

COMPETITION COMMISSION OF PAKISTAN

ENQUIRY REPORT

Under the provisions of Section 37(2) of the Competition Act, 2010)

**IN THE MATTER OF COMPLAINT FILED AGAINST
M/S VISION DEVELOPERS (PVT) LIMITED. FOR
DECEPTIVE MARKETING PRACTICES**

BY

**Marryum Pervaiz, Faiz ur Rehman & Urooj Azeem Awan
Dated: December 15, 2016**

1. BACKGROUND

- 1.1 Mr. Mubashar Javed (hereinafter referred to as the ‘**Complainant**’), through M/s Nishtar Kamran & Minallah, Advocates and Legal Consultants, filed a complaint against M/s Vision Developers (Pvt.) Ltd. (hereinafter referred to as the ‘**Respondent**’), with the Competition Commission of Pakistan (hereinafter referred to as the ‘**Commission**’) for alleged violation of Section 10 of the Competition Act, 2010 (the ‘**Act**’), on their part, pertaining to Deceptive Marketing Practices.
- 1.2 The Complainant alleged that the Respondent is engaged in the sale of residential and commercial plots in an unapproved housing scheme namely the ‘*Park View Villas*’ by concealing the factual position from its customers. The Respondent is therefore, misleading the general public by making a claim that ‘*Park View Villas is a part of the River Edge Housing Scheme*’, whereas, the River Edge Housing Scheme is an adjacent housing scheme duly approved by the Lahore Development Authority (the ‘**LDA**’). By doing so, the Respondent has engaged in the Deceptive Marketing Practices and is also responsible for distorting healthy competition in the market.
- 1.3 Keeping in view the forgoing, the Competent Authority initiated an enquiry in accordance with sub section (2) of Section 37 of the Act by appointing Ms. Marryum Pervaiz, Deputy Director (OFT), Mr. Faiz ur Rehman, Assistant Director (OFT) and Ms. Urooj Azeem Awan, Management Executive (OFT) as enquiry officers (collectively referred to as the ‘**Enquiry Committee**’) to conduct an enquiry into the matter.
- 1.4 The Enquiry Committee was directed to conduct the enquiry on the issued raised in the Complaint and to submit the enquiry report by giving their findings and recommendations *inter alia* on the following issues;
- a) Whether the Respondent is *distributing false or misleading information to consumers, including the distribution of information lacking a reasonable basis related to character, properties and suitability for use of the project*, in violation of Section 10 (2) (b) of the Act?; and
 - b) Whether the conduct of Respondent *is capable of harming the business interest* of other undertakings, in violation of Section 10 (2) (a) of the Act?

2. SUMMARY OF THE COMPLAINT

- 2.1 A complaint was received from M/s Nishtar Kamran & Minallah, Advocates and Legal Consultants, filed on behalf of Mr. Mubashar Javed, against M/s Vision Developers (Pvt) Limited, a Lahore based Undertaking, its directors and officers.
- 2.2 The Complainant alleged in his petition that the Respondent had applied to the LDA on 22nd February, 2013, for seeking its approval to launch a housing scheme in the name of ‘*Park View Villas*’ (hereinafter referred to as the ‘**Housing Scheme**’) on the land adjacent to another housing scheme namely, ‘*River Edge Housing Scheme*’, owned by Mr. Ammar Ahmad Khan.

- 2.3 It was further submitted that the LDA dismissed request of the Respondent on the grounds that the land classified for the proposed Housing Scheme was situated in the River Area/Khadar Area (flooding zone) and thus it could not be allowed for residential purposes or urban development schemes.
- 2.4 It was also stated that the Respondent filed an appeal before the Secretary, Housing, Urban Development and Punjab Health Engineering Department, but the competent authority, vide its order dated 10th December, 2013, rejected the appeal on the grounds that the said Housing Scheme fell in agricultural area and did not carry characteristics of an urban property. Therefore, the proposed Housing Scheme of the Respondent was not granted the requisite approval.
- 2.5 The Complainant further alleged that inspite of rejection of the appeal, the Respondent, in connivance with Mr. Ammar Ahmad Khan, started offering plots for sale in the aforesaid Housing Scheme extensively through media, billboards and banners.
- 2.6 The Complainant also alleged that the Respondent had attempted to portray that Housing project launched by it is a part of the approved adjacent housing scheme namely the “River Edge Housing Scheme”. Whereas, the ‘Park View Villas’ was a separate independent project having no link with the approved River Edge Housing Scheme.
- 2.7 The Respondent fraudulently launched sale of plots of its Housing Scheme claiming it as a part of River Edge Housing Scheme through misleading advertisement which represents it as ‘*Park View Villas at River Edge Housing Scheme*’, to make people think that the land of Housing Scheme is also duly approved vide the NOC issued to the River Edge Housing Scheme, which was in fact contrary to the factual position.
- 2.8 The Complainant pointed out that the LDA, being aware of the unauthorised and deceptive activities of the Respondent, warned the general public by issuance of public notices in the press at a large scale informing that the subject Housing Scheme does not have approval of the LDA and any purchase of land in the said Housing Scheme will be at the buyers’ risk.
- 2.9 The LDA, in order to restrict the development of this fraudulent Housing Scheme, directed the Collector Revenue Department, Lahore, vide letter No. 2634, dated 03-09-2014, to impose a ban on the issuance of *Fard-e-Malkiyat*, registration of any document and attestation of mutation in favour of the sponsor/developer/owner in the extended part of the River Edge Housing Scheme under clause 14, sub clause 4 (b) of the LDA Act, 1975, as amended.
- 2.10 The Complainant alleged that the Respondent had started encroachment upon the public thoroughfares/roads in order to include the encroached area in the Housing Scheme. In particular, the inhabitants of Mauza Bhola Garhi, Mauza Kanjran, Mauza Shah Pur, Mauza Kattar Band and Mauza Chung, Multan Road, Lahore raised objections against

the encroachments and tried to foil illegal development work of the Housing Scheme by Mr. Abdul Aleem Khan, owner of the Park View Villas.

