

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 68 OF 2022

IN THE MATTER OF:-

Raman Sharma ... Applicant

VERSUS

State of Haryana & Ors. ... Respondents

INDEX

<u>SL.NO.</u>	<u>PARTICULARS</u>	<u>PAGE NO.</u>
1.	Reply on behalf of Respondent No. 7 – Malibu Federation alongwith affidavit.	1-9
2.	<u>ANNEXURE-A:</u> The detailed measurement sheet with respective marking on the map.	10-12
3.	<u>ANNEXURE-B:</u> The photograph of the park.	13-17

FILED BY



RADHIKA GAUTAM/CHARU AMBWANI
ADVOCATES FOR RESPONDENT NO. 7

Office: E-28, Second Floor,
Lajpat Nagar-I, New Delhi- 110 023

Ph.: 9958008862

Email: gautamradhika.r@gmail.com

Date: 14/3/2023
Place: New Delhi

1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 68 OF 2022

IN THE MATTER OF:-

Raman Sharma ... Applicant

VERSUS

State of Haryana & Ors. ... Respondents

**REPLY ON BEHALF OF RESPONDENT NO. 7 – MALIBU
FEDERATION**

MOST RESPECTFULLY SUBMITTED:

1. That the Applicant/interventionist is Federation of Resident welfare Associations which are constituted by the residents of the township Malibu Towne located in sector 47 Gurugram. The applicant is registered Association under the Haryana Registration And Regulation Of Societies Act 2012, The Malibu Federation has appointed Mr. Niranjana Yadav to file present reply for which necessary resolution has been passed in this regard.
2. That the Malibu Federation / answering respondent was approached by few residents of the colony on basis of a post shared by the Applicant Raman Sharma, wherein the details of the present petition were provided. Thereafter the replying respondent got impleaded in the matter and the order dated 2.2.2022 was brought to the knowledge on the replying respondent. At the outset it is submitted that the present affidavit is being filed only pertaining to the issue of 10

Gensets and the respondent seeks leave of this Hon'ble Tribunal to place on record a detailed affidavit is so advised.

3. That the present petition is barred by Section 14(3) of the Act. About ? number of DG Sets were installed in 2013 and the same was in positive knowledge of the Applicant Raman Sharma.
4. That the Project Proponent has obtained various licences for the development of the colony under The Haryana Development and Regulation of Urban Areas Act, 1975. The said Act governs the terms and condition in accordance of which the Residential colony, townships and IT parks are developed. The Act further laid down rules i.e. **The Haryana Development and Regulation of Urban Area Rules, 1976**, which state the minimum area which is to be left out for the roads, open spaces etc., the relevant rule is reproduced hereunder,

“The Haryana Development and Regulation of Urban Area Rules, 1976

4. Percentage of area under roads, open space etc. in layout plans [Sections 3(3) 4 and 24]—(1) In the layout plan of a colony, other than an industrial colony 106[or low-density-eco friendly colony], the land reserved for roads, open spaces, schools, public and community buildings and other common uses shall not be less than forty five percent of the gross area of the land under the colony: Provided that the Director may reduce [after recording reasons

therefore] this percentage to a figure not below thirty-five where in his opinion the planning requirements and the size of the colony so justify.

(2) In the layout plan of an industrial colony, the land reserved for the purposes specified in sub-rule (1) shall not be less than thirty-five percent of the gross area of the land under the colony: 108[xxx]

[(3) In the layout plan of a low-density eco-friendly colony, the land reserved for common uses viz., roads, open spaces, solar farms, bio-gas plant, compost plant and other common uses shall not be less than 20% of the gross area of the land under the colony:

Provided the open space shall not be less than five percent of gross area and shall not be used for any other common purpose such as for solar farms, bio-gas plant or compost plant.]”

5. That the Rule 4 Sub-Rule 1 makes clear that minimum of 45% of the gross area of the township has to be reserved for the roads, open spaces, schools, public and community buildings and other common uses. Further the proviso to Rule 4 Sub-Rule 3 further states that the Open space shall not be less than 5% of the gross area.

