

Chapter V: Management of Old Grant Bungalows

5.1 Old Grant sites

Old Grant sites are a legacy of the pre-independence land policies intended to provide necessary accommodation to the military officers. The pre-independence Governments of Bengal, Madras and Bombay presidencies issued various rules and regulations between the years 1789 and 1899. Under this, officers were granted licences of land sites, on which they could build houses. No right of property for the land was, however, ever granted to them. Later, civilians were also allowed to build such houses on lands belonging to the State, but these houses were to be hired by the LMAs. Such lands were allowed to be transferred from one military officer to another. For structures owned by the civilians, such transfer would have to have approvals of the local commanders.

With the spread of urbanization, most of the Old Grant Bungalow (OGB) sites are now prime real estate. There are 46,043 Old Grant sites in the country as of March 2009. The powers for conversion of the sites in to leaseholds or resumption of such OGBs are vested in the Ministry.

As per the land policy laid down by the Ministry in 1995, to ensure appropriate returns by way of premium and rent, Old Grant sites which are in the nature of licences should be converted into leaseholds with Government sanction unless these were desired to be resumed. No activity like change of purpose, any sub-divisions by way of construction or otherwise, construction of additional storey/storeys, addition to the existing plinth area or floor area, demolition of existing construction or putting up new construction on a vacant site in Old Grant sites could be sanctioned unless the grantee was willing to take out a lease in which case proposals were to be submitted to Government for considering whether a lease be granted and if so, on what terms or whether the land or any part thereof be resumed when required for Defence purposes or any other public purpose or when the bungalows are in dilapidated condition.

The person who is the holder of the licence is known as the “Holder of Occupancy Rights (HOR)”.

5.2 Irregularities in management of Old Grant sites

In contravention of Revised Land Policy of 1995 of the Ministry, in five Commands involving 29 Stations under 16 DEOs, unauthorized construction was carried out in 134 OGBs. 224 OGBs covering an area of 496.98 acres were being used unauthorizedly for educational purposes as shown in Table 8.

Performance Audit Report on Defence Estates Management

Table 8

Details of misuse of Old Grant Bungalows

Sl No	Command	DEOs	Stations	Total No. of Bungalows in which unauthorized constriction carried out	Total no. of Bungalows used for educational purposes	Area under occupation (in acres)
1	Central	Agra, Bareilly, Danapur, Jabalpur, Lucknow, Meerut Allahabad & Mhow	Agra, Bareilly, Danapur, Fatehgarh, Jabalpur, Lansdown, Lucknow, Mathura, Meerut, Faizabad, Ranikhet, Roorkee, Mhow & Allahabad	63	96	268.73
2	Eastern	Kolkata	Barrackpur	20	36	31.23
3	Western	Jalandhar & Ambala	Jalandhar, Amritsar, Ferozepur, Ambala & Subathu	25	27	109.55
4	Southern	Bangalore, Pune, Secunderabad & Bhopal	Bhopal, Bangalore, Pune, Saugor, Secunderabad, Kirkee, Aurangabad, & Belgaum	25	62	81.96
5	Northern	Srinagar	Srinagar	1	3	5.51
	Total			134	224	496.98

Unauthorized use of OGBs

Central Command

- In Central Command, HsOR sold 17 OGBs without permission of Competent Authority as given in Table 9.