- 2.11 In support of his allegations, the Complainant submitted that the Respondent is converting the encroached land into commercial plots of 4 Marlas on both sides of the public road. The Respondent also started to sell residential plots of 5 Marlas @ PKR 1.8 to 3.5 million and commercial plots of 4 Marlas @ PKR 8 million per plot, in blatant violation of prescribed Rules notified by the LDA.
- 2.12 Due to inaction on part of the relevant authorities, a Writ Petition was also filed by the inhabitants in the Lahore High Court, Lahore.
- 2.13 The LDA, through various letters issued to the concerned authorities, directed to disconnect/stop the provision of water, sanitation services, electricity and Sui gas connections to the said Housing Scheme.
- 2.14 The LDA's employees took appropriate action and restrained the illegal development works in progress. However, it was alleged that they were not only opposed in the performance of their official functions but also assaulted, criminally intimidated and physically harmed by the Respondent and its employees. This also resulted in registration of criminal cases against Mr. Abdul Aleem Khan and his aides.
- 2.15 It has further been alleged that, despite all the steps taken by LDA to curb the development and sale of plots in this allegedly illegal Housing Scheme, the Respondent has still been able to sell many residential and commercial plots in a deceitful manner to the general public and one such major portion of land within this Housing Scheme has also been sold to the Employees Old-Age Benefit Institution (EOBI), a public institution responsible for managing contribution for the long term benefits of the labour class after retirement from services.
- 2.16 In furtherance of sale of land to the EOBI, it has been submitted by the Complainant that EOBI had advertised a tender on 4th February, 2011 and 24th March, 2011 for the purchase of a piece of land. The Respondent, instead of sending the bids at the specified address i.e. P.O. Box No. 30, Karachi, sent the bid directly to the Chairman EOBI Mr. Zafar Iqbal Gondal, after the cut-off date.
- 2.17 It had been advertised publicly by LDA on 24th and 29th April, 2012 that the said land was not approved for housing schemes and this fact had been in the knowledge of the EOBI management, yet a huge property was purchased for the personal aggrandizement of the Respondent.
- 2.18 Furthermore, the EOBI struck two bargains with the Respondent for purchase of land in Park View Villas, one in June, 2012 and the other in February, 2013. A total of 684 Residential plots, equivalent to 3,870 Marlas, and 284 Commercial plots, equivalent to 1,240 Marlas, for a value of PKR 2.6 billion.

- 2.19 It has been also submitted by the Complainant that the purpose of lodging the complaint is to seek the Commission's active investigation into the matter as to how the general public has been befooled through deceptive marketing practices by the Respondent.
- 2.20 The Complainant has sought relief against the aforementioned illegal practices by the Respondent and its aides in terms of Section 10 (2) (b) of the Act

3. REPLY OF THE RESPONDENT

- 3.1 A letter was written by the enquiry officers to the Respondent on 21st of September, 2016, wherein the Respondent was asked to furnish comments/reply to the complaint and to clarify its position regarding the alleged contentions raised within the complaint, in terms of Section 10 of the Act.
- 3.2 The Respondent submitted a reply vide letter dated 29th September, 2016, wherein it was submitted that a Writ Petition had been filed with the Honourable Lahore High Court (LHC) regarding the planning permission and that the matter is still subjudice with the LHC.
- 3.3 Moreover, it has been submitted by the Respondent that the matter of sale of land to EOBI is also subjudice in the Supreme Court of Pakistan.
- 3.4 The Respondent also submitted that it has not been advertising any campaign on any media, neither print nor electronic. Furthermore, it submitted that its last advertisement had been published in print media on 8th of June, 2012.

4. REJOINDER BY THE COMPLAINANT

- 4.1 A letter was written by the Enquiry Committee to the Complainant on 6th of October, 2016, wherein the Complainant was asked to furnish his comments/rejoinder, if any, to reply of the Respondent. When no reply was received, a reminder was issued vide letter dated 27th of October, 2016.
- 4.2 The Complainant submitted his rejoinder vide his letter dated 9th of November, 2016, wherein it was reiterated that the Respondent has indulged in deceptive marketing by misleading the general public through press, electronic media and billboards, to induce the customers for booking of the plots in an unapproved housing scheme.
- 4.3 The Complainant further submitted that the reply of the Respondent did not contain or claim that they had been granted injunction by a court of law against any probe by the Commission into their fraudulent marketing of plots in an unapproved/unauthorized Housing Scheme.

5. INFORMATION FROM THE RELEVANT AUTHORITY (LDA)

- 5.1 Any Undertaking that intends to initiate planning or development of a housing scheme within the territory of Lahore should seek permission from the LDA. It is, therefore, important to have a general introduction about the authority that granted the requisite permission. In this regard, the Enquiry Committee approached the LDA in order to enquire about the factual position of the Housing Scheme. However, before analysing the information collected from the LDA, it is pertinent to discuss the authority of LDA in general and in particular relating to the matters of regulating the Housing Scheme.
- 5.2 The LDA has been created under the Lahore Development Act, 1975, duly approved by Punjab Legislative Assembly. LDA is responsible for new planned development in Lahore, Punjab, Pakistan. It also regulates and issues permits for new construction and housing projects, private houses and commercial development. It also manages Lahore's parks and green areas.
- 5.3 The LDA, under Section 4 of the LDA Act, 1975, is a body corporate with the perpetual succession and a common seal with powers, subject to the provision of law, to acquire and hold property.
- 5.4 The mission of LDA, in brief, is as under:
- To establish a comprehensive system of metropolitan planning and development in order to improve the quality of life in the metropolitan area of Lahore.
 - To establish an integrated metropolitan and regional development approach and a continuing process of planning and development, to ensure optimum utilization of resources, economical and effective utilization of land.
 - To evolve policies and programs relating to the improvement of the environment of housing, industrial development, traffic, transportation, health, education, water supply, sewerage, drainage, solid waste disposal and matters connected therewith and incidental thereto.
- 5.5 The Enquiry Committee requested LDA vide a letter dated 7th of December, 2016, asking a set of following questions regarding the Housing Scheme, which are as under:
- a. As per the Rules, Policies and Procedures of Lahore Development Authority (LDA), does the housing project named '*Park View Villas*', located at 3-KM Thokar Niaz Baig, Multan Road, Lahore, fall within land designated for agricultural purposes?
 - b. If yes, then as per the Rules, Policies and Procedures of LDA, can a housing project be developed upon the same land designated for agricultural purposes?
 - c. Had the LDA granted any No Objection Certificate (NOC) to M/s Vision Developers (Pvt.) Ltd. for construction and development of *Park View Villas*?
 - d. Is *Park View Villas* a part of or an extension of adjacent housing project named *River Edge Housing Scheme*?

- e. If yes, then has *River Edge Housing Scheme* been granted an NOC by LDA for construction and development of the housing project?
- f. If not, then as per the Rules, Policies and Procedures of LDA, is *Park View Villas* an illegal housing project?
- g. If yes, then can residential and commercial units within *Park View Villas* be sold or offered for sale under the Rules, Policies and Procedures of LDA?

