



**DELHI GOVERNMENT INVITES SUGGESTIONS FROM PUBLIC ON
AMENDMENTS TO DELHI LAND REFORMS ACT**

Amendments in various provisions of Delhi Land Reforms Act, 1954 covering Sections such as 23, 33, 73, 75, 81, 82, 85 etc are contemplated. Details of the proposed amendments are at <http://revenue.delhi.gov.in> and the same can be downloaded.

Suggestions from public on the proposed amendments are invited. Suggestions may either be sent by post to SDM (HQ)-V, O/o the Divisional Commissioner, 5-Sham Nath Marg, Delhi-110054 or e-mailed at delhilandreforms@gmail.com on or before 24th June, 2016.

Revenue Department
Government of NCT of Delhi

**SUBJECT: PROPOSAL FOR AMENDEMENTS IN THE DELHI
LAND REFORMS ACT, 1954 -**

1. A preamble to the Delhi Land Reforms Act, 1954 (herein after called 'Act' only) shows that the said Act was enacted for the modification of Zamindari System so as to create a uniform body of peasant proprietor without intermediaries for the unification of the existing tenancy laws. Various provisions of the Act show that the said Act was primarily enacted for agriculture land. Section 3 (13) of the Act defines land as the land which is held or occupied for the purpose of agriculture, horticulture, animal husbandry, pisciculture and poultry farming.
2. The Act did not envisage large scale urbanization or unauthorized colonization of agriculture land. Delhi is a prime urban centre of the country, being national capital. However, with continued pressure of population moving from villages to urban areas and from smaller towns to bigger towns coupled with expansion of village abadi, there is a strong demand for land for the purposes of housing / non-agriculture activities. The Act was not created to address this demand, its objective was agriculture. Urbanization is, however, being regulated and controlled by another law - Delhi Development Act, 1957. Delhi Development Authority has been involved not only in planning but also development. Some people hold the view that the existing arrangement has failed in supplying the housing and other non-agricultural land use needs of the public and has not been able to deal with the fast pace of urbanization.
3. Use of land for any purpose other than agricultural and connected activities like horticulture, animal husbandry, pisciculture, poultry farms is penalized under **Section 81/82** of the Act. Incidentally, there is a provision for diversion of agriculture land but to industrial use only. **Section 23** deals with '**use of holdings for industrial purposes**' and provides that the Chief Commissioner (now Lt. Governor) may, on application presented to the Dy. Commissioner sanction the use of any holding or part thereof by a Bhumidar for industrial purposes even though

it does not lie within such a belt. There is now a need to amend the provision so that there is a route of planned development available to the public. It would be appropriate that Section 81 & Section 82 of the Act and other related provisions existing in Schedule, Rules, Appendix and Forms are deleted. **The Section 81 and 82** of the Act may be replaced by following provision:

‘Notwithstanding anything contained in any law for the time being in force, including Delhi Development Act 1957, the Government may permit conversion of agricultural land into non-agriculture use as prescribed in the rules subject to prevailing planning norms.’

The procedure for conversion of land use and the rates to be charged for land use conversion may be prescribed by the Government in the rules in due course of time. This would enable in guiding the process of urbanization and development. It would also help in raising the resources through levy of conversion charges. Of course it will also cast a responsibility on Government of NCT of Delhi to also take up development activities, presently done by the DDA. Without taking such responsibility, which will include acquiring land and carrying out development thereon for public purposes, the aforesaid provision will be difficult to operate in a just and fair manner. This is so because there will be owners whose land will be falling in areas earmarked for public utilities such as park, road, school, community facilities. The development of such public spaces/ utilities can be handled through the land conversion charges and the owners of the land utilized for such public utilities will need to be fairly compensated.

4. It is noted that despite the existence of a provision to vest the land on account of colonization, large scale colonization has taken place in Delhi as reflected in number of colonies that have mushroomed. On the one hand, therefore, it is essential that the government provides a route for development to public as per planning norms and on the other, it provides

for stringent provisions to act/ penalty against illegal colonizers, which may be as follows:

‘Provided any person contravening the aforesaid provision shall be liable for imprisonment upto three years and a fine upto Rs. Ten Lakh or both. Where an offence has been committed by a company who, at the time offence was committed was in-charge of, and was responsible to the company for the conduct of the business of the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

The Code of Criminal Procedure 1973 shall apply to such an offence as if it were a cognizable and non-bailable offence for all purposes under the code provided a complaint has been filed by Revenue Assistant or any officer of higher rank of the Revenue Department

Provided further, the Revenue Assistant shall also be competent to auction property so constructed or under construction through illegal colonization and credit sale amount earned through auction into the government treasury. The property, alongwith land, shall stand transferred to the person winning the auction and the revenue records shall be updated accordingly.’

