

REVISED RULES GOVERNING THE ISSUANCE OF NOTICE OF COVERAGE IN THE ACQUISITION OF AGRICULTURAL LANDS UNDER R.A. NO. 6657

DLR ADMINISTRATIVE ORDER NO. 04, S. 2005, August 02, 2005

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I.

Prefatory Statement

The Notice of Coverage (NOC) commences the acquisition of private agricultural lands coverable under the Comprehensive Agrarian Reform Program (CARP). Along the various phases of CARP proceedings, the process stalls because of Landowner (LO) resistance, most of whom invoke the ground of lack of notice or non-observance of due process in attacking the proceedings. This revised Administrative Order (AO) gives due notice and reasonable time to LOs in exercising their rights and privileges and at the same time plugs common loopholes to safeguard and ensure completion of the acquisition process.

Under this AO, the NOC notifies the LO of the coverage of his/her landholding/s under CARP and the exercise of his/her rights and privileges. The LO shall be sent separate invitation letter for the conduct of Field Investigation (FI).

II.

Procedures

1. Commencement

1.1. Commencement by the Provincial Agrarian Reform Officer (PARO) - After determination by the Municipal Agrarian Reform Officer (MARO) of the agricultural landholdings coverable under CARP in his area of jurisdiction, he shall submit the list of these agricultural landholdings to the PARO who shall prepare and send, through the MARO, the NOC (CARP-LA Form No. 7) to the concerned LO.

1.2. Commencement by a Party - Any person may commence the proceedings herein by filing a petition for coverage before the Department of Land Reform (DLR) Central Office (DLRCO), DLR Regional Office (DLRRO), DLR Provincial Office (DLRPO) or DLR Municipal Office (DLRMO) of the region/province or municipality where the subject landholding is located. The DLR office which received the petition for coverage shall transmit or forward the same to the PARO of the province where the subject landholding is located. The DLRPO, through the MARO, shall validate the petition and shall issue the NOC, if warranted. In the event that the result of the validation/evaluation by the DLRMO/DLRPO is such that an NOC is not warranted, the DLRPO shall forward its findings or that of the DLRMO to the DLRRO for evaluation and issuance of an Order, treating the petition as an Agrarian Law Implementation (ALI) case.

2. Posting of the NOC

The MARO shall post copies of the NOC for at least seven (7) days in the bulletin boards or any conspicuous

places in the municipality/city and the barangay where the property is located and thereafter issue the corresponding Certification of Posting Compliance (CARP-LA Form No.5).

3. By Whom the NOC is served

3.1 Upon receipt of a copy of the NOC and upon instruction by the PARO (CARP-LA Form No. 8), the MARO where the subject landholding is located or any DLR personnel officially authorized by the PARO shall cause the service of the NOC to the LO in accordance with these rules.

3.2 If the LO's residence is outside the Philippines or unknown, the MARO of the place where the subject landholding is located shall submit a report of such fact or failure to notify the LO through the regular mode of service to the PARO, and shall request the latter to cause the publication of the NOC in a newspaper of general circulation.

4. Service of the NOC

4.1 General Rule - The NOC shall be addressed to and received by the LO.

4.2 Service upon co-owners - In case of co-ownership, the NOC shall be served upon each and every co-owner, unless one is specifically authorized to receive for the other co-owners.

4.3 Service upon minors or incompetents - When the LO is a minor, insane or otherwise incompetent, service shall be made upon him personally and to his legal guardian if he has one, or if none, upon his guardian ad litem whose appointment shall be applied for by the DLR. In the case of a minor, service may also be made on his father and/or mother.

4.4 Service upon entity without juridical personality - When the LOs who are persons associated in an entity without juridical personality are sued under the name by which they are generally or commonly known, service may be effected upon all the LOs by serving upon any one of them, or upon the person in charge of the Office or place of business maintained in such name. Such service shall not bind individually any person whose connection with the entity has, upon due notice, been severed before the proceeding was brought.

4.5 Service upon domestic private juridical entity - When the LO is a corporation, partnership or association organized under the laws of the Philippines with a juridical personality, service may be made on the president, managing partner, general manager, corporate secretary, treasurer, in-house counsel or administrator.