5.6 In continuation of the letter written to LDA for information on concerns cited in para No. 5.5 above, a parawise reply was furnished by LDA which is as follows:

- a. The sponsor of Park View Villas Housing Scheme applied for approval of the scheme and the same was rejected because proposed scheme area fell in agricultural/industrial area and Khadar area as per Master Plan, 2021.
- b. The Housing Scheme cannot be developed in the agricultural zone as per the LDA Private Housing Scheme Rules 2014.
- c. LDA has not granted any NOC to M/s Vision Developers for the construction and development of Park View Villas.
- d. Park View Villas Housing Scheme is not a part of River Edge Housing Scheme.
- e. River Edge Housing Scheme, Lahore is an approved scheme by LDA for land measuring 765.75 Kanals. The construction and development of River Edge Housing Scheme is allowed only in its approved area.
- f. Yes it is an illegal Housing Scheme and LDA has taken all legal actions against it.
- g. As already explained that Park View Villas Housing Scheme is an illegal scheme. However, LDA has no record/ role in sale and purchase of plots and it is a matter between two private parties.

5.7 The Enquiry Committee also visited the LDA's Office situated in Johar Town, Lahore on 9th and 10th of December, 2016, and collected relevant material/document on the matter related to Housing Scheme. The information gathered from LDA is summarised below:-

5.8 River Edge Housing Scheme, situated at Mauza Kanjran, was approved by LDA in the year 2006 for an area measuring 765.75 Kanals (the approval of revised layout plan is attached herewith as Annex-A). Later on, the Respondent extended this scheme's area illegally and unlawfully without obtaining prior approval from the LDA. Moreover, the Respondent has also changed the scheme's name into the name and style of '*Park View Villas Housing Scheme*' without permission of LDA and started sale/purchase of plots of the Housing Scheme illegally.

5.9 It has been explicitly mentioned in **Rule 6 (v) of the Punjab Private Housing Schemes and Land Sub-Division Rule, 2010¹**, that the area proposed for a housing scheme should be in conformity with the approved Master Plan, 2021, of LDA. The proposed Housing Scheme falls in the Agricultural Area according to the Master Plan, 2021, of Lahore Division, due to which the planning permission was declined (Decision is attached as Annex-B). According to the above referred Rule 6, clause (2), sub-clauses (ii) and (v), the Housing Scheme does not fulfil the requirements of urban development, which for ease of reference is reproduced below:

*“(ii) site is not prone to flooding, and;
(v) scheme proposal is in conformity with an approved master plan²
if any”.*

5.10 As per Section 13 (5) of the Lahore Development Authority Act, 1975 (LDA Act), ‘**A person, local body or Government agency shall not, within the area [Lahore Division], prepare a planning or development scheme except with the concurrence of the Authority**’, which in this case is the LDA. The Respondent in this case has failed to obtain an approval from the authority for the development and construction of the Housing Scheme.

5.11 As per Rule 45 (1) of the Lahore Development Authority Private Housing Schemes Rules, 2014, advertisement in print & electronic media and development/sale/purchase of plots of any housing scheme, prior to formal approval from the LDA, is unlawful. In this matter, the Respondent has carried out advertisements using print media and billboards and has also engaged in the development/sale/purchase of the land in the Housing Scheme, thereby rendering it an unlawful activity under the provisions of the LDA Act.

5.12 Furthermore, sub-section (3) of Section 14 A: Control of Master Plan, etc.-, states that **“Notwithstanding anything contained in any other law, a person shall be bound to adhere to the master plan, rules and regulations for land use control and housing functions...”**; and

5.13 Whereas subsection (4) of Section 14 A: Control of Master Plan, etc.- states that:

(4) In case any person contravenes any of the provisions of this section, the Authority may direct that till the time the contravention continues—

(a) transfer of any immovable property shall be prohibited;

(b) the Collector to impose a ban on the issuance of Fard-e-Malkiyat, registration of any document or attestation of mutation in favour of the said person; and

¹http://www.lda.gov.pk/images/Punjab_Private.pdf

²<http://www.punjabcode.punjab.gov.pk/public/dr/Lahore%20Development%20Authority%20Master%20Plan%20Rules%202014.doc.pdf>

(c) the local government, Agency or Government agency to stop or discontinue the provision of municipal services to such person.

- 5.14 With reference to para Nos. 5.12 and 5.13 above, the Respondent was served with a legal notice and Show Cause Notices by the LDA to curb the unlawful development, advertisement and sale of plots of the Housing Scheme. Under provisions of relevant law, the Collector was directed to ban the issuance of *Fard-e-Malkiyat*, registration of any document or attestation of mutation in favour of the Housing Scheme of the Respondent (Legal Notice are attached as Annex-C and Show Cause Notices are attached as Annexure-D).
- 5.15 Moreover, the local government was also directed to stop or discontinue the provision of various municipal services to the said Housing Scheme (Letters sent to the Municipal Authorities are attached as Annexure- E).
- 5.16 LDA also issued a series of public notices for the information of general public to avoid sale/purchase in the Housing Scheme, which had been declared unlawful according to the public notices explicitly (Copies of the public notices are attached as Annexure- F).