Table 9

Unauthorized sale of OGBs

Sl. No	Station	OGB No	Date of Sale	Area (in Sq. Mtr.)	Sy No.	STR value of land (₹ in crore)
1	Lucknow	29 Kasturba Road	28.12.2006	3000	165	2.25
2	-do-	214, MG Road	21.01.2008	14569	421	10.93
3	Kanpur	81	06.03.2006	2266	408	1.81
4	-do-	23	21.09.2005	16378	301	12.30
5	-do-	57	21.09.2007	25171	81	20.13
6	-do-	2	11.12.2007	33913	158	13.57
7	-do-	83	28.11.2006	4289	407/1	47.17
8	Agra	44	12.06.2003	10189	462	0.11
9	Almora	7	01.02.2006	17280.08	74	1.90
10	-do-	41	26.04.1997	6074.35	274	2.38
11	-do-	42	19.04.1999 18.10.2006	47032.71	273	18.45
12	Bareilly	35	05.06.1981	13164.46	170	6.84
13	-do-	58	16.05.2007	15050.31	184	5.91
14	-do-	70	29.06.1991	11667.12	41	6.07
15	Ranikhet	345	16.05.1997	8575.288	345	0.51
16	-do-	30	27.08.1968	167.1	30 & 32	0.22
17	-do-	285	22.06.1998	108.86	285	0.01
					TOTAL	150.56

Performance Audit Report on Defence Estates Management

The DEOs stated that the matter had already been referred to the higher authorities for directions which were awaited as of September 2009.

Western Command

- 21 cases of unauthorized sale / transfer of OGBs involving 100.33 acres of land in DEO Ambala and 34 cases in DEO Jalandhar were noticed in Western Command. As per DEOs' records the cases had been taken up for resumption of properties which were pending. However, the action taken by Defence Estates Organisation was not adequate and effective since these cases of violation of OGB terms and conditions were very old and no tangible progress had been made in action against HsOR and for resumption of OGBs.
- Three OGBs covering an area measuring 8.66 acres in Ferozepur were being used for commercial purposes like marriage halls and hotel /restaurant for last many years. In spite of taking the matter up by LMAs, DEO did not take action as per rules which resulted in non-recovery of revenue of ₹ 73.42 lakh during the three years 2005-06 to 2007-08, alone.
- Five OGBs covering an area measuring 3.98 acres at Kasauli were being used for commercial purposes (hotels) for last many years. Similarly, five OGBs covering an area of 14.72 acres at Dagshai were being used as hotels/ meditation camps. DEO, Ambala had not taken any action to convert residential lease into commercial lease resulting in a loss of revenue.

Southern Command

- An OGB meant for residential use on 2.10 acres of B-3 land was transferred to trustees of **Jahangir Hospital and Medical Centre Pune** in 1998. Following the orders of Cantonment Board Pune, M/s Jahangir Hospitals sold its occupancy rights to M/s Ram Krishna Resorts for a consideration of ₹ 2.51 crore in August 2001 to run a hotel without Government sanction. LMA, otherwise deficient of 923 acres of land in the station, initiated a case for resumption of above bungalow in 2007 which was still in progress as of October 2009.
- An **HPCL petrol pump** had been running in an OGB on 6.54 acres of land in Secunderabad since 1982 without payment of lease rent or premium. The case is *sub judice* since 1985.
- Bungalow No. 60 situated at Jhansi was with British HOR upto 1963 which was ultimately transferred to its present HOR in July 1986. Out of above 4849.38 Sqm was being used for commercial purpose. The rental value of the same from 2004-2005 to 2008-2009 worked out to ₹ 60.62 lakh whereas nothing was being paid to the Government by the HOR. DEO Bhopal in reply stated that as these bungalows were given to civilians during 'British Regime', no rent is recoverable. Further, while stating that commercial exploitation is liable to a fine of ₹ 1 lakh plus ₹ 10,000 per day in case of continuing violation, remained silent about levy of any such fine.

