

# S. A. Bhalwal Vyas & Bhalwal

ADVOCATES, SOLICITORS &  
NOTARY (UNION OF INDIA)

Tel. : 2204 08 62 • 2288 12 69  
Fax : 022-2204 76 98  
Mum : 218/220, Vardhaman Chambers,  
2nd Floor, Cawasji Patel Street,  
Fort, Mumbai - 400 001.  
Vashi : 1-A, Big Splash, 1st Floor,  
Turbhe Road, Sector 17, Vashi,  
Navi Mumbai - 400 703.  
Tel. : 2789 47 62 • 2789 48 42  
E-mail : vyasabhalwal@vsnl.net

Ref. No. : VB/TC/VASHI/122/2004

Date : 02-11-2004

## TO WHOMSOEVER IT MAY CONCERN

Sub. :- NON ENCUMBERANCE CERTIFICATE

A/c. :- M/s. J.P. Builders & Developers.

As per your instructions, we give herein our legal opinion in respect of piece or parcel of land bearing Gut No. 210 and Gut No. 211, Plot No. 1, Sector-19 at Airoli, Navi Mumbai, admeasuring about 4100 Sq. Mtrs., in the prescribed format for your record.

1. Name of the Borrower : M/s. J.P. Builders & Developers.
2. Name of its Proprietor : Mr. Jayant Shashikant Parikh.
3. Whether the borrower is the owner of the property/Plot if not now who is the owner and what is his relationship to the Borrower.

The borrower is the Developer of land bearing Gut No. 210 and Gut No. 211, Plot No. 1, Sector-19 at Airoli, Navi Mumbai, admeasuring about 4100 Sq. Mtrs., allotted by M/s. Airoli Co-operative Housing Society Ltd., (hereinafter referred to as the said Society), by a Memorandum of Understanding dt. 21-04-1994 and an Agreement dt. 14-05-2004. The relationship between the parties is that of the Society and the Developer.

4. The status of the owner of the property, state individual, HUF, firm or limited company.

Status of the borrower is individual Developer of above Plot.

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5. *Description of the property :*

All the land bearing Gut No. 210 and Gut No. 211, Plot No. 1, Sector-19 at Airoli, Navi Mumbai, admeasuring about 4100 Sq. Mtrs..

6. List of documents whether certified true copies or photo copies/certified true copies.

We have perused the following documents, Viz.

- a) Copy of Memorandum of Understanding dt. 21-04-1994.
- b) Copy of Agreement dt. 14-05-2004.
- c) Copy of Possession Letter dt. 14-05-2004.
- d) Copy of Lease Agreement dt. 14-05-2004.
- e) Copy of Decree dt. 06-11-2004.

7. List of further documents called and verified before rendering opinion.

Nil.

8. History of title for minimum 13 years based on documents mentioned in clause 6 & 7.

Whereas the members of M/s. Airoli Co-operative Housing Society Ltd., a Society registered under the Maharashtra Co-operative Societies Act, 1960 under Reg. No. NBOM/CIDCO/HG(OH)/No. 1734/JTR/2004-2005 dated 20-04-2004 (hereinafter referred to the Party of the Second Part), purchased portion of a large tract of land lying, being and situate at Village Airoli, Taluka and Dist. Thane, bearing Gut No. 210-211, Hissa No. 1 (hereinafter referred to as the said Plot) from One Smt. Taraben R. Amin and Smt. Meenaben V. Patel (hereinafter referred to as the Original Owners) vide diverse Agreements executed during the period 1972 to 1982.

And Whereas the said Plot was acquired from the Original Owners by CIDCO Ltd., and award was passed in the name of the Original Owners. The Office bearers and members of the Party of the Second Part filed a Writ Petition No. 4047 of 1987 in the Hon'ble High Court at Bombay for allotment of land at a




concessional rate in lieu of relinquishment of claim of the members in respect of the acquired lands. The High Court of Bombay passed an Order in the said Writ Petition on the 11-08-1988 and confirmed the reservation of plot of land admeasuring 11000 sq. mtrs earmarked by CIDCO for allotment to the members of the Party of the Second Part.

