

# URBAN LAND RECORDS

Concept Paper

Project Management Unit - BOR

## **Background:**

The system in Punjab for recording rights and interests in land was originally established for the fiscal purposes of Government. The system is many centuries old and with few modifications has maintained a record of rights and interests in order to assess land revenue and other levies over agricultural land. The legal framework for the land records system is the Land Revenue Act 1967. The land records are administered by the Board of Revenue (BOR).

The principal purpose of those institutions was to generate tax revenues, and as such the focus was on productive rural areas, leaving urban areas outside the system. The same system is in vogue since then. Resultantly, the urban properties, recorded as Abadi Deh, are being managed on the basis of right of occupancy only rendering a huge vacuum in the urban land records.

The land records system that was originally designed to record ownership rights in agricultural land and to fix revenue demands by virtue of relationship with that land has continued under some sort of arrangements in much of the urban areas of Punjab as well. This arrangement has its own shortcomings. The textual record of *Patwari* is completely isolated from the urban taxation record and records of other utilities; the record does not capture the necessary attributes required for a comprehensive property record system such as covered area, dimensions, location, structure, right of way etc. The cadastral part is either completely missing or does not correspond ground realities. Resultantly, the system has failed in terms of quality of services provided to the people.

## **Constraints**

During the computerization of land records of Punjab, LRMIS observed that the urbanization of rural land adds to the woes of its targeted completion. In accordance with the provisions of Land Revenue Act 1967 and Land Revenue Rules 1968, a revenue estate or the select land parcel of a revenue estate which attain urban character, should be merged with the village settlement boundaries, commonly known as 'Red Line' as per instructions contained in

## URBAN LAND RECORDS

Concept Paper

Project Management Unit - BOR

para 7-57 (A) of the Land Records Manual. Record keeping of Urban/Settled areas of a village is not catered under the governing legal framework of Land Revenue. As soon as Collector will get report about change in character of land from agriculture to residential, he will issue orders for extension of “Red-Line”. Revenue Officer shall enter a mutation in favour of Abadi Deh. Unfortunately, however, this process has never been undertaken by the field revenue staff, presumably on account of following:

- a. A unified, formal system to record the urban properties does not exist.
- b. Individual rights are diminished and certified copies cannot be issued in favour of an individual.
- c. In the absence of a certified copy of title, the proving a title shall become a challenge.
- d. Absence of title will leave the public vulnerable to greater chances of fraud and land grabbing scams.
- e. Transaction values associated with urban properties are higher than those of Abadi Deh lands and thus provide better chances/opportunities for illegal gratification.

Resultantly, a large number of discrepancies have crept into the land record system. Some of which are as follows:

- a. The updated copy of land revenue records is generated after four years. However, due to the large number of transactions in urban areas, the record often becomes obsolete much earlier than four years.
- b. Larger number of transactions also means more effort and time for the staff in preparation of updated record.
- c. Due to the extended effort requirements, the updated record has not been prepared in many areas in the last few decades.
- d. The larger number of transactions and non-availability of updated copy results in more chances of making errors when issuing certified copy of rights. This in turn gives way to more opportunities for fraud and extortion.

## URBAN LAND RECORDS

Concept Paper

Project Management Unit - BOR

- e. Urban properties are often recorded in as small a unit as feet/inches which is not catered to by the legal framework governing the land revenue records. In most of the cases, it allows rounding of area to the nearest *Marla* which can be an extremely lucrative for many properties.
- f. Many of the characters of urban land such as ownership of multiple stories are not catered under the current land revenue system.
- g. Absence of appropriate bylaws for urban properties allows the individuals to build structure which do not even meet the basic standards of safety and health.
- h. On the other hand, application of land revenue system in urban areas has given way for fraudulent sale of land such as sale of possession.

### **Legislation Overview**

Section 3 of Land Revenue Act 1967 is usually mis-interpreted as held by the superior courts (NLR 1978 REV123, PLD 1978 REV.24.) which reads as under:

“Maintenance of record of rights in cities and towns is the function of Board of Revenue for which it issues directives from time to time under various provisions of land revenue acts”.

