NATIONAL ADMINISTRATIVE REGISTER · OCTOBER 24, 1994

CONSOLIDATED AND REVISED RULES AND PROCEDURES GOVERNING CONVERSION OF AGRICULTURAL LANDS TO NON-AGRICULTURAL USES

DAR ADMINISTRATIVE ORDER NO. 12, October 24, 1994

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I
Prefatory Statement

The guiding principle on land use conversion is to preserve prime agricultural lands. On the other hand, conversion of agricultural lands, when coinciding with the objectives of the Comprehensive Agrarian Reform Law to promote social justice, industrialization, and the optimum use of land as a national resource for public welfare, shall be pursued in a speedy and judicious manner.

To operationalize these principles, and by virtue of Republic Act (R.A.) No. 3844, as amended, Presidential Decree (P.D.) No. 27, P.D. No. 946, Executive Order (E.O.) No. 129-A and R.A. No. 6657, the Department of Agrarian Reform (DAR) has issued several policy guidelines to regulate land use conversion. This Administrative Order consolidates and revises all existing implementing guidelines issued by the DAR, taking into consideration, other Presidential issuances and national policies related to land use conversion.

II
Legal Mandate

A. The Department of Agrarian Reform (DAR) is mandated to "approve or disapprove applications for conversion, restructuring or readjustment of agricultural lands into non-agricultural uses," pursuant to Section 4 (j) of Executive Order No. 129-A Series of 1987.

B. Section 5 (1) of E.O. No. 129-A, Series of 1987, vests in the DAR, exclusive authority to approve or disapprove applications for conversion of agricultural lands for residential, commercial, industrial, and other land uses.

C. Section 65 of R.A. No. 6657, otherwise known as the Comprehensive Agrarian Reform Law of 1988, likewise empowers the DAR to authorize under certain conditions, the reclassification or conversion of agricultural lands.

D. Section 4 of Memorandum Circular No. 54, Series of 1993 of the Office of the President, provides that "action on application for land use conversion on individual landholdings shall remain as the responsibility of the DAR, which shall utilize as its primary reference, documents on the comprehensive land use plans and accompanying ordinances passed upon and approved by the local government units concerned, together with the National Land Use Policy, pursuant to R.A. No. 6657 and E.O. No. 129-A."

III
Definition of Terms

A. Agricultural land refers to land devoted to agricultural activity and not classified as mineral, forest, residential, commercial or industrial land (section 3 (c), R.A. No. 6657).

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B. Conversion is the act of changing the current use of a piece of agricultural land into some other use.

C. Reclassification of agricultural lands is the act of specifying how agriculture lands shall be utilized for non-agricultural uses such as residential, industrial, commercial, as embodied in the land use plan. It also includes the reversion of non-agricultural lands to do agricultural use.

D. Comprehensive Development Plan refers to a document embodying specific proposals for guiding, regulating growth and/or development. Its main components are the sectoral plans i.e., socio-economic, infrastructure, local administration, land use plan.

E. Comprehensive Land Use Plan refers to a plan which includes a land use map, the factors indicating the socially desired mix of land uses and a set of policies to guide future development.

F. Zoning is the delineation/division of a city/municipality into functional zones where only specific land uses are allowed. It directs and regulates the use of all lands in the community in accordance with an approved or adopted land use plan for the city/municipality. It prescribed setback provisions, minimum lot sizes, building heights and bulk.

G. Zoning Ordinance is a local legal measure which embodies regulations affecting land use.

H. Private Agricultural Lands are devoted to or suitable to agriculture, as defined in R.A. No. 6657 and owned by natural or juridical persons, or by the government in its proprietary capacity.

IV
Who May Apply for Conversion

A. Owners of private agricultural lands or other persons duly authorized by the landowner.

B. Farmer-beneficiaries of the Agrarian Reform Program after the lapse of five (5) years from award, reckoned from the date of registration of their landholdings and who have fully paid their obligations and are qualified under these rules, or persons duly authorized by them.