And Whereas in the year 1994, it became clear to the members of the Party of the Second Part that CIDCO would make an allotment of a tract of land admeasuring around 11000 sq. mtrs. to party of the Second Part and the Party of the Second Part offered to M/s. J.P. Builders and Developers (hereinafter referred to as the Party of the First Part) the development rights in respect of the said Plot and executed Memorandum of Understanding dated 21-04-1994, whereby the party of the Second Part agreed to entrust to the party of the First Part the development rights of the said Plot unto the party of the First Part at and for a consideration and on the terms and conditions stated therein.

And Whereas by a Memorandum of Understanding dated 09-11-2001 the party of the First Part agreed to assign the Development rights in respect of the said Plot in favour of M/s. Haware Engineers and Builders Pvt. Ltd., (hereinafter referred to as the party of the Third Part), for the consideration and under the terms and conditions stated therein.

And Whereas some disputes arose between the party of the First Part and Third Part in respect of the terms and conditions of the said Memorandum dated 09-11-2001 and the party of the First Part by their Advocate's letter dated 29-04-2003 purported to terminate the said Memorandum of Understanding dated 09-11-2001.

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And Whereas the Party of the Third Part filed a Special Civil Suit against the Party of the First and Second Part for specific performance of the terms of the Memorandum of Understanding dated 09-11-2001 executed between themselves and Party of the First Part and for other reliefs. The party of the Third Part also made an application for Interim injunction against the Party of the First Part and the Second Part for not creating third party rights in respect of the said plot.

And Whereas by an Order dated 04-08-2003, the party of the Third Part was granted the Interim injunction by the Court Civil Judge (S.D.), Thane in the said suit filed by them.

And Whereas the party of the First Part thereafter preferred an Appeal in the High Court, Mumbai being Appeal No. 754 of 2003 before the High Court, Mumbai and pending the hearing of the said Appeal, the parties of the First Part, Second Part and Third Part, mutually compromised the matter and entered into a Consent Terms which were filed before the Thane Civil Court on the 08-12-2003 and the Party of the Third Part, withdraw the aforesaid Suit against the parties of the First part and the Second Part and the party of the First Part has withdrawn the Appeal filed in the Mumbai High Court against the Order passed in the Injunction Application filed in the Thane Civil Court.

And Whereas as per the terms of the said consent terms the party of the First Part and the party of the Third Part have agreed to treat the MOU dated 09-11-2001 as terminated and agreed that no party shall claim any right, title, interest, share, benefits and the like in respect of the said terminated MOU.

And Whereas the Parties to the said consent terms have further agreed to divide the land allotted by CIDCO admeasuring 8000 sq. mtrs. in two parts "A" and "B" each admeasuring 4000 sq. mtrs. The party of the First Part shall allow the party

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of the Third Part to develop only the said Part "A" admeasuring 4000 sq. mtrs. by consuming the available F.S.I. in respect of the said part "A" by erecting buildings thereon consisting flats/shops/car parking spaces etc. as the case may be, and to realize the sale proceeds thereof by disposing them in the manner they wish to. The party of the Third Part and the Party of the Second Part shall in the like manner permit the party of the First Part to develop the said Part "B" admeasuring 4000 sq. mtrs. by consuming the available F.S.I. in respect of the said part "B" by erecting building thereon consisting of flats/shops/car parking spaces etc., as the case may be and to realize the sale proceeds thereof by disposing of them in the manner of the party of the First Part wishes.

*And Whereas the parties to the said consent terms have further agreed to execute the Tripartite Development Agreement to reflect the interest of the parties as per the terms of the said consent terms.*

*And Whereas after the entering of the said Consent Terms by and between the Parties, the CIDCO has allotted an additional area of 200 Sq. Mtrs. to the Party of the Second Part by its letter No. CIDCO/MM-II/657 dated 8<sup>th</sup> April 2004.*

9. *In whose name the patta stands, in the name of the present owner or predecessors in title. :*

*M/s. Airoli Co-operative Housing Society Ltd. is the owner of the above said Plot and now borrower is the bona fide purchaser of the same.*

10. *Details of encumbrances if any, and if so, how they are discharges (E.C.) for 13 years to be verified.*

*We have perused documents in respect of above Plot for the last more than 13 years and have not come across any encumbrances of whatsoever nature. Hence, we hereby issue our Nil Encumbrance Certificate.*

