

GUIDELINES FOR ISSUE OF ESSENTIALITY CERTIFICATES BY THE TOURISM DEPARTMENT.

A promoter of a Tourism project in Himachal Pradesh, if he is a Non-agriculturist and Non-Himachali, has to obtain an Essentiality Certificate from the Tourism Department before he can apply for permission to purchase land Under-section 118 of the HP Tenancy and Land Reforms Act. This is provided under Rule 38(A)(3)(f) of the HP Tenancy and Land Reforms Rules. The mechanism of the Essentiality Certificate is necessary in order to ensure that the purchase of land is for a genuine project and not intended to by-pass the laws. The issue of Essentiality Certificates is recommended by the Distt. Tourism Development Officers. In order, to ensure a consistency and uniformity of approach by the various DTDO's and also to bring about greater transparency in the process, it has been felt necessary to formulate a set of guidelines on the basis of which Essentiality Certificates could be recommended/issued. It must not be forgotten that the primary purpose for recommending issue of Essentiality Certificates is the promotion of tourism in the State in a planned and environmentally sustainable manner. It must also be noted that purchase of Agricultural land in Himachal Pradesh by Non-agriculturists is a restricted right and therefore such purchase should be allowed only if it benefits the State directly. It is also the responsibility of the Department issuing the Essentiality Certificates to ensure such a right is not misused.

Apart from guidelines for issue of the Essentiality Certificates, it is also necessary to impose certain conditions to minimize their misuse, and also to bring about greater Inter Departmental Co-ordination. The Essentiality Certificate would be issued by the Commissioner(Tourism) and in the case of rejection, the appellate authority will be Secretary(Tourism). The spot inspection of the projects will be mandatory and same will be carried out in a defined frame for processing the applications of the Entrepreneurs to cut short delay by the officer of Tourism Department at different level as per cost of the projects as under:-

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| i) | upto one Crore | Inspector (Hotels) |
| ii) | upto ten Crore | DTDO |
| iii) | upto fifty crores | Dy. Director/Joint/Addl. Director (Tourism) |
| iv) | more than fifty crores | Commissioner(Tourism) |

(1) GUIDELINES FOR ISSUE OF ESSENTIALITY CERTIFICATES:

- Low end/Budget units should not be recommended along major highways, at or around important tourist destinations. In keeping with the Deptt's thrust towards development of quality tourism, only high-end hospitality units be recommended for such areas.

- Project reports should be insisted upon, and should be carefully scrutinized to ensure that there are tangible benefits to the State from the point of view of employment (both direct and indirect), revenues (from luxury tax, VAT, excise etc.) , capital investment, addition of value etc. - Govt's objective of dispersing tourism and de-congesting overburdened destinations should be kept in view. As a general policy, no new proposals should be recommended for Kasauli area, Solan, Shimla, Mashobra/Naldehra, Mcleodganj, Manali, Dalhousie, and Dharamshala. Proposals for these places may be considered favourably only if they belong to the premium category or the nature of the unit is unusual in adding value.

- Run-of-the mill hotels should not be encouraged generally. Preference be given to proposals that add new dimensions to tourism in the State, such as spas, wellness/health resorts, adventure sports, nature or eco-tourism units, golf resorts, multi-plexes. - It is important for the promoter to have had previous experience of the hospitality sector. This is necessary to weed out speculators, real estate developers, land- sharks etc. The Govt. would prefer investors with a long term involvement in the State, who possess the experience and expertise to make their project work. Towards this end, Govt. would prefer proposals from recognised Brands or established chains. - Department should not accept at face value the requirement of land as projected by the promoter, but make its own assessment based on the project report and tourism potential of the area. It should be particularly vigilant in cases where land prices are low, to avoid land-grabbing under the garb of tourism projects.

- No proposal should be recommended for Home Stays, as this scheme is meant exclusively for those who already have dwelling units in the State. - Financial standing of the promoter should be examined, along with mode of financing for the project.

For effective scrutiny it is suggested to introduce condition of spot visits by the Officers of different level as per cost of the project. It is proposed that it would be mandatory for the Inspector (Hotels) to visit the proposed site of all projects costing upto one crore, by the DTDO for projects costing upto 10 crore, by the Deputy/Joint/Additional Director for projects costing above one crore to 50 crores and by the Commissioner/Director Tourism where the project cost is expected to be beyond 50 crores.

-The following documents would be required to be attached to the proposal by the promoter for issue of Essentiality Certificates:

- (1) Application from the promoter.
- (2) Project profile.
- (3) Agreement to sell.
- (4) Affidavit from the seller that he/she will not become landless and if he/she is rendered landless he/she undertakes that he/she will not claim allotment of any land/property from the government of HP under any scheme.
- (5) Affidavit of purchaser that he will run the project as a tourism unit for atleast 10 years.
- (6) Original revenue papers i.e. Jamabandj and Tatima.
- (7) Site plan/Building plans along with provision of parking in Case the site is drive in.
- (8) An affidavit from the buyer with regard to land use for purpose of tourism unit.
- (9) Memorandum of Articles of Association, in case of company, and partnership deed, if the project is in partnership.

(2) CONDITIONS TO BE ATTACHED WITH THE ESSENTIALITY CERTIFICATES:

-The Essentiality Certificate should not be construed as being an authentication of the revenue papers attached to the proposal. These papers would be subject to verification by the Revenue Deptt. -Whenever Govt. grants permission to purchase land Under-section 118 on the basis of an Essentiality Certificate issued by the Tourism Deptt. for a tourism unit, a specific note to this effect should be made by the Patwari in the Jamabandi/Mutation order, so that the land cannot be used for any other purpose.

-Land purchased for a Tourism unit on the basis of an Essentiality Certificate cannot be sold by the promoter to any other person for 20 years. It can only be alienated with the prior approval of the Govt.

-No other Department of the Govt. shall allow, or grant permission for, the use of land purchased on the basis of an EC for any other purpose (such as industry real estate, commercial complex etc.) without obtaining an NOC from the Tourism Department. Promoter should complete the land transaction within twelve months of issue of Essentiality certificate. Thereafter the project should be completed within 2 years, failing which the EC would be withdrawn. Approved with modification that a clause be added in the Policy to the effect that on completion of the project the promoter shall submit a completion certificate to the Commissioner Tourism who shall forward one copy to the F.C.(Revenue) for their record. In exceptional cases, or for very large projects, Govt. can suitably extend the time period for completion on application by the promoter.

Any violation of the conditions of the EC would result in withdrawal of the EC and withdrawal of permission under Section 118 of the Tendency and land Reforms Act by the revenue Department.