Illustration: If the DTCP grants a licence for an integrated residential colony of 100 acres, then as per above Rule the land reserve will be in following manner:

Sl.No	Description	%	In Acres
1.	Total Gross Area 100 acres		100 acres
2.	Roads, open spaces, schools, public and community buildings and other common use	45%	45 Acres (Includes green belt of 5 Cares)
3.	Open Space(includes green belts)	5%	5 Acres (Part of Sl.No 2)
4.	Saleable Area Residential/commercial	55%	55 Acres

6. That the Malibu Federation got the audit of Open Space done in 2022 as the colony was to be handed over to the MCG for the mandatory services. The gross area Malibu town Township under the various licences granted is as follow:

Sr. No.	License No.	Year	Licensed Area (Acre)	Area in acres -Part completion granted	Date of grant of part completion
1.	71-75	1992	107.682	97.282	23.02.1996
2.	4-8	1993	16.18	16.08	03.05.1996
3.	15-19	1994	14.962	10.332	03.05.1996
				2.94	06.06.2003
4.	4-8	1995	26.83	26.83	05.02.2003
5.	36-46	1997	14.461	14.461	05.02.2003
6.		2008	24.681	24.681	27.09.2016
		Total	204.796	192.606	

That as per the proviso to Rule 4 Sub-Rule 3 the minimum open space should be 10.23 Acres (5% of 204.796 Acres).

7. The said audit was being conducted by Foundtek Consultants Pvt Ltd at the expense of the Malibu Federation, in order to cross check the position of open space on ground. That the green area measured by the said consultants was 14.054 acres (6.86%), the detailed measurement sheet with respective marking on the map is annexed herewith as ANNEXURE-A. That the Project Proponent didn't allow the Malibu Federation to do measurement of the Malibu Club lawns which is also part of the Open space and green belt. The said area is roughly 1 acres, hence if the said is included than the percentage of open space in 204.796 acres will be around 7.34%, which is 2% (4 acres) more than the minimum threshold required.
8. That the total number of the Gensets* in the colony installed by RWA are as follow:

Sl. No	Association	Number of DG Sets	Area Covered
1.	MTRWA (Plotted)	3(2 Working)	52.50 Sq.mtr
2.	MCRWA (Including Twin Tower) (Apartments)	4	160 Sq.mtr
3.	Shopping arcade (Commercial)	4	48.75 Sq.mtr
4.	Starwood Malibu (Plotted)	1	19.37 Sq.mtr
			228.125 Sq.mtr (0.056 Acres)

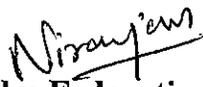
*These does not included the Gensets installed in the other commercial areas, schools and hospitals under the Malibu Towne.

9. That the placement of Gensets does not breach the minimum threshold required for the open spaces, which includes the green belt. Even after placement of DG Sets and other infra the total percentage of green belt doesn't go below the thresholds under the act. Further the Malibu Federation from its own effort is also developing the green belts which were never focused by the project proponent, the photograph of the park is annexed herewith as ANNEXURE-B.
10. That it is also submitted that the Gensets are community Gensets and if the same are removed, each household which is now connected to the communal Gensets will get a private Genset. The overall loss to sustainability and environment by this will be much more. Therefore it is humbly submitted that this Hon'ble Tribunal may take judicial notice of the fact that the communal Gensets are overall more in line with the sustainability and are more environmental friendly.
11. That the OA filed by Applicant Raman Sharma is malicious and nothing but the misuse of provisions of law and is politically motivated. The present petition is a direct result of elections of **MTRWA** (Malibu Towne resident welfare Association) which took place in the year 2021, the result of the said election was against the team supported by Applicant Raman Sharma, and the said team through its proxy member has filed the present petition. It requires

worth mention that Applicant Raman Sharma has already filed an appeal before the Registrar General of Societies Haryana which is bearing number 464 of 2022 challenging the decision of the election, which was conducted under the supervision of the administrator, duly appointed by District Registrar Firm and Societies Gurugram.

In view of the above submissions, it is humbly submitted that the present OA may kindly be dismissed.

Date:
Place: New Delhi


Malibu Federation
Respondent No. 7

VERIFICATION

Verified at Gurgaon on 14th day of March, 2023 that the contents of the above reply are true and correct to the best of my knowledge and belief as derived from the official record and nothing concealed therefrom.

Date: 14/3/2023
Place: New Delhi


Malibu Federation
Respondent No. 7

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
ORIGINAL APPLICATION NO. 68 OF 2022

IN THE MATTER OF:-

Raman Sharma

... Applicant

VERSUS

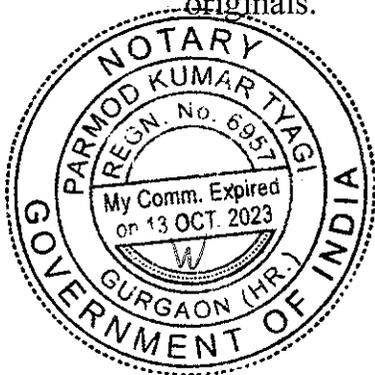
State of Haryana & Ors.

