

Government of West Bengal
Land & Land Reforms Department
Land Acquisition Branch

O r d e r

G.O. No. 1705-LA-3M-07/06 Kolkata the 6th June, 2006

**Subject : Guidelines to be followed in the matter of
assessment of market value of land.**

Whereas, it has appeared to be extremely urgent and necessary to clarify certain common queries of the field level officers and also for bringing uniformity in the matter of preparation of valuation sheet by the Land Acquisition Offices in terms of certain established basic norms and principles regarding fixation of market value of land, separately for different class-category of lands, the Governor is hereby pleased to order that **the Guidelines prescribed hereinafter in the matter of assessment of market value of land shall be** strictly followed by all concerned with immediate effect :-

1. What is market Value :- The “**market value of land**” shall be assessed, both for the purpose of land acquisition and land settlement, **on the basis of value of land as mentioned by the vendor and vendee in the concerned deed of sale** and not as assessed and noted by the sub-registrar for the purpose of fixing up stamp duty and registration. Property value fixed by registering authority for stamp duty cannot be taken as a legally acceptable method for fixation of market value :-

"The market value of a piece of property for the purpose of Section 23 is stated to be the price at which the property changes hands from a willing seller to a willing buyer , but not too anxious a buyer, dealing at an arm's length". **Vide Periyar and Pareek Annai Rubber Ltd. – Vs. – State of Kerala [1991 (4) SCC 195, page 203].**

2. Sale deed of similar land :- Most ideal method is to take market value from the Sale-deeds of similar land in the “nearest past” in the “nearest vicinity”. It has been noticed that majority judgments of the Supreme Court are in favour of assessing market value of a land, taking sale deed price of the sales conducted in the same area within nearest past. **"Price fetched by similar land in nearest past time are most usual and best evidence of market value" vide Administrator of West Bengal – Vs. – Collector, Varanasi, AIR-1988 SC 943, AIR-1988(2) SCC 321; AIR 1989(4) SCC 250; AIR-1989 SC 2051.**

3. Market-price to be fixed for all possible/ all basic type-class of land :- For the purpose of administrative convenience and for the sake of justice, it is hereby further ordered that the land value shall be assessed separately, **at least,** for the following **seven type-class in the rural area** as mentioned in Form No. **SDCS-2006** and the following **five type-class in the urban area as specified hereinafter :-**

- (i) Land under residential use ;
- (ii) Land under commercial and industrial use ;
- (iii) Waterbodies ;
- (iv) Public utility land (public roads, parks, Smashan Ghat, Burial Ground, land under departmental use);
- (v) Land not covered by any of the aforesaid four type-class

Again, additionality of land value for each individual parcel of land can be considered on the basis of its **connectivity with and access to different type of roads as well as on account of it's locational advantage** particularly in the urban areas, which has been elaborated hereinafter.

4. Minimum number of sale-data to be depended upon :- For the purpose of administrative convenience and for the sake of justice, for each of the specified type-class of land, as separately mentioned for rural and urban land, **at least 10 and up to 20 current sale data** to be collected and placed chronologically in the **prescribed format of the Sale-data-collection-sheet**, without dropping any sale data of the relevant type-class that took place in the concerned mouza, putting the sale figures from nearest time up to 12 months back data, and the period of 12 months can **be extended up to such number of months not exceeding 36 months** as may be required to get at least 10 sale data for the relevant type-class of land. Sale price shall be increased by 5% per annum, if the sale data are collected from a period beyond 12 months and up to 36 months. In case, even by such approach 10 sale data for any type-class of land of a particular mouza are not available from the office of concerned Sub-Registrar, then sale data for the relevant type-class of land from adjacent Mouza shall be obtained. In case within a period of 12 months, in any particular mouza for any particular type-class of land, more than 10 and up to 20 sales have taken place, no sale shall be omitted for any reason whatsoever.