The bare perusal of section 3 mentions that the provisions of the Punjab Land Revenue Act 1967 will not apply to the lands occupied as a site of the town or village which are not assessed for the purpose of land revenue. But, an exception is given at the very outset indicating that for the purpose of preparation of record, recovery and maintenance of village cess or for purposes of survey the provision of act will apply.

Moreover, Section 116 of the Punjab Land Revenue Act of 1967 clearly empowers the Board of revenue that whenever it may deem expedient the Board of Revenue through a notification may pass orders for the survey of any land in any part of the province with a view to the settlement of land revenue, the preparation of record of rights and preservation thereof or any for similar purpose and such survey may extend to the lands of any village, town or city generally or to such parts as may be specified in the notification. Thus, section 116, clearly empowers the Board of Revenue that for the purposes of preparation of record of rights and reservation thereof, the Board of Revenue may issue notification for the survey of any sort of

## URBAN LAND RECORDS

Concept Paper

Project Management Unit - BOR

land whether included in a village or town or city and whether that is constructed or lying vacant.

However, for the preparation of record of rights in urban areas no such notification was issued by the Board of Revenue and no action plan to meet the end of this provision is ever prepared. Section 118, 119, 120, 121 and subsequent sections of the Act provide the detailed mechanism for such survey. Even an agency other than the revenue officers and village officers can be deputed by the Board of Revenue under section 120 of the said Act. It would be pertinent to mention that section 55 of the said act confers the power on the Board of Revenue that with the approval of the provincial Government the Board of Revenue may prescribe the language in which records and registers are to be made and as to how the record will be prepared, corrections will be recorded and registers of records will be prepared. It would not be out of place to mention that when the process of settlement was started in the sub-continent by the British Government the main purpose of the settlement of land as given in para 5 of the Settlement Manual was declared as under:

- i. Preparation of record of rights;
- ii. Assessment of land revenue

Under these twofold objects the settlement operations in different parts of the country were conducted from time to time and record of rights in shape of *Misl-e-Haqiat* were prepared. Then, those *Misl-e-Haqiat* were updated through *Misl-e-Miyadai* and the process continued. During, all settlement operations, the land falling under settlements i.e. constructed areas were declared as *Abad-i-Deh* within the *Lal-Lakeer* and no detailed record of ownership or propriety rights was included in *Misl-e-Haqiat*. Throughout the history of the settlement, the main thrust of the Government remained upon the preparation of record of rights related to agriculture lands with a view to assess the land revenue and with the purpose that by virtue of occupation upon agricultural land who was responsible to pay the land revenue or rent to the govt. The legislature in its wisdom while enacting the Punjab Land Revenue Act 1967 clearly provided provisions for the purpose of survey of all lands including urban areas or village areas with a view to prepare

## URBAN LAND RECORDS

Concept Paper

Project Management Unit - BOR

detailed and comprehensive record of rights but the provisions of the Punjab Land Revenue Act could not be applied in its true spirit.

Mere extension in *Lal Lakeer* is not the solution to the problem. If, the *Lal Lakeer* is extended as envisaged in sub section 2 of section 3 of the Punjab Land Revenue Act 1967 and as envisaged in para 7.57-A of Land Record Manual, it will result into sanction of a new mutation in favour of *Abadi Deh* by the orders of respective District Collectors and it will deprive the individual land owners from their specific shares in land already recorded in *Register Haqdaran-e-Zameen (Misl-e-Miyadi)* prepared from time to time.