5. **Section 33** of the Act deals with ‘Restrictions on the transfer by a Bhumidar’ and is meant to prevent fragmentation of holding. It states that no Bhumidar shall have the right to transfer land whereas a result of such transfer, the transferor shall be left with less than eight standard acres in the Union Territory of Delhi. This provision, in the face of growing urbanization and population and the resultant fragmentation of ownership, is outdated and needs deletion.

6. **Section 55 to 61** of the Act deal with partition of holdings. For partition of holdings, a Bhumidar has to file a suit but conditions prescribed in the Act severely restrict such request for partition. These provisions retard colonization on one hand but also create hassles for the land owners by not allowing a clear individual title/ share. However, in today's time there is a need to have clarity of title/ ownership between the co-owners. In order to provide clarity to individual title, Sections 55 to 61 of the Act may be deleted and a provision for partition of the property may be inserted as follows:

'A Bhumidar may partition his agriculture or non-agriculture land through mutual settlement with other co-owners, duly registered, and apply to the Revenue Assistant for ordering the corrections in the revenue records.'

7. Land in Delhi is scarce and costly. There is no policy for allotment of such land to private persons. Indeed any such allotment to private persons will be scandalous. As such the provision contained in **Section 73 to 75** of the Act regarding admission of a person as Asami or Bhumidhar need to be deleted.
8. **Section 85** of the Act provides for conferring the rights of Bhumidhari to the occupant of Agricultural land. This provision encourages dishonesty as an illegal occupant gets legal basis to grab the land of gaon sabha or a bhumidhar on the basis of possession. The Supreme Court has deprecated such system in a Judgement dated 23.09.2008 in Civil Appeal No. 1196/2007 (Hemaji Waghaji Jat Vs Bhikhabhai Khengarbhai Harijan & others). Section 85 of the Act was essentially meant towards recognizing the rights of a tiller. But now it promotes dishonesty. As such Section 85 of the Act may be deleted.
9. Likewise **Section 86A** of the Act, though providing for ejectment of encroacher, provides for a limitation period of just three years. This only facilitates land grabbers. In its judgment dated 28.01.2011 in Civil Appeal No. 1132/2011 and SLP © No. 3109/2011 (Jagpal Singh & others Vs State

of Punjab & others), the Supreme Court has advocated strict action against encroacher and observed that long duration of illegal occupation or huge expenditure on making constructions thereon or political connections must not be treated as justification for condoning the illegal act or for regularizing illegal possession. The present limitation period for Section 86A of the Act is three years which should be modified to none or increased to 30 years.

10. Section 23, Section 33, Section 55 to 61, Section 73 to 75, Section 81 to 82, and Section 85 as well as Schedule/Rules/Appendix and forms related to these Sections in the DLR Act, 1954 may be deleted and, following Sections/provisions may be inserted suitably:

Notwithstanding anything contained in any law for the time being in force, including Delhi Development Act 1957, the Government may permit conversion of agricultural land into non-agriculture use as prescribed in the rules subject to prevailing planning norms.'

'Provided any person contravening the aforesaid provision shall be liable for imprisonment upto three years and a fine upto Rs. Ten Lakh or both. Where an offence has been committed by a company who, at the time offence was committed was in-charge of, and was responsible to the company for the conduct of the business of the company shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

The Code of Criminal Procedure 1973 shall apply to such an offence as if it were a cognizable and non-bailable offence for all purposes under the code provided a complaint has been filed by Revenue Assistant or any officer of higher rank of the Revenue Department

Provided further, the Revenue Assistant shall also be competent to auction property so constructed or under construction through illegal colonization and credit sale amount earned through auction into the government treasury. The property, along with land, shall stand transferred to the person winning the auction and the revenue records shall be updated accordingly.'

'A Bhumidar may partition his agriculture or non-agriculture land through mutual settlement with other co-owners, duly registered and after payment of stamp duty applicable to conveyance, and apply to the Revenue Assistant for ordering the corrections in the revenue records.'

'The limitation period for the purpose of Section 86A shall be none.'