

**Directorate of Town & Country Planning, Haryana**  
Ayojna Bhawan, Sector-18, Chandigarh, web site [tcparyana.gov.in](http://tcparyana.gov.in)  
Phone: 0172-2549349; e-mail: [tcphry@gmail.com](mailto:tcphry@gmail.com)

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Regd.

To

1. All Deputy Commissioners-cum-Registrar in the State.
2. All Tehsildars-cum-Sub-Registrar in the State.

Memo No. LC-2238-JE(S)-2013/30774-775

Dated: 13.02.2013

**Subject: - Policy Instructions regarding Registration of independent floors of residential plots-Clarification thereof.**

Reference: In continuation of memo no 2733-34 dated 27.03.2009 issued by FC and PS, TCP Haryana on above cited subject.

With reference to the policy instructions dated 27.03.2009, as referred above, certain persistent issues have been raised from certain quarters regarding the "top-floor terrace". Though, the policy is clear in this regard the issue is sought to be further clarified to eliminate any doubts in this regard. The issue can be framed as follows: "*Whether the 'terrace' of the top floor of a residential plot on which independent floors stand constructed and sold to different parties forms part of 'common areas' as defined under the policy dated 27.03.2009 or not*". In order to appreciate the issue involved, the relevant para-5 of the said policy which defines the "Common Areas and Facilities" is also reproduced below:-

**"5. COMMON AREA AND COMMON FACILITIES: -**

**5.1) Definition:**

*"Common Area and Common Facilities in relation to a residential building shall include the land covered by the building and all easements rights of access and other similar rights belonging to the land and the building. The common structures such as foundations, columns, beams, supports, main valves, common roofs, corridors, staircase, fire escapes, entrances and exist of the building. Such parking areas, passages, driveways, gardens, storage space, spaces for security, as per required or specified for common use. Installations of common services such as power, light, gas, water, heating, refrigeration, air conditioning, sewerage, elevators, tanks, pumps, ducts and such other common facilities as may be prescribed from time to time. All other parts of the building and land necessary for maintenance, safety and common use."*

*5.2) The common areas and common facilities shall remain un-divided and no owner or occupier of any 'Independent Floor' or any person shall be entitled to seek a partition or division of any part thereof."*

2. A perusal of the above makes it clear that under the heading 'Common Area and Common Facilities' the only part of such top-floor terrace is covered which is defined as 'common roof'. The intent of the policy is thus very clear that each and every 'top floor terrace' does not automatically get classified as 'Common Area and Common Facilities'. Rather, only such 'top floor terrace' which is specified as 'common roof' in the sale-purchase agreement entered into at the time of sale/purchase of independent floors shall be part of 'common area and facility'. To further clarify the issue, it is elaborated that basically the

rights of usage of 'top floor terrace' has been left to be decided by mutual negotiation between the transacting parties and its usage as prescribed in the agreement shall be final, e.g.,

- i) The sale purchase agreement may designate the entire 'top floor terrace' for services, i.e., for the purpose of placing water tanks, solar water heating equipments, etc. and thus can designate the entire top-floor terrace as 'common roof' and in such case the entire 'top floor terrace gets designated as 'common roof' and thus as 'common area and common facilities'.
- ii) Alternately, the sale purchase agreement may designate only part of the top floor terrace for services, i.e. for the purpose of placing water tanks, solar water heating equipments, etc. and thus designate such part of the top-floor terrace as 'common roof' and the balance part of the top floor terrace can be designed as a segregated enclosure on which the owner of a specific floor gets exclusive usage rights.
- iii) Still, in another case, the sale purchase agreement may specify the design of building in a manner that the 'top floor terrace' is not required to be used for common services at all and exclusive ownership and usage rights of the entire top floor terrace is assigned to any of the three independent floor owners, in which case no part of the top-floor terrace gets designated as "common roof."

It is thus clear that the policy dated 27.3.2009 is clear in this regard and thus each and every 'top floor terrace' does not automatically get classified as 'Common Area and Common Facilities'. Rather, only such 'top floor terrace' which is specified as 'common roof' in the sale-purchase agreement shall be part of common area and facility.

Sd/-

**(P.P. Singh)**

District Town Planner (HQ)

For: Director General, Town & Country Planning  
Haryana, Chandigarh

Endst. No. LC-2238-JE(S)-2013/30776-777

Dated: 13.02.2013

A copy of the above is also forwarded to the following for information and necessary action:-

1. All Senior Town Planners of the State.
2. All District Town Planners of the State.

Sd/-

**(P.P. Singh)**

District Town Planner (HQ)

For: Director General, Town & Country Planning  
Haryana, Chandigarh