### **Types of Land / Land Records**

At present, by and large the lands are of following three categories:

1. Lands which were agricultural in its character at the time of first settlement and still continues with the same character and its *Misl-e-Haqiat* is prepared and *Register Haqdaran-e-Zameen* being updated from time to time. PMU-LRMIS has predominantly computerized land records related to this category and services are being rendered through LRMIS.
2. Land declared within the *Lal Lakeer* as *Abad-e-Deh* at the time of first settlement for which no separate record of individual rights was prepared.
3. Lands for which *Misl-e-Haqiat* was prepared at the time of first settlement being agricultural land and subsequently *Misl-e-Miyadi* and *Register Haqdaran-e-Zameen* from time to time were updated but practically and factually such lands came under urban areas, towns and housing societies and the shares of the landowners are recorded with preparation of *Tatimmas* (supplementary maps) or without the preparation of *Tattimas*, but no record is prepared as urban area/Town site/Village site on modern lines on new format after a fresh survey. Further classification of this category may be under:
  - a. Individual land divisions wherein agricultural land has been converted illegally into dwelling units, factories or industrial concerns by the land

## URBAN LAND RECORDS

owners without getting approvals from the competent legal forums. Sale purchase being done by individuals with or without mentioning change in category of land.

- b. Private housing societies are established in contravention to Land Use Policy issued by Housing Department for LDA and other development authorities and by LG&CD department for TMAs etc. The developers sold plots on installments or otherwise through power of attorneys in most of the cases. The investors face a lot of difficulties and frauds in transfer / possession of the purchased plots. Transfers are made in revenue record without mentioning the change in the category of land in most of the cases.
- c. Private housing schemes claimed to be established under the Land Use Policy but fulfilled few of the parameters or partly applied the legal framework. Sometimes transfers are made to the purchasers in revenue record and in most of the cases only allotment letters indicating plot numbers and right of possession are given to purchasers.
- d. Private housing colonies & industrial zones developed as per the legal requirements of Land Use Policy, which are registered with the relevant legal forums. Usually, the plots are transferred in the offices of developers and no mutation / registry & Updation in individual land records is incorporated.
- e. Mega private development authorities e.g. DHA, PHA, EDEN, BHARIA town etc. All the legal requirements fulfilled and all the transfers of plots is being recorded & maintained. The developers only issue the allotment letter and write the possession on a specific plot and the land remains in the name of the relevant developing authority in the revenue record. Such allotments does not create absolute individual title in the land. The allottees enjoy possession and the same is sold in the relevant offices by paying additional fees to developers over and above the taxation notified by the Provincial / Federal Government.

## URBAN LAND RECORDS

Concept Paper

Project Management Unit - BOR

- f. Land declared as *KACHI ABADI*. Separate record of such land is being maintained by the DG Kachi Abadi and TMAs etc.
- g. In Cantonment areas, the Executive Officers make allotments and all transactions are recorded without making any Updation in the revenue record.

Keeping, in view the provisions of Punjab Land Revenue Act 1967 as mentioned above, the record of rights for last two categories is required to be prepared after the comprehensive survey and on the modern lines containing all characteristics of urban areas. The process of preparation of record of rights of urban character land is very complex. We are well aware that before venturing into the preparation of record of rights for agriculture lands, detailed settlement schemes and manual of instructions were prepared by the British Government for the settlement operations. Douie's Settlement Manual and Land Administration Manual remained in the field for the guidance of settlement officers and staff to carry out the operations of the settlement and preparation of record of rights. This gigantic task was taken up with intervals and almost five settlement operations were executed to complete the settlement of Punjab as it was in the British Government.

The record of rights of lands already declared situated in *Lal Lakeer* and potential *Lal Lakeer* (which is still to be extended) is a task which was never attended by our successive Governments after independence. The present Government is very serious to prepare the record of rights in a new format with a comprehensive property record system such as covered area, dimensions, location, structure, right of way and even 3-D pictures of every property with a unique identification. As already mentioned the cadastral part is either completely missing or does not depict the ground realities as the same was prepared for the lands meant for the agriculture purposes and not for residential and commercial purposes.