4.6 Service upon LO whose identity or whereabouts is unknown - In any proceeding where the LO is designated as an unknown owner, or the like, or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry, service may be effected upon him by publication in a newspaper of general circulation in such places and for such time as the DLR may order.

4.7 Extraterritorial service - When the LO does not reside and is not found in the Philippines, or when the LO ordinarily resides within the Philippines but is temporarily out of the country, service may be made by publication in a newspaper of general circulation in such places and for such time as the DLR may order.

5. Modes of Service

5.1 Personal Service - This is made by handing a copy of the NOC to the LO in person, or if the LO refuses to receive and sign the NOC for whatever reason, by tendering the same to him/her.

5.2 Substituted Service - If personal service of the NOC cannot be served directly to the LO within a reasonable time, service may be made by leaving copies of the NOC at the LO's:

5.2.1 residence with some person of suitable age and discretion residing therein; or

5.2.2 office or regular place of business with some competent person in charge thereof.

5.3 Service by Registered Mail - If personal or substituted service is not practicable, service by registered mail will be made to the last known address of the LO. The registered mail envelope shall be marked "DELIVER TO ADDRESSEE ONLY" and "RETURN TO SENDER" if addressee has: MOVED OUT, UNKNOWN ADDRESS, REFUSED TO ACCEPT OR INSUFFICIENT ADDRESS.

5.4 Service by publication - If any of the preceding three (3) modes of service fails, the NOC will be published once in a newspaper of general circulation. A "RETURN TO SENDER" stamped on the mailing envelope will serve as proof that the NOC was not received by the LO. The publication need not state the entire contents of the NOC but only the following essential particulars:

5.4.1. Complete name/s of the LO/all LOs and last known address, if available;

5.4.2. Address or location of the subject landholding (barangay, municipality/city, province);

5.4.3. The number of the Original or Transfer Certificate of Title (OCT or TCT) or latest Tax Declaration (TD) covering the subject landholding;

5.4.4. A declaration that the Republic of the Philippines shall cover the subject landholding under CARP;

5.4.5. A reasonable period of thirty (30) days from publication date within which the LO must file a response to the NOC, with a warning that failure to do so within the period shall mean waiver of the right/privilege to: apply for exemption/exclusion or choose the retention area; nominate child/ren as preferred beneficiaries or submit evidence for determining just compensation.

6. Proof of Service

6.1 Personal or substituted service - The proof of service of the NOC shall consist of:

6.1.1. Written admission of the LO served, or;

6.1.2. Official Return of the MARO or affidavit of the DLR personnel serving, stating the following: the date, place and manner of service, the papers, if any, which have been served with the process and name of the person who received the same.

6.2 Proof of service by registered mail - If service is made by registered mail, proof may be made by the affidavit of the DLR personnel effecting the mail and the registry receipt issued by the mailing office. The registry return card shall be filed immediately upon its receipt by the sender or in lieu thereof the unclaimed letter marked "RETURN TO SENDER" stamped by the post office concerned or together with the certified or sworn copy of the notice given by the postmaster to the addressee.

6.3 Proof of service by publication - if the service has been made by publication, service may be proved by the following: 1) the unclaimed or returned/ unopened envelope referred to in paragraph 5.4 hereof; and 2) an affidavit of publication by the publisher or authorized official together with a copy of the newspaper where the NOC appeared.

7. Voluntary Appearance - The LO's voluntary appearance in the proceedings shall be equivalent to service of NOC.

8. Notice of Field Investigation

Upon proof of service of the issuance of NOC, the MARO sends to the LO an invitation letter for the conduct of field investigation (CARP-LA Form No.10).

III.

Repealing Clause

This Order supersedes DAR Administrative Order No.1, Series of 2003 and all other orders or circulars inconsistent herewith.

IV.

Effectivity

This Order shall take effect ten (10) days following its publication in two (2) newspapers of general circulation.

Adopted: 02 Aug. 2005

(SGD.) NASSER C. PANGANDAMAN

OIC - Secretary

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