Central Command

- The occupancy rights of two Bungalows on B-3 land on Old Grant terms under the management of DEO Meerut Cantonment were purchased by **Wheeler Club Meerut** in March 1926. In March 2002 unauthorized construction of buildings and use of site for commercial purpose like restaurant, bakery shop, stage platforms, fitness club, beauty parlour and swimming pool were noticed. The unauthorized construction was made without “No Objection Certificate” from DEO. The Cantonment Board, Meerut sent a proposal for compounding of construction. Decision was still awaited. The Wheeler Club has 14 suites which were hired by DEO for residential purpose of Army Officers and instead of resuming the site, a rent of ₹ 4.33 lakh *per annum* was being paid to the Club. Activities of the Club were not restricted to the site only but it also illegally leased out a piece of land measuring 197.50 SM to the Bharat Petroleum Corporation Limited for a storage depot/service station at an annual rent of ₹ 1000 during the period September 1987 to August 1997. However, no lease rent was deposited in Government Treasury. The damage rent recoverable for commercial activities carried out by the Club worked out to ₹ 13.30 crore on the basis of STR for the period March 2002 to December 2009.
- A Bungalow in the Meerut Cantt with an area of 2.406 acres was given to Smt. Ganesh Devi on old grant terms for residential purpose. In February 1953 a trade licence was issued by Cantonment Board, Meerut to run a tea & biscuit trade in the name of **De Rose Hotel**, which was renewed in 1962. In September 2003 a notice was served to the HOR by Cantonment Board for unauthorized use of OGB as marriage hall. In May 2005 DEO, Meerut started proceedings for the resumption of bungalow on the ground of gross violation of terms, i.e. utilization of bungalow for marriage hall, in contravention of the terms of Old Grant. But neither could the bungalow be resumed nor the damage rent for unauthorized commercial use recovered, which worked out to ₹ 4.70 crore for the period 2003-2009.
- On dissolution of Cawnpore Swimming Bath Association, **Defence Service Club Kanpur** was holding class B-3 land measuring 2.47 acres on lease. The Ministry, in February 1965, accorded sanction for modified lease for a period of 30 years with effect from February 1950. The lease rent was ₹ 142 *per annum* with premium of ₹ 1. The lease expired in 1980. The club has facility of a swimming pool, games like badminton, health club including gymnasium, etc. The club was using the open area and building for commercial purpose and had subleased some portion of the land to a contractor from 1993 for commercial activity. Thus, the club was using the premises and land costing ₹ 29.98 crore for commercial activity without any lease agreement after 1980. As per DEO Lucknow, rent and premium for the period of unauthorized use was ₹ 5.49 crore.
- A Bungalow on **B-3 land** measuring 15.34 acres was on lease to **Cawnpore Club Kanpur**. The club had made several unauthorized constructions since 1985. Rent for unauthorized use for the period 2004-2009 worked out to

Performance Audit Report on Defence Estates Management

₹ 46.54 crore (as per current STR). No rent was recovered for unauthorized use of Defence land costing ₹ 186.23 crore till March 2009.

Army HQ stated (August 2010) that the cases pertained to DGDE who was the custodian of Defence estates. The DGDE in February 2010 simply forwarded copies of reports and returns received from lower formations on unauthorized construction/misuse of OGBs and pending cases of resumption without explaining the circumstances and the action taken to remedy the current situation.

The use of OGBs for other than authorized purposes without prior permission constituted outright breach of terms and conditions of old grant. The educational institutes and other commercial establishments running in OGBs for a long period remained unnoticed either due to lack of supervision or collusion with DEOs and LMAs. Action if taken at appropriate time from the beginning by the DEOs by initiating resumption proceedings or conversion into leasehold could have prevented subsequent incidents.

5.3 Resumption of OGBs

As per the Land Policy of 1982, the sites held on resumable tenure would be resumed gradually where such site/sites are required for specific Defence/ public purposes.

Eight Bungalows with an area of 32.49 acres which had been resumed under the above provisions had not been put to use since 1970. Besides, 92 cases referred to the Ministry for resumption of sites at 14 stations involving 288.63 acres of land were awaiting sanction for a period ranging from one to seven years. Further, in respect of 65 cases although the sanction for resumption had been issued, yet the resumption notices were pending with the Ministry for a period ranging from two to seven years as of February 2009.

There were 25 Wasidari⁹ Properties at Srinagar, out of which leases in respect of four properties were renewed upto 2021. In respect of 21 properties resumption sanction was received during December 1984 from the Ministry. However, resumption notices were not served due to non-receipt of notices from the Ministry. In February 1997 the Ministry intimated that status quo would be maintained and properties would be resumed when the situation normalized in Jammu and Kashmir. No concrete action was initiated by the Ministry thereafter in resuming the Old Grant sites.