5. Prescribed Sale-data collection Sheet :- The common Sale-data collection Sheet[vide **Form No. SDCS-2006** shall be used for collection of sale data in each mouza for each category of land-class **CHRONOLOGICALLY without DROPPING any sale of the concerned sale in concerned type-class**. After collecting the sale data for each type-class of land from each mouza in the prescribed format, the fixation of fair and reasonable average market value of any type-class of land shall be done giving necessary reasoned analysis for such fixation of market value, which shall be known as **“value assessment sheet”** to be prepared and signed by the BL &LRO and

countersigned by DL &LRO for **LR Wing of the concerned district** in connection with sending proposals for **granting long term lease** and for the purpose of **land acquisition cases** “**value assessment sheet**” has to be prepared and signed by an officer not below the rank of LAO and countersigned by Spl. L.A.O. **of the concerned district** .

6. Discarding of too High and too LOW sale-prices :- For the purpose of fixation of fair and reasonable average market value of any type-class of land, abnormally high value or abnormally low value sales should be carefully discarded. Normally more than **200% higher or lower** value on and over the average value reflected in majority of sale deeds shall be considered to be abnormally high i.e “**Fancy Sale**” or low value i.e. “**Distress Sale**” and such sales may be discarded and thereafter, taking the average value of the remaining sales for the concerned type-class of land, **the fair and reasonable average market value** shall be fixed.

7. Application of belting method, when needed :- It may be specially noted that application of belting method should not be adopted indiscriminately as a pedantic exercise, **as case laws have guided so adequately** on this subject. However, the following instructions should be kept in mind while question of application of belting method comes into consideration:-

[i] For general guidance of the persons engaged for valuation of market price, it may be mentioned that belting method does not apply where the applicable land has no connectivity with access roads. The belting method though used in urban areas where even in the same plot of land the interior part is priced low, some times 50% lower than the frontal portion which is connected with road; but this belting method has been also questioned by various High Courts including the Supreme Court on the basis of “**absolute**

artificiality and extraordinariness of such awarding high price for the 50% of the frontal area and giving 50% price for the back side area” vide **Nityogopal Sen Poddar – Vs. – Secretary of State AIR 1933 Cal-25.**

(ii) **“Division of a plot into belts is adopted by experts only when an entire property cannot be utilized as being a road-side land”** vide Balbir Singh – Vs. – State of Hariyana (1983) Punjab (DB)

[iii] **"Belting system, if applied, would not further the end of the justice so as to afford relief of just and equitable compensation"** vide AIR [1982] Bombay, 440.

[iv] The belting method shall not be, therefore, generally applied until the land is located in well developed urban centres, municipalities and corporations.

8. When reasonable difficulties arise in determining market value:-There may be genuine difficulties to get adequate number of sale data or sale data not reflecting the real market value while sales relate to tribal lands. It is a known fact that in any tribal village or tribal dominated village, where the sale of tribal land is restricted by law, allowing sales only within the tribal community, the real market price or open and free market price can hardly be reflected by such sales between the tribals. Again there may be a situation in a particular Mouza where adequate number of sales of concerned category of land have not taken place during one year or extended period of 3 years or adequate number of sale for the concerned category of land in contiguous 3 villages around the concerned mouzas are also not available, **the following procedures may be adopted** in fixing up fair and reasonable market price of each concerned category of land :-

(a) In the tribal village and tribal dominated village, sale deed of land conducted between non-tribal vendors and non-tribal vendees should be taken for consideration if the number is not less than that prescribed to be for each category of land;

(b) If the number of sale deed are so available in any mouza, may be tribal dominated mouza or otherwise, the average price of the available number of sale deed should be collected and supplied in the prescribed form and average market price should be determined in the prescribed manner. But if such average price comes below the standard average price for any of the following category of land, as mentioned below, then the standard average price shall be considered as a fair and reasonable market price but if the average price from the average determination out of the available sale deeds, in any particular category of land, appears to be higher than the standard average price, the said higher price shall be considered to be fair and reasonable price;

(c) The standard average price, until further modified from time to time, shall be taken as follows :-

(i) Non-Irrigation (single crop) agricultural land = Rs. 1.5 lakh per acre.

(ii) Irrigated double/triple crop agricultural land = Rs. 2 lakh per acre.

(iii) Homestead land = Rs. 2.25 lakh per acre

(iv) Fallow / waste land = Rs. 80,000 per acre.

(v) Water body (pond, tank, beel,) = 1 lakh per acre.

(vi) Commercially and industrially used land = Rs. 3 lakh per acre.