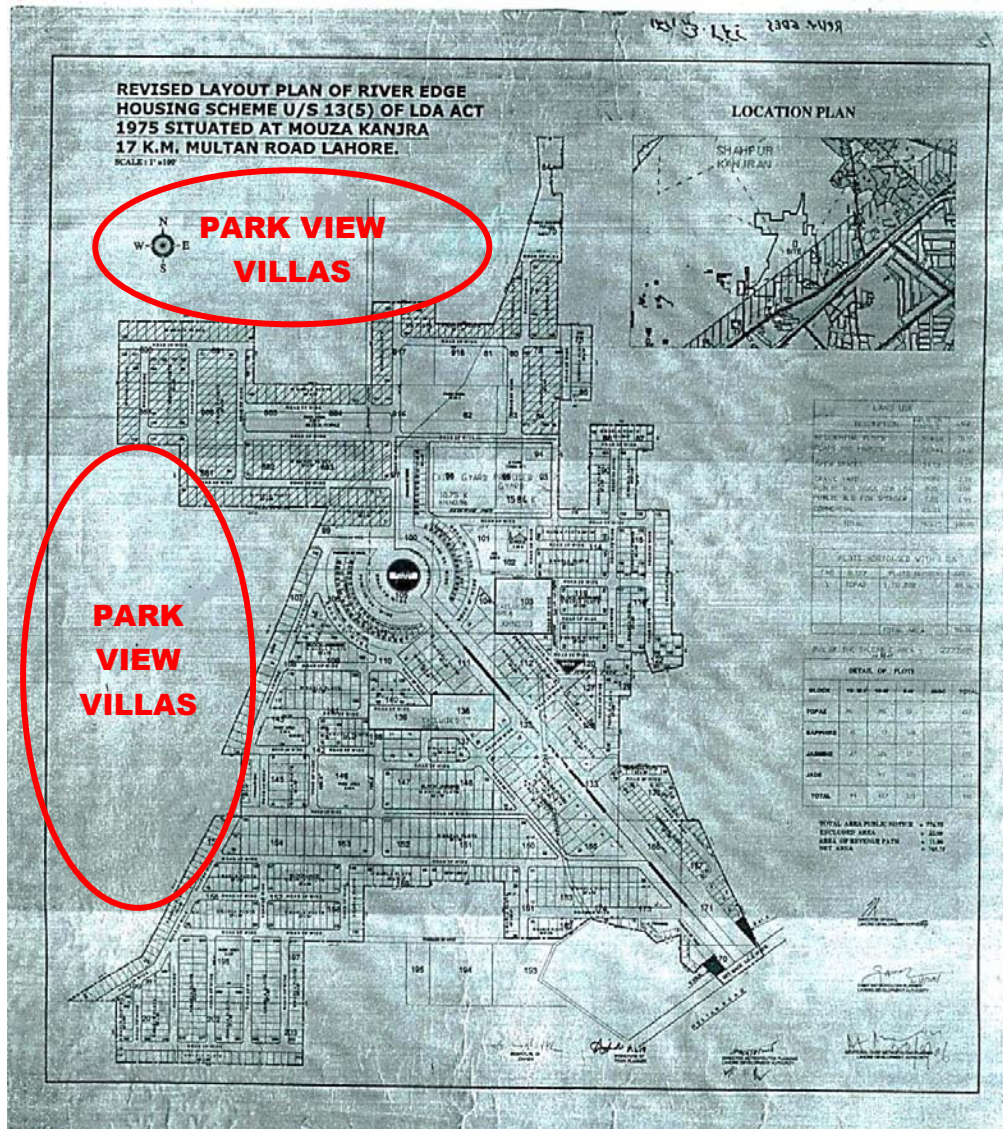
6. ISSUES & ANALYSIS

- 6.1 Before moving towards analysis of the Respondent's conduct, it is important to examine the issues in question:
- A. Whether the Respondent's conduct pertains to *the distribution of false or misleading information to consumers, lacking reasonable basis related to character, properties and suitability for use of the project*, in violation of Section 10 (1) of the Act, in terms of Section 10 (2) (b) of the Act?; and/or
 - B. Whether the Respondent's conduct *is capable of harming the business interest* of other undertakings in violation of Section 10 (1) of the Act, in terms of Section 10 (2) (a) of the Act?
- A. **Whether the Respondent's conduct pertains to the distribution of false or misleading information to consumers, lacking reasonable basis related to character, properties and suitability for use of the project, in violation of Section 10 (1) of the Act, in terms of Section 10 (2) (b) of the Act?**
- 6.2 After a detailed assessment of all the facts, the Enquiry Committee has analysed the matter in different segments which include, but does not limit to, the following:
- I. NOC Examination
 - II. Physical Inspection
 - III. Advertising/Promotional Material Verification

I. NOC EXAMINATION:

- 6.3 River Edge Housing Scheme, a housing project adjacent to the Respondent's Housing Scheme, located at Mauza Shahpur Kanjran, Multan Road, Lahore, was approved by the LDA in the year 2006. Its total area measures up to 765.75 Kanals. According to the information provided by the LDA, the Respondent extended the scheme area illegally and unlawfully without obtaining prior permission of the LDA.
- 6.4 Moreover, the Respondent changed the name of River Edge Housing Scheme illegally and started advertising it in the name and style of its own housing scheme i.e. "*Park View Villas Housing Scheme*" without seeking prior permission of the LDA. The Respondent then started sale/purchase of the plots of this scheme illegally in the name of '*Park View Villas*'.
- 6.5 A revised layout plan of the 'River Edge Housing Scheme' (As already Annexed in para No. 5.8 above), was submitted to the LDA for approval in 2006. The total approved area of River Edge Housing Scheme was 765.75 Kanals. A portion out of the total area was mortgaged with the LDA as security. The revised approval made it mandatory upon the River Edge Housing Scheme to advertise its total area along with the location, total number of residential and commercial plots, mortgaged plots and period of completion of development work to the customers in the promotional material.
- 6.6 An updated list of approved private housing schemes has also been issued by the LDA on its website for the reference of all stakeholders. Upon inspection of this list³, the Enquiry Committee has observed that the list did not contain any approved housing scheme by the name of '*Park View Villas*'. However, it contained the name of River Edge Housing Scheme as an approved housing society of LDA (Copy of such list is attached as Annex-G).
- 6.7 In furtherance of para No. 6.5 and 6.6 above, LDA issued two public notices, dated 12th and 13th April, 2015, wherein LDA had clearly declared Park View Villas as an illegal housing scheme. The public notices also declared that only four blocks of River Edge Housing Scheme were approved namely; Topaz (*from Plot No. 1 to 217*), Sapphire (*from Plot No. 1 to 201*), Jasmine (*from Plot No. 1 to 170*) and Jade (*from Plot No. 1 to 403*) (As already Annexed in para no. 5.16 above). Any development of the land, other than the specified area, by the name of Park View Villas was particularly declared unlawful by the LDA.
- 6.8 The approved area of the River Edge Housing Scheme is shown as under:

³ <https://www.lda.gop.pk/page.php?p=TmpRNA==>



- 6.9 The areas encircled in the above approved revised layout plan of River Edge Housing Scheme represents the land developed into Park View Villas, being advertised as an extension of the River Edge Housing Scheme. The land encircled here above is not approved under the NOC issued to River Edge Housing Scheme by LDA. The NOC for River Edge Housing Scheme only comprises of 4 blocks, as already referred in para 6.7 above.
- 6.10 LDA, in an attempt to curb the development of Park View Villas at River Edge Housing Scheme, issued a notice to the Respondent u/s 13 (5) of the LDA Act, 1975, vide their letter dated 28th of May, 2015. Moreover, in furtherance of the above notice, Show Cause Notices were also served to the Respondent by LDA (As per Annexure referred to in para No. 5.14 above).
- 6.11 According to the Show Cause Notices served the Housing Scheme fell within agricultural land as per the Master Plan, 2021, Lahore. Therefore, the preliminary planning permission of the Housing Scheme had been rejected by LDA vide letter No.

DMP/LDA/7395, dated 9th March, 2013. Through the Show Cause Notices, the Respondent was directed to stop the illegal execution of the development and construction of the Housing Scheme.