... Respondents

AFFIDAVIT

I, Niranjana Yadav, aged about 47 years, son of Shri Sheel Kumar Yadav, Chairman of Malibu Federation, having office at RWA Office, Opposite PKD, 12 Malibu Tower, Gurugram, Haryana do hereby solemnly affirm and state as under:-

1. That I am the Chairman of Respondent No. 5 Federation in the present matter and I am well conversant with the facts and circumstances of the case and as such I am fully competent to swear this affidavit.
2. That I have read and understood the contents of the accompanying Reply and say that the facts stated therein are true and correct to best of my knowledge and belief as derived from the official record.
3. I also state that the copies of the annexures annexed to the accompanying reply are true copies of their respective originals.



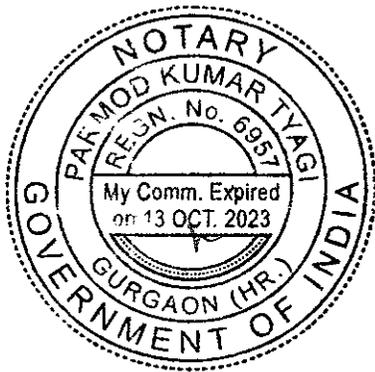
Niranjana
DEPONENT

VERIFICATION:

I the abovenamed deponent, do hereby solemnly verify that the contents of the aforesaid affidavit are true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

Verified at _____ on this ____ day of March, 2023.

Niranjan
DEPONENT



ATTESTED AS IDENTIFIED

[Signature]
 ~~~~~  
 PARMOD KUMAR TYAGI  
 Advocate & Notary Public  
 Govt. of India  
 Gurgaon, Haryana (INDIA)  
 My Commission Expires Oct-13-2023  
 ~~~~~

14 MAR 2023

GREEN AREA		
SR. NO.	PARK NOS.	AREA IN SQ.M.
1	A	314.2
2	A-11	558.6
3	E-1	572.8
4	E-2	182.4
5	E-3	151.4
6	E-4	755.4
7	E-5	882.6
8	E-6	10736.8
9	E-7	65.0
10	E-8	1136.2
11	E-9	926.5
12	E-10	102.4
13	E-11	118.4
14	E-12	119.6
15	E-13	106.2
16	E-14	265.2
17	E-15	113.8
18	E-16	25.8
19	E-17	113.1
20	E-18	369.9
21	E-19	99.2
22	E-20	3450.4
23	E-21	297.7
24	E-22	51.6
25	E-23	2727.2
26	E-24	93.1
27	E-25	88.6
28	E-26	19.6
29	E-27	185.0
30	E-28	76.3
31	E-29	49.8
32	E-30	268.8
33	E-31	58.6
34	E-32	38.1
35	E-33	339.1
36	E-34	163.6
37	E-35	88.8
38	E-36	166.0
39	E-37	252.1
40	E-38	88.5
41	E-39	95.9
42	E-40	87.4
43	E-41	2265.2
44	E-42	28.6
	TOTAL	28695.5
		7.091 Acres



GREEN AREA		
SR. NO.	PARK NOS.	AREA IN SQ.M.
45	G-1	1961.2
46	G-2	599.6
47	G-3	566.7
48	G-4	2238.0
49	G-5	517.9
50	G-6	1675.5
51	G-7	1697.8
52	G-8	691.4
53	G-9	3802.1
54	G-9A	1864.9
55	G-10	631.1
56	G-11	348.3
57	G-12	1986.5
58	G-13	384.4
59	G-14	2321.9
60	G-15	447.7
61	G-16	1529.5
62	G-17	4487.5
63	G-18	1449.0
64	G-19	5102.2
65	G-20	983.0
66	G-21	1321.2
67	G-22	424.4
68	G-23	1407.3
69	G-24	1355.5
70	G-25	2766.1
71	G-26	557.1
72	G-27	845.2
73	G-28	954.3
74	G-29	443.9
75	G-30	677.4
76	G-31	1991.1
77	G-32	4129.3
78	G-33	1451.8
79	G-36	332.8
80	G-38	837.0
81	G-40	2096.1
	TOTAL GREEN	56876.7
		14.054 Acres



Annexure-B

13 625





15 627



62816



629/7