(vii) Public utility land (i.e. land used as place of worship, burning ghat, private market place, asset for common property resources, non-agricultural vested land allotted to any public

use or any other vested land not used by Government department or for public utility services] = Rs. 80,000 per acre.

N.B. : Additionality of price shall, however, be always allowed on an over standard average price as per **Schedule – I** of this order.

9. Big chunk of land considered for a single sale should get discount over average land value of ordinary plots :- Small plots are sold generally at a high cost and hence big chunk of land in a single plot or a contiguous plot sold by one sale deed deserve discount in price vide **Triveni Devi, 1984(2) SCC 324, 1984(2) SCR 900, Bhagabathul Samanno – Vs. – Special Tehisildar and Land Acquisition Officer, 1991(4) SCC 506, page 509**. Even such discount may be up to 33.33% as was decided by the Hon'ble supreme Court in the matter of Smt. Kausalya Devi, Bogra – Vs. – Land Acquisition Collector, Aurangabad (AIR 1984, page 892, SC).

10. After careful consideration of the direction of the Court, and in cancellation of all earlier instructions on this subject, the Governor is hereby pleased hereby to further order that proportionate deduction in fixation of the value of big holdings, on the basis of sale-date of ordinary holdings, shall be allowed at the percentage prescribed in the schedule below :-

Schedule for discount to be allowed for fixing up land price for acquisition as well as settlement of a big chunk of land in a single plot or a contiguous plot acquired, settled or sold by one deed of transfer -

[a] a total holding exceeding 3 acres but not exceeding 5 acres in one plot/contiguous

plots.....10%

- [b] a total holding exceeding 5 acres but not exceeding 10 acres in one plot/contiguous plots.....12 %
- [c] a total holding exceeding 10 acres but not exceeding 15 acres in one plot/contiguous plots.....15%
- [d] a total holding exceeding 15 acres but not exceeding 20 acres in one plot/contiguous plots20%
- [e] a total holding exceeding 20 acres but not exceeding 24.22 acres in one plot/contiguous plots.....25%
- [f] a total holding exceeding 24.22 acres 33.33%

11. Recognizing open truth of higher value of land on the basis of location-cum-connectivity-related advantages :- It is an open fact and a matter of common knowledge that “median or average value” of any type-class of land does not reflect the value of such parcels of land which has specific locational advantage as well as road-accessibility advantage, and hence it make injustice in award making if value-addition is not made on that account; and this violates the clear direction of the Constitution of India to pay compensation at a rate "***which shall not be less than the market value thereof***" and unnecessarily invites most avoidable court cases. Therefore, in the interest of proper and appropriate justice to the land losers and to protect the fundamental rights of a citizen, all attempts should be taken to award enhanced price for each parcel of land, to the extend possible, on the basis of their accessibility to different kind of roads and thoroughfare and locational advantages particularly in urban areas and commercially developed pockets. With this intention, **two schedules** are annexed with this circular for general guidance

in value fixation , the **Schedule-1 deals** with the additionality that may be allowed in price of a plot of **land having direct access to different kinds of roads** mainly applicable in the rural areas; and the **Schedule-II** indicates the additionality of price that may be awarded for having direct as well as indirect access to different kinds of roads and avenues by such percentage as indicated **on account of locational/positional advantage of a plot of land, i.e.** in the municipal and corporation area or even in notified areas, there may be strong justification to award additional value of land on the basis of both locational/positional advantage as well as for a plot in a highly developed urban area, having direct and indirect access to different kinds of roads and avenues. In the matter of principle of value-fixation, the Hon'ble Supreme Court of India has directed in various cases to make necessary value addition to all categories of land having locational advantages specifically having connectivity or accessibility with roads. In its judgement in the case of Union of India Vs. Mangatu Ram (1997), 6 SEC 59 (para IV), the court directed that “ **principle of value addition on account of acquisition of land abutting the National Highway would necessary be granted higher market value than the lands situated in the interior** ”

12. Any estimate sent by any LA Collector without enclosing the “ Sale-data collection sheet” in the prescribed format [Form No. SDCS-2006] for each prescribed type-class of land for each concerned mouza as well as along with “assessment calculation sheet” **shall not be entertained** for consideration / approval and issuance of an appropriate Government order. Similarly, for the purpose of approval, any long term settlement proposal, by fixing up appropriate selami and rent cannot be entertained by the Department if the same is not submitted along with land sale data sheet in the prescribed format for each prescribed

type-class of land for each concerned mouza as well as with assessment calculation sheet.