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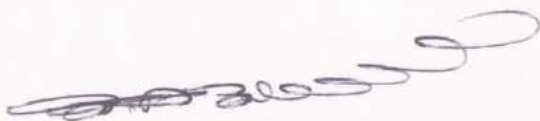
11. Whether any minors interest, litigation/attachment charge involved/pending on the above premises ---  
No.
12. Whether latest tax/list receipt have been produced.  
Yes.
13. Whether chitta 19(I) extract/adangal verified.  
Not applicable.
14. If the property is a building, is the plot in an approved lay out.  
The said property is an open plot
15. Has the building been constructed after approval of plans by relevant authorities and assessed to tax.  
The said property is an open plot
16. Is there any excess/vacant land attaching provisions of ceiling Act.  
No, within the ceiling limit
17. Is the property affected by Urban Land Ceiling and Regulation Act, if so whether permission of relevant authority been obtained for creating encumbrances.  
Not Applicable.
17. Is the title and possession of the party to the Plot is clear and absolute and marketable and valid mortgage by deposit of title deeds could be created.
- Title and possession of the party/Borrower is free from all encumbrances of whatsoever nature. Mortgage can be created by deposit of following documents.*
19. The list of documents which are to be deposited for creating mortgage by deposit of title deeds.

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Following documents are to be deposited with the bank by the borrower, Viz.

- a) Original Memorandum of Understanding dated 21-04-1994 between Chief promoter and the member of the Committee or proposed M/s. Airoli Co-operative Housing Society (Proposed) and M/s. J.P. Builders & Developers.
  - b) Certified Copy of Lease Agreement dt. 14-05-2004, between CIDCO Ltd. and M/s. Airoli Co-operative Hsg. Society Ltd.
  - c) Original Agreement dt. 14-05-2004, between M/s. J.P. Builders & Developers, M/s. Airoli Co-op. Hsg. Society Ltd. and M/s. Haware Engineers and Builders Pvt. Ltd.
  - d) Copy of Possession Letter.
  - e) Certified copy of approved plan.
  - f) Original Search Receipt
  - g) Certified copy of Property Tax Receipt
  - h) Certified True Copy of Consent Term in Suit No. 248 of 2003.
  - i) Certified True Copy of Decree dt. 06-11-2004, from Thane Civil Court
  - j) NOC from (1) CIDCO Ltd., and (2) M/s. Airoli Co-operative Housing Society Ltd., for mortgaging the said Plot by the borrower.
20. Whether requisite stamp duty is paid and the same is registered  
No.
21. The list of additional documents like Nil E.C. for subsequent period/affidavit/Indemnity required to be obtained by the Bank
- i. Declaration from the Borrowers.
  - ii. And any other documents required as per rules and regulations of bank.
22. Whether there is any indication or doubt to show that the land belongs to Govt. or it is under acquisition proceedings of the Govt. ?  
No.





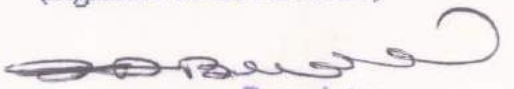
23. *Is there any bar for mortgaging the lands as per any local law ?  
e.g. Prohibition for offer of agricultural lands as security for borrowing  
outside the State or Commercial/Non-agricultural borrowings.*  
Not Applicable.
24. *Precautions/Formalities, if any, to be complied with for creation of valid  
mortgages.*

The Bank officers should personally visit the said Plot. The Bank should personally inspect the original plan of the Plot at site duly approved by the competent authority to avoid fraudulent transaction.

*We hereby certify that the title of M/s. J. P. Builders & Developers, in respect of the Plot bearing Gut No. 210 and Gut No. 211, Plot No. 1, Sector-19 at Airoli, Navi Mumbai, admeasuring about 4100 Sq. Mtrs., is clear and marketable and free from all encumbrances of whatsoever nature subject to the payment of balance amount to the Society mentioned in the Agreement. Mortgage can be created subject to the NOC from CIDCO Ltd. and M/s. Airoli Co-operative Hsg. Society Ltd., and the production of the documents mentioned above clause 19.*

Date : 02-11-2004.  
Vashi, Navi Mumbai.

For M/s. VYAS & BHALWAL  
Advocate, Solicitors &  
NOTARY UNION OF INDIA  
(Signature of the Advocate)

  
Proprietor