C. Government agencies, including government-owned or controlled corporations.

V
Coverage

These rules shall cover all private agricultural lands as defined herein regardless of tenurial arrangement and commodity produced. It shall also include agricultural lands reclassified by LGUs into non-agricultural uses, after June 15, 1988, pursuant to Memorandum Circular (M.C.) No. 54, Series of 1993 of the Office of the President and those proposed to be used for livestock, poultry and swine raising as provided in DAR Administrative Order No. 9, Series of 1993.

VI
Policies and Governing Principles

A. DAR's primary mandate is to acquire and distribute agricultural lands to as many qualified beneficiaries as possible.

B. DAR acknowledges the need of society for other uses of land, but likewise recognizes the need for prudence in the exercise of its authority to approve conversions and hereby adopts the following criteria as bases for the approval of applications for conversion:

- Agricultural lands classified or zonified for non-agricultural uses by LGUs and approved by the HLRB before

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June 15, 1988, shall be governed by DAR Administrative Order No. 6, Series of 1994.

- Conversion may be allowed if at the time of the application, the lands are reclassified as commercial, industrial and residential in the new or revised town plans promulgated by the local government unit (LGU) and approved by the Housing and Land Use Regulatory Board (HLRB) or by the Sangguniang Panlalawigan (SP) after June 15, 1988 in accordance with Section 20 of R.A. No. 7160, as implemented by M.C. No. 54, and Executive Order No. 72 Series of 1993 of the Office of the President.

- If at the time of the application, the land still falls within the agricultural zone, conversion shall be allowed only on the following instances:

a. when the land has ceased to be economically feasible and sound for agricultural purposes, as certified by the Regional Director of the Department of Agricultural (DA); or

b. when the locality has become highly urbanized and the land will have a greater economic value for residential, commercial or industrial purposes, as certified by the local government unit.

- If the city/municipality does not have a comprehensive development plan and zoning ordinance duly approved by HLRB/SP but the dominant use of the area surrounding the land subject of the application for conversion is no longer agricultural, or if the proposed use is similar to, or compatible with the dominant use of the surrounding areas as determined by the DAR, conversion may be possible.

- In all cases, conversion shall be allowed only if DENR issues a certification that the conversion is ecologically sound.

C. Conversion for selected Regional Agro-industrial Centers, Tourism Development. Area and sites for socialized housing shall be processed under Joint NEDA-DAR Memorandum Circular No. 1, Series of 1993 issued pursuant to Executive Order No. 12, Series of 1993 of the Office of the President.

D. Pursuant to Administrative Order No. 20 Series of 1992 (Interim Guidelines on Agricultural Land Use Conversion) and M.C. No. 54, Series of 1993 of the Office of the President, the following are non-negotiable for conversion:

- All irrigated lands where water is available to support rice and other crop production.

- All irrigated lands where water is not available for rice and other crop production but within areas programmed for irrigation facility rehabilitation by the Department of Agriculture (DA) and National Irrigation Administration (NIA).

- All irrigable lands already covered by irrigation projects with firm funding commitments at the time of the application for land use conversion or reclassification.

E. No application for conversion shall be given due course if 1) the DAR has issued a Notice of Acquisition under the compulsory acquisition (CA) process; 2) Voluntary Offer to Sell (VOS) or an application for stock distribution covering the subject property has been received by DAR; or 3) there is already a perfected agreement between the landowner and the beneficiaries under Voluntary Land Transfer (VLT).

F. In all cases of petitions for conversion resulting the displacement of farmer-beneficiaries, such beneficiaries shall be entitled to a disturbance compensation, which should not be less than five (5) times the average of the annual gross value of the harvest on their actual landholdings during the last five (5) preceding calendar years. In addition, the DAR shall exert all efforts to see to it that free homelots and assured employment for displaced beneficiaries are provided by the applicant/developer.

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G. To prevent circumvention of coverage under the CARP, conversion shall be granted only upon evidence that the project to be established therein is viable and beneficial to the community affected and that the land development phase of the area will be completed within one (1) year after the issuance of the Order of Conversion where the area is five (5) hectares or less. Should the area exceed five (5) hectares, an additional year shall be allowed for every five (5) hectares or a fraction thereof but in no case shall the completion of development extend beyond five (5) years from the issuance of the Order of Conversion.