In a meeting under the chairmanship of Mian Shahaz Sharif, Chief Minister Punjab on 23 Sep 2015, it was clearly ordered that process of computerization of urban land records be initiated immediately and a comprehensive framework be presented at the earliest. The

## URBAN LAND RECORDS

Concept Paper

Project Management Unit - BOR

provincial Government is bent upon to prepare the record of rights for urban areas under the provisions of Punjab Land Revenue Act of 1967.

It would not be out of place to mention that under the rules of business of 1973, the preparation of record of rights for all lands is the main responsibility of the Revenue Department of Provincial Government and not of any other provincial department. Therefore, even after the preparation of record of rights of all lands falling in urban and city areas, the custody of that record will remain with the Revenue Department as the preparation, updation and preservation of valuable rights of the landowners of any sort of the land is the sole domain of the Revenue Department under the supervision of Board of Revenue, Punjab.

### **Perceived Mechanism**

Keeping in view, the provisions of the Punjab Land Revenue Act 1967, the following mechanism apparently may be applicable:

- a. Introduction of Revenue Survey under section 116 of the Punjab Land Revenue Act 1967.
- b. A comprehensive notification for the survey of land situated in any part or parts of the province with a view to prepare the record of rights and preservation thereof through computerization may be ordered and issued by the Board of Revenue, Punjab. Such survey may extend to the lands of any village, town or city generally, or to such land only as may be specified in the notification.
- c. Apparently, the nature of survey is so complex and application of modern technology is so vital that the existing Revenue Officer & Village Officer cannot accomplish this task in a befitting manner. Therefore, for such a professional survey, the Board of Revenue, Punjab will be required to issue a notification under section 120 of the Punjab Land Revenue Act. Stating therein
  - i. the local area to be surveyed and the nature of survey;
  - ii. the name of the agency, and the names or official designations of the officers by whom the survey is to be made; and

## URBAN LAND RECORDS

Concept Paper

Project Management Unit - BOR

- iii. the kind of boundary marks to be erected by those officers or Agency.  
The boundary marks may be in a traditional mode or on the basis of technology as envisaged in the comprehensive survey scheme.
- d. Prior to issuance of above mentioned notifications, a comprehensive “survey scheme” is required to be prepared prior to launching the required survey of built up areas for the purpose of preparation of record of rights.
- e. The surveying agency and the designated officers will be authorized to exercise all powers of Revenue Officers to define boundaries as envisaged in Section 117 of Punjab Land Revenue Act 1968.
- f. Such agency/officers will be authorized to conduct survey under the procedure contained Section 118 of the said Act.
- g. The land holders and other citizens will be bound to provide the assistance to the agency / officers as envisaged in Section 119 of the said Act.
- h. The Board of Revenue shall make Rules for the purpose of survey and demarcation of boundaries and erection thereof in what so ever manner as envisaged in Section 121 of the said Act.
- i. The requisite “survey scheme” shall include the dispute resolution mechanism arising between the landowners or between the landowners & surveying authority and will also be inclusive of the legal role and relationship of District Collectors & Sub-divisional Collectors and Revenue Officers with the surveying agency / designated officers.
- j. The Board of Revenue with the prior approval of the Government will frame such Rules as will be required to give effect to the Settlement of the boundaries under the provision contained in Section 122 of the Punjab Land Revenue Act, 1967.
- k. The Board of Revenue, Punjab with the prior approval of the Government will be required to prepare Rules under Section 55 of PLRA of 1967 prescribing the language of the land records being prepared, prescribing the form of those records & registers and the manner in which they are required to be prepared signed &

## URBAN LAND RECORDS

Concept Paper

Project Management Unit - BOR

attested; and for the purpose of survey of land so far as may be necessary for the preparation and correction of those records & registers. These rules may also include the conduct of inquiries by the Revenue Officers during the preparation of such records. The Rules will also include the general guidance pertaining to records & registers and for reporting, preparation, authentication, revision and correction of computerized land records.