- 6.12 Moreover, the LDA, as per its Rules, had approached the Water and Sanitation Agency (WASA), Sui Northern Gas Pipelines Limited (SNGPL) and the Lahore Electric Supply Company (LESCO) to disconnect the supply of their respective services and utilities to the illegal Housing Scheme (As already Annexed in para No. 5.15 above). Similarly, LDA had also issued public notices to warn the general public regarding the illegal status of the Housing Scheme (As already Annexed in para No. 5.16 above).
- 6.13 Thus, it is evident that NOC for *Park View Villas* has not been granted by LDA to the Respondent for the promotion and development of the aforementioned encircled land. The Respondent has changed the name of River Edge Housing Scheme illegally and started advertising it in the name of its own housing scheme i.e. "*Park View Villas Housing Scheme*". The Respondent is, therefore, deceptively advertising River Edge Housing Scheme as Park View Villas in violation of Section 10 (1) in terms of section 10 2(b) of the Act.

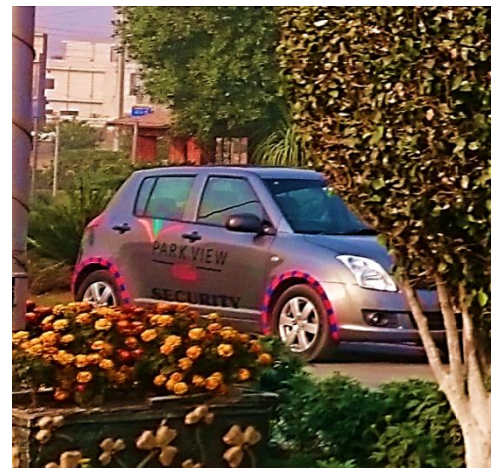
II. PHYSICAL INSPECTION:

- 6.14 The Enquiry Committee, in order to analyse the factual position of the Housing Scheme, irrespective of the submissions of the Complainant and the Respondent, visited the project site on 8th of December, 2016.
- 6.15 The Enquiry Committee observed that right after exit of the Islamabad-Lahore Motorway at Thokar Niaz Baig and turning onto Multan Road, a series of billboards have been installed by the Respondent to advertise the said Housing Scheme. Moreover, none of the billboards carried the name of River Edge Housing Scheme. Furthermore, even the hoarding at the entrance of the Housing Scheme was labelled as Park View Villas, without mentioning the name of River Edge Housing Scheme. A view of billboards and entrance of the project site can be seen hereunder:





6.16 The Enquiry Committee further visited the Booking Office of the Respondent situated on the project site. The Booking Office was located on the area approved under the NOC of River Edge Housing Scheme. However, the Booking Office was also named as 'Park View Villas' and security vehicles outside the Booking Office were also labelled with the same. The relevant images are reproduced below for reference:



6.17 Inside the Booking Office an inaugural plaque of the Housing Scheme was installed which was the only marketing/promotional material that carried the name of River Edge Housing Scheme, inaugurated by Mr. Azmat Tarin, CEO & President Silk Bank. An image of the plaque can be seen hereunder:



- 6.18 Upon enquiring about the NOC of the Housing Scheme in the name of Park View Villas, the available information officer at the Booking Office told the Enquiry Committee that the Housing Scheme is duly approved by LDA and its NOC can be checked from LDA by asking for the NOC of River Edge Housing Scheme. The Enquiry Committee further enquired about the approved area covered under the NOC and was told that the complete area of the project has been duly approved by LDA. The Enquiry Committee was told that it includes the initial 4 blocks as well as the extended area of Park View Villas, as already referred in para No. 6.7 & 6.8 above.
- 6.19 The Enquiry Committee also visited the project site with a representative of the Housing Scheme and analysed the development work being conducted. The Enquiry Committee was taken to the farthest edge of the project site near the boundary walls where another block was situated named as '*Tulip Overseas Block*'. The Enquiry Committee was told that the area beyond the boundary has also been acquired and it will be included within the project later on during development. A view of development work at Tulip Overseas Block can be seen hereunder:



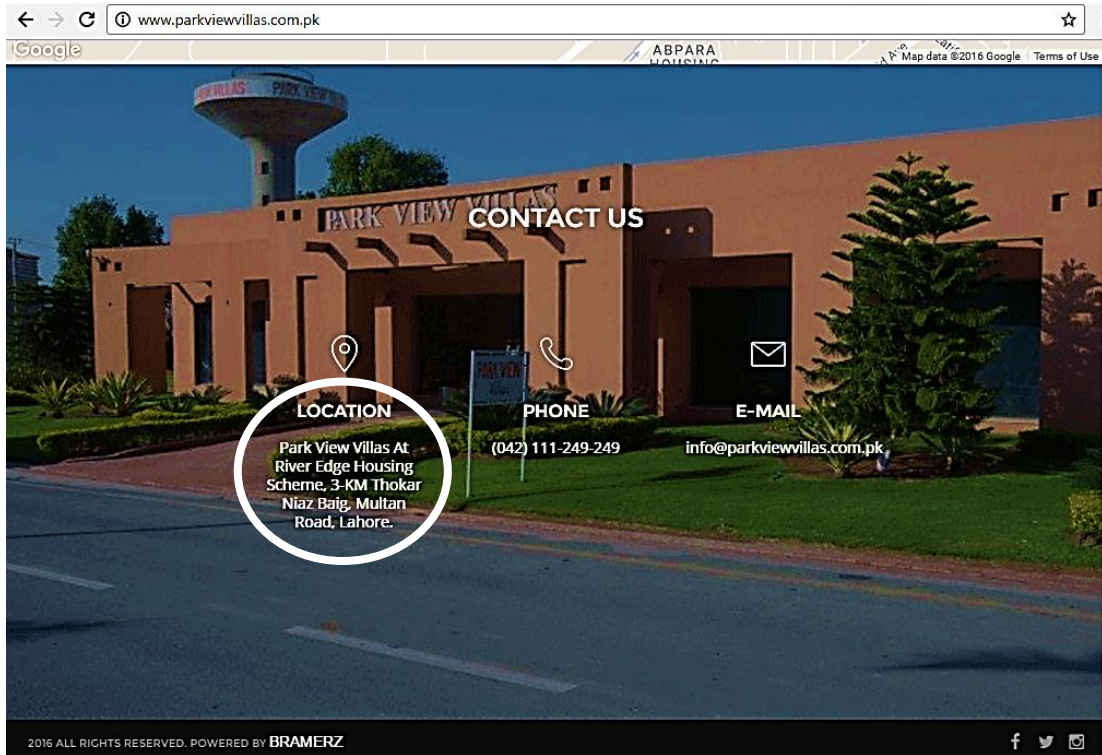
- 6.20 Upon investigation of the approved land covered under NOC from the representative, the Enquiry Committee was told that only the first four blocks were approved by the LDA. As far as the layout plan for the extended area is concerned, the Housing Scheme has applied for approval from LDA which is expected to be granted in the near future.
- 6.21 Therefore, it could be concluded from the project site visit that the Respondent has actively been engaged in advertising and promotion of its unapproved Housing Scheme fraudulently by the name of Park View Villas whereas the approval of name and layout plan of the Housing Scheme has not been granted by the LDA to the Respondent. Furthermore, the Respondent is trying to take an undue advantage of the approval of River Edge Housing Scheme which is located adjacent to the Respondent's Housing Scheme.
- 6.22 The Respondent has also been engaged in distribution of false and misleading information regarding the approval status of the Housing Scheme with malafide intent, in order to generate more revenue through sale of residential and commercial plots to general public, thereby violating of Section 10 (1) of the Act in terms of Section 10 (2) (b) of the Act.