13. The State Government may, in any special case obtained valuation separately for LA Wing as well as LR wing of the same district for same land for specific and special cases.

14.The Governor is further pleased to direct that no Government official or Government machinery can with knowledge and intent, deny such fundamental rights of the landowners as articulated and enshrined so vividly in the Constitution of India, in its Article No. 31A where it reads as below :

" **it shall not be lawful for the State to acquire any portion of such land** as is within the ceiling limit applicable to him under any law for the time being in force or any building or structure standing thereon or appurtenant thereto unless the law relating to the acquisition of such land, building or structure, provides for payment of compensation at a rate "***which shall not be less than the market value thereof***".

This order shall take immediate effect from 6th June,2006 and remain in force until further orders.

By order of the Governor

[Sd/- Sukumar Das]
Principal Secretary to the
Government of West Bengal

G.O. No. 1705-LA-3M-07/06 Kolkata the 6th June, 2006

Copy forwarded for information and necessary action to :-

[1-30] The Principal Secretary/ Secretary to the Government of
West Bengal,

.....
Department, Writer's Buildings/Salt Lake/ Camac Street/
Jessop Buildings, New Secretariat Buildings, Kolkata,

(31-33) The Divisional Commissioner, Presidency
Division/Burdwan Division/ Jalpaiguri Division.

(34) The Director, Land Records & Surveys, Survey Buildings,
35, Gopalnagar Road, Alipore,
Kolkata – 700 027.

(35-42) The District Magistrate & Land Acquisition Collector,
.....District,
P.O & District, West Bengal.

(44-60) The Additional District Magistrate (LA)/Spl. Land
Acquisition Collector,..... District, West Bengal.

(61) First LA Collector, Kolkata, 5, Bankshall Street. Kolkata –
700 001.

[62] Inspector General of Registration, Government of West
Bengal, Writers' Buildings, Kolkata

[63] The M. D, WBIDC, 5 Council House Street, Kolkata-70001.

[64] The C.E.O, KMDA, Salt Lake, Kolkata.

[65] The CEO, HAD, P.O. Haldia, Purba Medinipur, W. Bengal.

[66] The Managing Director, HIDCO, Salt Lake, Kolkata.

[67] The ADM (LR) & DL&LRO,..... District, W. B.

(68) Guard File of LA Wing of the Department.

(Sukumar Das)
Principal Secretary to the
Government of West Bengal

Schedule-1

Formula for percentage increase in land-value in RURAL AREAS for direct-road-connection of the concerned plot

Additional value to be added by % for each plot having the following class-type of direct-road-connectivity as mentioned bellow:-

1. National/State High-Ways, Arterial Road[16-ft and above]-
CODE..No...NSHW-AR-.....@ **10.0 %**
2. Major Metal Roads [Above 8-ft , less than 16-ft]
CODE No.....MMR.....@ **7.5 %**
3. Other Metal Road [Above 4-ft , less than 8-ft]-
CODE NoOMR.....@ **5.0 %**
4. Non-Metal Public Road [Above 4-ft , less than 8-ft]-
CODE NoNMPR.....@ **2.5 %**

Schedule-II

Formula for percentage-increase in land-value in Municipalities & Municipal Corporations For direct-road-connectivity-related advantages

Additional value to be added by % for each plot having the following Class-type of road-connectivity as mentioned bellow:-

1. National/State High-Ways, Avenues, Arterial Road[16-ft and above]- CODE..No...NSHW-AVAR -
.....@ **10.0 %**
2. Major Metal Roads [Above 8-ft , less than 16-ft]
CODE
No.....MMR.....@ **7.5 %**
3. **Other** Metal Road [Above 4-ft , less than 8-ft]-
CODE No
....OMR.....@ **5.0 %**
4. Metal Road, Lane, Bye-Lane [Above 4-ft , less than 8-ft]-
CODE No
....MRLBL.....@ **2.5 %**