1. The most important part of the project is preparation of comprehensive survey scheme as mentioned above. It will be altogether a new system of urban land records. In fact it needs a new a comprehensive settlement of urban areas or built up areas other than the urban areas. The generation, updation and preservation of land record entries to create reliable title in favour of landowners is an uphill task.
- m. The application of modern technology by areal survey of all properties, determination of coordinates of each property, assigning a universal distinct identity to each property, collection of documents by door to door survey related to each individual property, curving out a specific format for registry data and preparation of a comprehensive cadaster matching with ground realities or some common features kept under consideration while preparing the survey scheme.

### **Conclusion:**

In short, the PC-1 for the conceived project should contain the whole legal framework mentioned above alongwith application of modern technologies already in vogue in different parts of the World. The issue is very intricate and complex as it relates to the valuable rights of landowners. The project needs to be implemented in a smooth and transparent way. The Government of Punjab perhaps cannot outsource the execution of the project in its entirety to the private vendors. A Govt. agency e.g. PMU-LRMIS or its successor body i.e. the Punjab Land Records Authority under the active supervision of Board of Revenue Punjab may be assigned the role of executing agency for this very important project of the provincial Government. However, the executing agency may engage private vendors national or international under the approved legal framework contained in PC-1.

## URBAN LAND RECORDS

Concept Paper

Project Management Unit - BOR

### Questions

PMU-LRMIS is, therefore, holding a technical conference to share the concept with all stakeholders to get their input for the preparation of PC-1 for this newly conceived project of preparation of urban land records of Punjab and its computerization on modern lines.

Keeping in view, the above the following questions are placed before the participants for their valuable response and opinions related to different aspects of the Project:

- i. How and by whom a comprehensive survey scheme, requisite notifications & drafts, rules under different provision under the PLRA will be prepared making it integral part of PC-1 including the timelines, application of technology, rough cost estimates, assigned roles of the executing agency and its officers and the role of the Revenue Field Formation?
- ii. Should we go for the cadastre first and then link the textual record to it or should we prepare a comprehensive textual record after the survey & then link it with the cadastre?
- iii. What would be the methodology for the selection of area? Should it be mauza wise or pilot of some district or whole province in one go?
- iv. What would be the best time for the extension of Laal Lakeer (after the preparation of urban record or prior to the preparation of urban record)?
- v. Should we use the data of Excise & taxation for the purpose of record preparation?
- vi. Should we link the LDA and other housing colonies with this system or allow them to act independently?
- vii. What would be the measurement unit? Kanal-marla-square feet- inches or Square meter – guzz ?
- viii. Whether we record the joint ownership in urban record as it is or first do the proper sub divisions?
- ix. Should we change the khasra numbers with the house numbers?

## URBAN LAND RECORDS

Concept Paper

Project Management Unit - BOR

- x. Should we change the mauza names with the blocks or areas?
- xi. Should we add a 3-D picture of each property?
- xii. Should we fix the minimum or maximum size of the blocks as per the ground realities prevailing in each district level?
- xiii. Should we give the land ownership to those who have possession of the areas with some registered deeds or have record in the excise & taxation (inside the lal lakeer)?
- xiv. After the Urban Land Record, should we continue with the registry system? Or should we issue a certificate for the land ownership?
- xv. Should we establish separate offices for the urban land records or use the Sub-registrar offices as per existing arrangements?
- xvi. Should we hire the new cadre to handle the urban land records?
- xvii. Should vendor be hired for technical support only or can be hired for survey as well?
- xviii. Should we have a separate grievances redressal tribunals or the District Collector / Sub-divisional collector and the collector 1<sup>st</sup> grade be designated as Tribunals for dispute resolution with distinct categories?
- xix. Should the system work under the PMU-LRMIS or its proposed successor body i.e. Punjab Land Records Authority or under the direct supervision of BOR through Commissioners / District Collectors etc?
- xx. What may be the role of Urban Unit? Can it execute the project directly under the supervision of Board Of Revenue or under the supervision of PMU-LRMIS / proposed PLRA?
- xxi. Should we prepare a project with the assistance of the World Bank or it should be executed through ADP of the Provincial Govt.?