III. ADVERTISING/PROMOTIONAL MATERIAL VERIFICATION:

- 6.23 The advertising/ promotional material was collected through print & electronic media by the Enquiry Committee. In addition to this, some promotional material was also collected by the Enquiry Committee from the site of the Respondent's Housing Scheme.
- 6.24 When the Enquiry Committee analyzed the website of the Respondent it was observed that the Respondent has advertised its Housing Scheme on the website⁴ as '*Park View*

⁴<http://www.parkviewvillas.com.pk/> as accessed on 13th of December, 2016

Villas at River Edge Housing Scheme’ in the ‘Contact Us’ tab which can be seen hereunder:

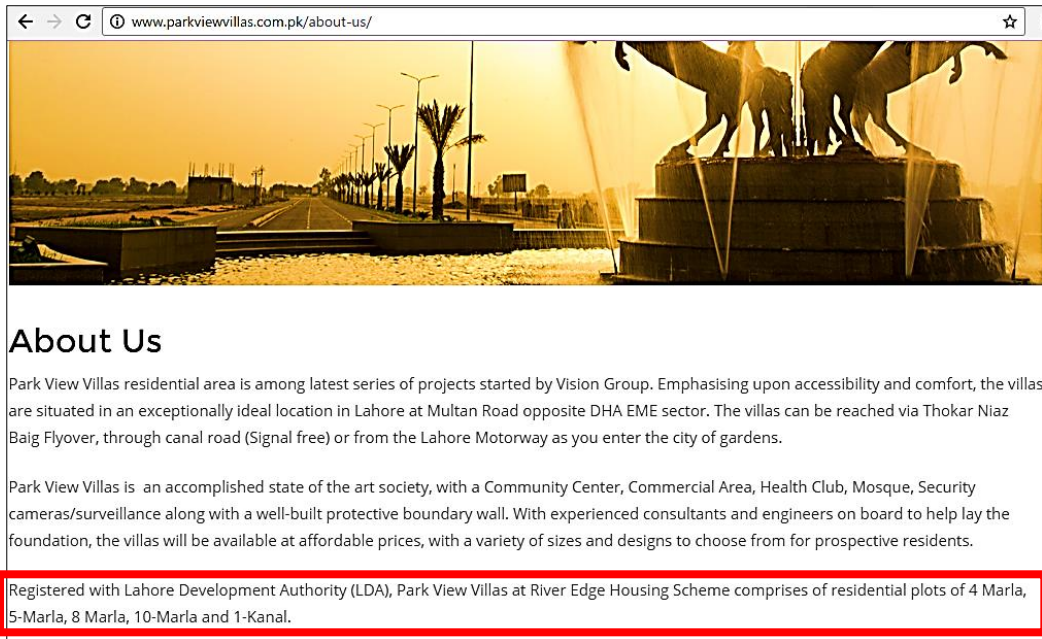


6.25 Furthermore, when accessing the information about the developer of the Housing Scheme from the website of the Respondent through the ‘About Us’⁵ tab, it was revealed that the Respondent has advertised itself as a *registered* housing scheme. The relevant extracts of the website are as under:

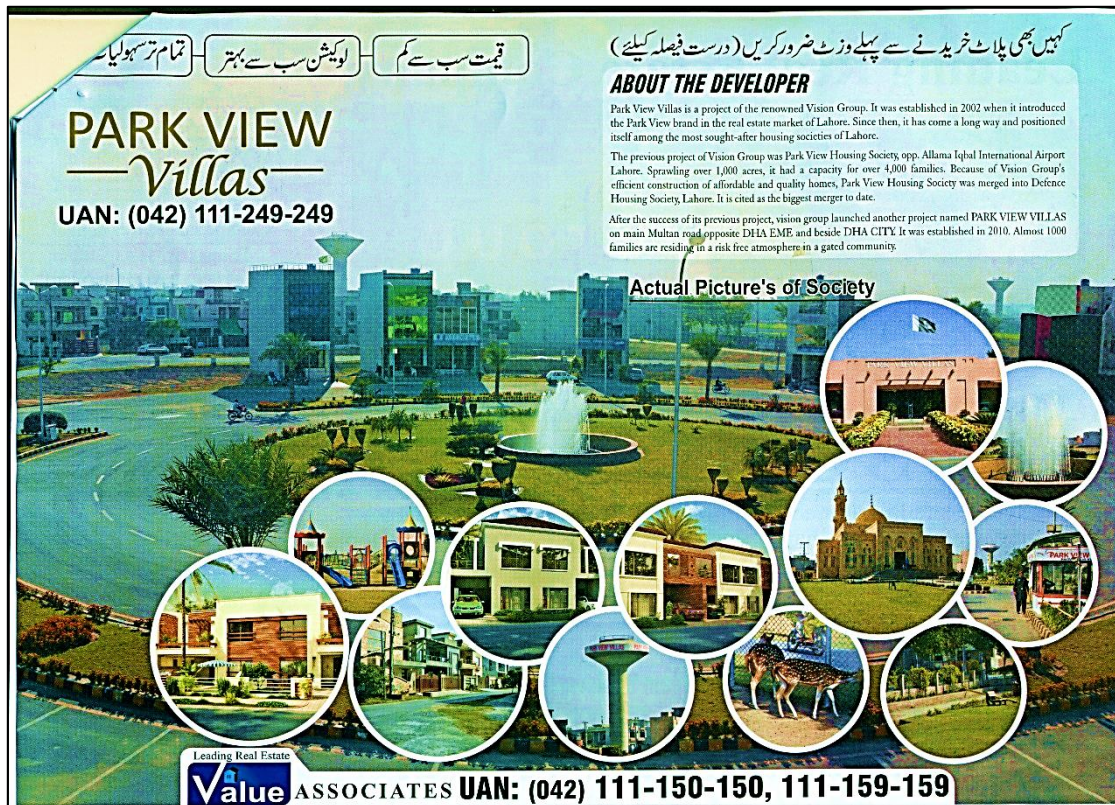
“Registered with Lahore Development Authority (LDA), Park View Villas at River Edge Housing Scheme comprises of residential plots of 4 Marla, 5-Marla, 8 Marla, 10-Marla and 1-Kanal.”

