 31.7.2017 (one year)
- @ Rs.2.30 from 1.8.2017 to 31.10.2017 (3 months)
- @ Rs.3.00 from 1.11.2017 to 31.7.2019 (21 months)
- @ Rs.2.50 from 1.8.2019 to 31.10.2019 (3 months)

The amount that should have been collected by the builder through FCFML in the 39 months is estimated to be about Rs.6 to 7 crore or about Rs.15 lakh per month on the basis of these rates and the super area of the 274 flats.

It was seen that FCFML has not filed any accounts with the government for the period from 1.4.2017 onwards. This is a clear violation of the law. The accounts for this period are not available. However, the expenses for the audited period 2016-17 as submitted to the government were only about Rs.4 lakh per month. It might have increased by 50% over 3 years. Therefore it should have been about Rs.6 lakh per month. However, FCFML collected Rs.15 lakh per month.

This indicates that the builder has profiteered to the extent of several crore at the cost of flat owners. Obviously the owners who bought the flats have been made to pay perhaps two times the entire expenses of maintenance and no amount has been paid by the builder for unsold flats or flats of which possession has not been given.

It was also presented in a slide that FCFML claimed that the cost of diesel oil for electricity generated by the DG set and supplied to the residents was about Rs.10 to 12 lakh per month before PEC depending upon use of airconditioners. (This is what the FCFML officials often mentioned when expense details were sought.) The total collection of maintenance charges at the rate of Rs.3 was or should have been Rs.19 lakh for 274 flats. This means that the cost of maintenance was about Rs.7 to 9 lakh per month. After the PEC was connected, the cost of diesel oil was separated from maintenance charges and the cost of diesel oil was being collected as electricity charges separately from maintenance charges. Therefore the cost of only Rs.7 to 9 lakh towards maintenance should be borne by the residents. Even if the amount is taken as Rs.10 lakh, the cost still works out to just Rs.1.50 per square foot of the super area of the flat. There is absolutely no justification for charging any amount more than Rs.1.50 per square foot.

Actually based on these factors, the cost does not appear to have been more than Rs.1.50 per square foot at any time in the past from 2016 onwards. If the maintenance charges are properly calculated, each flat owner may claim to get a refund of at least one lakh rupees for this 39 month period.

3. Action by the RWA

DHBVN disconnected the electricity supply on Friday, 22 November as the builder did not pay any bill of DHBVN. Cdr. Sushil talked to the Jr. Engineer and SDO and got the

electricity reconnected with a breather of just one day to make the payment. The RWA filed a police complaint on 23 November and several residents went to the police station. After the police talked to Mr. Hitesh Gahlot on phone, DHBVN agreed to wait for payment for a few more days. Mr. Hitesh Gahlot came to Brisk Lumbini Terrace Homes on 24 November afternoon and talked of making part payment of the bills and asked the RWA to collect the remaining amount. He also promised to send Minutes of Meeting to the residents but he never sent any such MoM.

The RWA sent an email to the builder stating that it will try to collect the unpaid amounts if the maintenance service is handed over to the RWA. The builder did not reply but its Dy. GM, Mr. VN Tiwari asked the RWA to give an affidavit on stamp paper undertaking to collect the amount and pay to the builder with 18% interest. Then the RWA filed a case in Gurgaon court and obtained a stay order restraining DHBVN from disconnecting the electricity. The next date of hearing is 4 January 2019 when the builder has to state why it did not pay the bills to DHBVN despite collecting money from the flat owners and why should the electricity supply not be continued to those owners who have paid the bills.

The members were also informed that the Deed of Declaration executed by the builder is defective and illegal. The RWA has written to the Senior Town Planner and Registrar of Societies in this regard. If positive response from these officers is not forthcoming, the RWA will challenge the defective and illegal DoD in the court.

4. Flat owners fraudulently cheated by builder & its agent on the pretext of GST

The flat owners were informed that the RWA has come to know that the GST registration 06AAEFF7766J1Z1 of FCFML was cancelled on 30.4.2018 and the builder through its agent has been deceiving the flat owners by illegally charging 18% GST in the maintenance bills though it does not have a valid GST registration and cannot take even a rupee as GST. This information is available on GST website and can be verified by owners using the website <https://services.gst.gov.in/services/searchtp>

The RWA is taking suitable legal action in this matter. If it succeeds, the flat owners may get a refund of several million rupees. The RWA also informed the members that FCFML has not raised any maintenance bills after the last bill raised by it on 28 August for the period up to 31 October 2019 - perhaps because its deception has been discovered by the RWA.

The flat owners were urged to join the core team of the RWA in its efforts to help in saving money of the owners by suitable action.

5. Elections

It was stated that the governing body of the RWA has decided to call for elections to all positions in the governing body. The process of election has been initiated by announcing the elections to the Registrar of Societies, who has been requested to

depute an official observer. The elections may take place in the months of January or February 2020.

Some flat owners said that they do not want any elections and want the current governing body to continue without any election. However the governing body declared that elections will be held and those who want to contest election to a post may file nomination for that post.

Mr. Avinash Singh suggested that more flat owners should become members of the RWA and the owners may be contacted door-to-door for membership drive. Mr. Amrik Singh endorsed his suggestion and requested Mr. Avinash Singh to lead the drive for more membership. Mr. Avinash Singh acceded to the request.

6. Contribution towards legal expenses

The members of the governing body of the RWA are working voluntarily *pro bono* on the legal cases and other matters for the benefit of the flat owners. The lawyers, however, do not work *pro bono* and their fee has to be paid. It was suggested by some members that the flat owners may pay Rs.2,000 per flat to the RWA. Some members felt that the amount should be more. After some discussion, it was proposed that the contribution by each flat will be Rs.5,000 to meet the legal expenses.

The Resolution to collect Rs.5,000 from each flat towards legal expenses was approved unanimously by a show of hands. No dissenting hand was raised in opposition to this unanimous Resolution of the General Body of the Members.

7. Builder continues to be responsible for maintenance services

Mr. VN Tiwari, Dy.GM of the builder, was also present in the meeting as an invitee. He stated that the builder will not pay for diesel oil expenses and hence the flat owners must collect money for buying diesel oil. However, quite clearly the operation of the DG set and the maintenance of the society has not been handed over to the RWA of the flat owners and therefore the owners do not have to buy diesel oil. Then Mr. Tiwari offered that the residents can buy the diesel directly and the cost incurred would be adjusted towards the monthly maintenance fees. This option was explored by the owners and it was decided that the buyers need a firm written commitment from the builder that indeed such a collection would be adjusted towards the monthly maintenance. However, no such firm commitment has been received from the builder.

Thereupon the meeting concluded.



President of RWA