AMENDMENT TO DAR ADMINISTRATIVE ORDER NO. 02, SERIES OF 2005, ENTITLED, RULES AND PROCEDURES GOVERNING THE ACQUISITION OF AGRICULTURAL LANDS SUBJECT OF VOLUNTARY OFFER TO SELL A...

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I. Prefatory Statement

Section 15 of EO 229 provides that "All alienable and disposable lands of the public domain suitable for agriculture and outside proclaimed settlements shall be distributed by the Department of Environment and Natural Resources (DENR) to qualified beneficiaries as certified jointly by the DAR and the DENR."

Pursuant thereto, Joint DAR-DENR Administrative Order No. 02, s. of 1988 was issued which provided the guidelines for the implementation of Section 15 of E.O. 229 and delineated the responsibilities between the DAR and the DENR with respect to the disposition of alienable and disposable lands of the public domain and the identification of beneficiaries thereof.

On the above basis, Item 111.7 of DAR Administrative Order No. 02, s. of 2005, provided that:

> "Landholdings which were issued patents under the "Handog Titulo" program of the Department of Environment and Natural Resources (DENR) after June 15, 1988 shall not be subject of acquisition and distribution by the DLR unless Section 6 of R.A. No. 6657 applies. However, if the LO has other land-holdings other than those under the "Handog Titulo" program, said other landhofdings shall be covered under CARP unless the aggregate landholding does not exceed five (5) hectares." (emphasis supplied)

However, the above provision raised queries from the DAR field offices inasmuch as there are tenanted landholdings covered by patents issued under the "Handog Titulo" project which are being covered by them under the Comprehensive Agrarian Reform Program (CARP) in consideration that these landholdings exceed the five (5) hectare retention limit The above provision which no longer subjects said landholding under CARP in effect disenfrachises the tenants of their rights to become agrarian reform beneficiaries under the law.

On the other hand, the DENR clarified that the "Handog Titulo" Project, as it is herby quoted:

> "Was a strategy formulated by the DENR mainly to further accelerate the issuance of quality patents to complement the ongoing accelerated cadastral survey program being implemented during the 80's...xxx"
>
> xxxx
>
> "...that free patents distributed under the Handog titulo Project are not govern- ment grants, xxxx. Based on its legal definition, Free Patent is a confirmation of imperfect title over alienable and disposable public agricultural lands thru administrative procedure and that they are acquired by natural born Filipino citizens by virtue of their open, continuous, exclusive and notorious possession of their predecessor-in-interest (Chapter VII of CA141). Given this context, it can be viewed that the Government can entail payment of just compensation to beneficiaries who will voluntarily offer to sell their lands since their lands were not gratuitously given to them by the Government for free considering that they have already acquired vested right on the land by virtue of their 30 years possession thereof..xxxx"

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This AO is therefore issued to amend the above-stated policy-statement and provide the guidelines the coverage and disposition of landholdings covered by patents.

II. Policy Statement
Section III.7 of DARAO 2, series of 2005, is hereby amended to read as follows:

1. As a general rule, untitled public A & D lands are within the jurisdiction of the DENR pursuant to C. A. 141 (Public Land Act). However, subject lands are deemed "private" if ail the requisites specified in R A No. 6940, as amended by R.A. No. 91 76 for the determination of whether or not a person had already acquired recognizable private right over a landholding were satisfied as follows:

> a. Continuous occupancy and cultivation by oneself or through one's predecessors- in-interest for at least thirty (30) years prior to the effectivity of R.A. No. 9176 on 4 December 2002 (i.e. 4 December 1972);
>
> b. The land must have been classified as alienable and disposable for at least thirty (30) years prior to the effectivity of R.A. No. 9176;
>
> c. One must have paid the real estate tax thereon; and
>
> d. There are no adverse claims on the land

2. Landholdings covered by Free Patents, constitute the same type or classification as those of Untitled private lands being covered by the DAR pursuant to the criteria defined in the R.A No. 9167. therefore, and in accordance with Section 6 of R.A. No. 6657, the area thereof in excess of the five (5) hectare retention limit shall be subject of acquisition and distribution by the DAR to theidentified qualified ARBs, provided that all the requisites enumerated under Paragraph 11.1 .a-d of this Administrative Order (AO) were met. The landowner/patent holder shall be entitled to the payment of just compensation pursuant to Section 17 of R.A. No. 6657.

3. In case the landowner/patent holder (LO/patent holder) has landholdings other than those covered by Free Patents, The LO/patent holder has the right to chose the area to h retained by him/her which shall be compact or contiguous pursuant to Section 6 of R.A No. 6657. However, if the LO/patent holder has to chose the area to be retained by hirn/her which shall be compact or contiguous pursuant to Section 6 of R.A. No. 6657. However f the LO/patent holder has already exercised his retention rights over his other titled agricul tural lands, then all his remaining lands covered by patents shall be subject of acquisition and distribution by the DAR under CARP.

4. Applications for Voluntary Offer to Sell (VOS) involving retained areas or those landholdings totalling an aggregate area of five (5) hectares and below per landowner shall not be accepted.

III. Procedure
In addition to the general procedures and the required documents laid down under DAR A.O. 2, s. of 2005, the acquisition and distribution of landholdings covered by patents shall be supported by the following:

a. Copies of documents pertinent to the issuance of patent/s showing the patent application number, date of patent application and issuance, patent number, lot number, survey plan number, location, area and other data relevant to the administrative issuance of patent; and

b. Certification from the DENR stating that the patent holder had satisfied the requisites/critiera for acquiring vested right on the land pursuant to the Free Patent Law.

IV. Effectivity

This Administrative Order amends AO 2, s. of 2005 and takes effect ten (10) days after publication in two (2) newspapers of general circulation. All orders, circulars, and other issuances inconsistent herewith are hereby

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repealed and/or modified accordingly.

Adopted: 15 July 2008

(SGD.) NASSER C. PANGANDAMAN
Secretary

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