An overview of the same can be seen hereunder for reference:

⁵<http://www.parkviewvillas.com.pk/about-us/> as accessed on 13th of December, 2016



6.26 A brochure is distributed among the customers visiting the booking office of the Housing Scheme. It includes a payment plan for residential plots of different sizes along with a map for available plots in the Tulip Block. It also contains a payment plan for commercial plots of various sizes along with a map of commercial plots located on the main boulevard of the Housing Scheme. Along with the payment plans and maps, a flyer has also been attached which can be seen in the image below:



6.27 It has also been observed that the Respondent is making false claims like “low cost as compared to others”, “best location” and “all facilities available” in the flyer. Whereas, as already discussed in para No. 5.15 above, the local government was directed to discontinue the provision of various municipal services to the Respondent’s Housing Scheme.

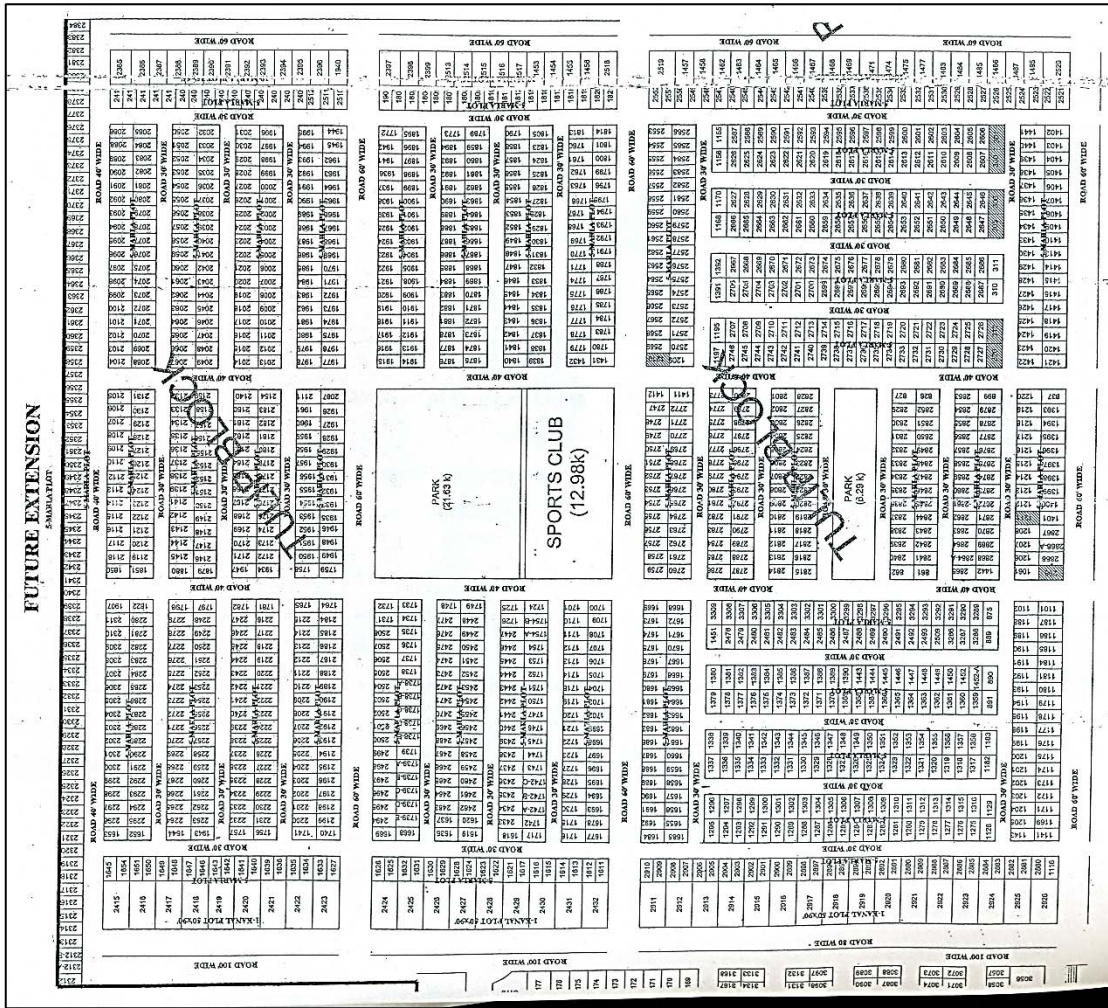
6.28 It is also pertinent to mention that the residential plots being marketed for sale through the brochure offered plots only in the extension block of the Housing Scheme named as Tulip Overseas Block, which is not approved by LDA. Therefore, the sale of such land, without an approval of the LDA intends to mislead the consumer, in violation of Section 10 (1) of the Act in terms of Section 10 (2) (b) of the Act. The map along with payment plan can be viewed as under:

PARK VIEW VILLAS						
INSTALLMENT PAYMENT PLAN OF RESIDENTIAL PLOTS						
PLOT SIZE / CATEGORY	SALES PRICE	MEMBERSHIP FEE	TOTAL PRICE	DOWN PAYMENT @ 25%	BALANCE PAYMENT	2 YEARS, 8 QUARTERLY INSTALLMENTS
05 - MARLA	2,550,000	16,000	2,566,000	641,500	1,924,500	240,563
PLOT SIZE / CATEGORY	SALES PRICE	MEMBERSHIP FEE	TOTAL PRICE	DOWN PAYMENT @ 25%	BALANCE PAYMENT	1 YEAR, 4 QUARTERLY INSTALLMENTS
10 - MARLA	5,000,000	26,000	5,026,000	1,256,500	3,769,500	942,375
01 - KANAL	12,500,000	51,000	12,551,000	3,137,750	9,413,250	2,353,312.50

NOTE:

- ➔ Payment should be made through P.O./D.D./Cross Cheque in favor of “VISION DEVELOPERS (PVT) LIMITED”
- ➔ 10% extra amount will be charged on Corner / Park facing / Main boulevard plots.
- ➔ 5% Discount will be given on lump-sum payment.
- ➔ Possession of plots will be within Two years.
- ➔ Post dated cheques against all installments will be taken in advance.
- ➔ Availability of plots will be on First Come First Serve Basis.