DGDE intimated Audit in September 2009 that the information had been called for from field offices and would be furnished on receipt. Army HQ stated (September 2009) that since Government sanction for resumption of bungalows was required, the reasons for not issuing notices of resumption could only be explained by the Ministry. Army HQ admitted in November 2009 that a number of KLP and Married Accommodation Project were held up for want of issue of notices to the HsOR of the OGBs affecting functional efficiency of the Army and morale of the troops. The Ministry, however, only forwarded replies of November 2009 of Army HQ and failed to offer (August 2010) their comments on the views/constraints expressed by Army HQ.

⁹ Ex state Forces Property used by Army

5.4 Issue of “No Objection Certificate” (NOC) for construction of Hotel on Defence land, without assessing security risk

Bungalow No. 104A Agra Cantonment on land measuring 6.973 acres is held in General Land Register (GLR) No. 260 and 260–A , classified as B-3 land - partly old grant and partly private area owned by Pt. Ram Shankar Trust.

In January 2008, HOR of the site, Shri Ayush Upadhayay, submitted a building plan for construction of a Hotel complex on Bungalow No. 104 A to Cantonment Board Agra. After examining building plan in January 2008, Cantonment Board forwarded the building plan to DEO Agra for scrutiny and issue of NOC for construction of the hotel. DEO Agra in February 2008 forwarded the proposal to Station HQ Agra for their comments. Station HQ in April 2008 returned the proposal with the comments that no road can be allowed towards east of Bungalow No. 104 A and height of the proposed building should be according to the prescribed limits of building bye laws. DEO Agra in April 2008 returned the building plans to the Chief Executive Officer, Cantonment Board, for consideration/ sanction with certain conditions which included the comments of the Station HQ. Remarks of the DEO Agra were as follows:-

- a) The subject land is a private land;
- b) LMA has not proposed requisition/acquisition;
- c) Approach road can be decided on west side;
- d) Building height is to be as per laws; and
- e) If change of purpose is involved, an undertaking from the HOR to pay charges as assessed be obtained.

Treating the letter of DEO of 30 April 2008 as NOC for land and without analysing its contents, Cantonment Board Agra in May 2008 sanctioned the Building plan of the Hotel.

Audit observed that the Station HQ had frequently changed their stand. Station HQ first cleared the Building plans but reversed the stand immediately thereafter by writing to the Command HQ in Lucknow in April 2008 not to allow use of bungalow No. 104 A for commercial purposes, it being very close to Officers’ Colony. Later, on 5-2-2009, the Station HQ expressed its ‘No Objection’ as per approved plan. The Station HQ made a *volte face* on 28-02-2009 by expressing security risk if proposed hotel is constructed and finally in November 2009 stated that proposed hotel could not be permitted. Command HQ in October 2008 also did not object to the construction of hotel if access to the hotel was taken from west side of the M.G. Road.

DGDE proposed to the Ministry in February 2010 to initiate action to set aside the resolution of May 2008 of the Cantonment Board. A show cause notice under section 57 of the Cantonments Act 2006 was issued to Cantonment Board Agra in March 2010. The Cantonment Board in May 2010 through a resolution decided to revoke the NOC given by them in May 2008. Against the above decision, occupants of Bungalow No. 104 -A filed a writ petition in Court, which was still pending. DGDE intimated Audit in July 2010 that the decision of the Ministry was still awaited.

Recommendation 12

Considering that almost all Old Grant sites are prime real estates, all cases of unauthorized construction on and/or sale of Old Grant Bungalows should be investigated through independent investigative agencies as the possibility of collusion, corruption and malpractices cannot be ruled out.

Recommendation 13

A definite time frame should be prescribed to ensure speedy resumption of OGBs, where it had been decided to do so.

Powers to issue NOC to private parties for use of Defence land within the Cantonment for commercial purposes, being an extremely sensitive issue, should not be delegated to lower authorities. It should be exercised by the authorities at apex level to avoid misuse of delegated powers.