Any information plz call **Nadeem Abbas**
0304-666-444-5



6.29 In addition to the information already gathered by the Enquiry Committee, various advertisements were also published by the Respondent regarding the sale of plots of the Housing Scheme. Some of the advertisements also marketed the location of the Respondent's Housing Scheme as 'Park View Villas at River Edge Housing Scheme'. A few advertisements are reproduced hereunder for reference:



PARK VIEW
Villas
At River Edge Housing Scheme

یورایج ہاؤسنگ سکیم
(پارک ویوولڈ)

5 مرلہ 10 کنال رہائشی وکمرشل پلاٹس کی خرید و فروخت کیلئے
DHA-EME کے سامنے اور DHA جی کے حکم پر واقع پرائم لوکیشن
پانی نکلی گیس۔ جدید سیکورٹی۔ خوبصورت پارک۔ جانس سپورٹس کراشل ایریا
اور فوری مکمل کرنے کے خواہشمند افراد کیلئے سبھی مواقع (بہترین انوٹمنٹ)
(5-10 مرلہ کے مکمل چھپرے مکمل فوری رہائش کیلئے بھی دستیاب ہیں)
کبھی بھی پلاٹ خریدنے سے پہلے دقت ضرور کریں) درستی فیصلے کیلئے

Value
ASSOCIATE

042-111-150-150
0300-8455861
0321-4149999
0300-8882226
0321-8485611
0333-4176728

PARK VIEW
Villas
(At River Edge Housing Scheme)

6.30 In view of the above, it has been concluded that the Respondent is making various misleading and deceptive claims regarding the Housing Scheme in order to increase the sale of plots of the project.

6.31 Further reference has been made to the guidelines⁶ for real estate sector, given by Australian Competition & Consumer Commission (ACCC) that it is mandatory for real estate agents to not mislead the consumers and must use fair contract terms in line with federal, state and territory laws. It further states that:

“It is unlawful for real estate agents to:

- *intentionally mislead you*
- *lead you to a wrong conclusion or impression*
- *give you a false impression*
- *leave out or hide important information (e.g. in fine-print disclaimers)*
- *make false or inaccurate claims.*

It makes no difference whether the agent meant to mislead or deceive you—it is how you perceived the conduct that matters.”

6.32 Similarly, Section 9 and 14(1)(b) the Fair Trading Act of the New Zealand Commerce Commission say:

“9. Misleading and deceptive conduct generally. No person shall, in trade, engage in conduct that is misleading or deceptive or is likely to mislead or deceive.

14. False misrepresentations and other misleading conduct in relation to land.

(1.) No person shall, in trade, in connection with the sale or grant or possible sale or grant of an interest in land or with the promotion by any means of the sale or grant of an interest in land, -

⁶<http://www.accc.gov.au/consumers/health-home-car/real-estate>

b. Make a false or misleading representation concerning the nature of the interest in the land, the price payable for the land, the location of the land, the characteristics of the land, the use to which the land is capable of being put or may lawfully be put, or the existence or availability of facilities associated with the land.”

- 6.33 In case of Respondent’s Housing Scheme, LDA declared the land falling under agricultural land and Khadar area, which is an area particularly designated for agricultural purposes and is also prone to flooding. Under the rules of LDA such an area is not suitable for urban development and residential purposes.
- 6.34 The Respondent has been engaged in the development and construction of its Housing Scheme despite the knowledge of the risks associated with this land. The actions of the Respondent communicate the general public that the Housing Scheme is safe for residential purposes, thereby misleading the consumer regarding the suitability for use of the Housing Scheme.
- 6.35 In view of the analysis conducted in para No. 6.1 to 6.34 above, it is evident that the Respondent is, *prima facie*, distributing false or misleading information lacking reasonable basis related to character, properties and suitability for use of the project, in violation of Section 10 (1) of the Act, in terms of Section 10 (2) (b) of the Act.

B. Whether the Respondent’s conduct is capable of harming the business interest of other undertakings in violation of Section 10 (1) of the Act, in terms of Section 10 (2) (a) of the Act?

- 6.36 As per the analysis presented in para No. 6.1 to 6.35 of this report, the Respondent is, *prima facie*, violating Section 10 of the Act through distribution of false and misleading information to the general public. Similarly, where there is a notion of harm caused to the general public at large through deceptive marketing practices, there is a possibility of harm being caused to other undertakings engaged in similar business within the same industry. The revenue collected by the Respondent through the sale of plots in an unlawful Housing Scheme could have similarly been invested in another approved and lawful housing scheme.
- 6.37 Therefore, in view of the above, the Respondent is found distributing false and misleading information that is capable of harming the business interest of other undertakings, *prima facie*, in violation of Section 10 (1) of the Act, in terms of Section 10 (2) (a) of the Act.

7. COCNLUSION AND RECOMMENDATIONS

- 7.1 The real estate market, no doubt plays a very vital role in development of a country’s economy as a number of other associated sectors have close linkages with this sector. But, unfortunately, real estate sector in Pakistan is neither being regulated in a proper manner nor it is provided with the requisite facilities. Thus, bogus housing schemes and

deceptive marketing practices in the real state sector is harming this important sector which is bringing a huge loss to the sustainability of the country's economy. Thus, it is time that all the relevant issues must be addressed and deceptive marketing practices should be stopped by taking timely actions against those involved in luring hard earned money from innocent general public.

- 7.2 After careful examination of allegations levelled by the Complainant and analysing the information, documents and materials collected in the case under report, we are of the opinion that the conduct of the Respondent, i.e., launching an unapproved housing scheme and making false and misleading claims regarding the approval status of the Housing Scheme was not justified. Moreover, claiming “*Park View Villas*”, an unauthorized and unapproved housing scheme, as a part of “*River Edge Housing Scheme*” is unlawful and unjustified. Furthermore, the name of the scheme was changed in a deceptive manner and it was clubbed as “*Park View Villas at River Edge Housing Scheme*”, through advertisements in the print and electronic media, lacking reasonable basis related to character, properties and suitability for use of project and was also capable of harming the business interest of other undertakings.
- 7.3 In view of the above, the Respondent has, *prima facie*, entered into deceptive marketing practices, violating the provisions of Section 10(1) in terms of Section 10(2)(a) & (b) of the Act. Therefore, it is recommended that, in the interest of the public at large, proceedings may be initiated against M/s Vision Developers (Pvt) Ltd under provisions of section 30 of the Act for, *prima facie*, violation of section 10 of the Act.

Marryum Pervaiz
(Enquiry Officer)

Faiz ur Rehman
(Enquiry Officer)

Urooj Azeem Awan
(Enquiry Officer)