VII
Documentary Requirements

A. Requirements for all applicants:

- Application for Conversion

- Special Power of Attorney, if the petitioner is other than the owner of land

- True copy of Original Certificate of Title (OCT) or Transfer Certificate of Title (TCT) certified by the Register of Deeds.

- Location Plan, Vicinity Map of the Land and Area Development Plan including Work and Financial Plan, statement of justification of economic/social benefits of the project and recent photographs of the property being applied for conversion

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- Proof of financial and organizational capability to develop the lands such as:

a. Profile of developer, including details of past or current development projects.

b. Financial Statements duly authenticated by a certified public accountant.

c. Articles of Incorporation or Partnership, if the applicant/developer is a corporation or partnership.

- Zoning certification from the HLRB Regional Officer when the subject land is within a city/municipality with a land use plan/zoning ordinance approved and certified by the HLRB

- Certification of the Provincial Planning and Development Coordinator that the proposed use conforms with the approved land use plan when the subject land is within a City/Municipality which a land use plan/zoning ordinance approved by the Sangguniang Panlalawigan (SP). The certification should specify the SP Resolution Number and the date of the approval of the land use plan.

- Certification from the Regional Irrigation Manager of the National Irrigation Administration (NIA) or President of the cooperative or irrigator's association, if the system is administered by a cooperative or association on whether or not the area is covered under A.O. No. 20, Series of 1992 of the Office of the President.

- Certification from the DENR Regional Executive Director concerned, that the proposed conversion is ecologically sound.

- Additional requirements if at the time of the application, the land is within the agricultural zone:

a. Certification from the DA Regional Director concerned, that the land has ceased to be economically feasible and sound for agricultural purposes.

Certification from the local government unit that the land or locality has become highly urbanized and will have greater economic value for commercial, industrial and residential purposes.

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b. Municipal/city resolution favorably indorsing the application for conversion.

B. Additional requirements when the applicant is a beneficiary of the agrarian reform program:

- Certification from DAR that the applicant is the actual farmer-awardee, and that at least five (5) years have elapsed since the award of the land to him.

- Certification from the Land Bank of the Philippines (LBP) in the area, that the farmer-awardee has fully paid his obligations.

C. Additional requirement for applications involving lands with areas of five (5) hectares or less:

The applicant shall submit a sworn statement stating that he/she has not previously filed a similar application over a portion of the same titled property.

D. Additional requirement if the land is planted to coconut trees:

Certification from the Philippine Coconut Authority (PCA) that the majority of the coconuts in the subject land had become senescent and economically unproductive or had been afflicted with a plant disease hazardous to healthy trees.

E. Documents required for application for lands to be converted into agro-processing plants:

The applicant shall comply with all the documentary requirements of this Administrative Order except those mentioned under Items No. VII-A-7 and 10 a, b and c.

F. Documents required if the applicant seeks to convert croplands into a poultry, livestock or swine project: all documents in A1-A9. However, in lieu of item A-10, only a certificate from the DA Regional Director to the effect that the proposed project is of greater economic value than the existing land use, will surffice.

VIII
Procedures

A. Applicant

- Applicant secures the Land Use Conversion Forms from any of the following DAR Offices: Municipal, Provincial Offices, Regional and Center for Land Use Policy, Planning and Implementation (CLUPPI).

- The applicant shall attach the documents required under Section VII.

- Once the application form and pertinent documentary requirements enumerated in Section VII have been duly accomplished and completed the same shall be submitted to the DAR Regional CLUPPI for immediate processing.

- Applications which are not fully supported by the required documents will not be acted upon. However, the applicant will be informed accordingly.

B. The Regional Center for Land Use Planning Policy and Implementation (RCLUPPI) shall:

- Review required documents for completeness and compliance with all requisites;

- Prepare the Notice of Posting on Land Use Conversion and transmit the same to the DAR Municipal Office (DARMO) for posting;

- After the prescribed period of posting, conduct field, investigation and dialogue with the applicants and the affected farmer-beneficiaries to ascertain the information enumerated in LUC Form No. 12, Series of 1994;

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- Ensure that the Investigation report be duly signed by the Investigating Team (using LUC Form No. 12, Series of 1994);

- Prepare Findings and Recommendations (LUC Form No. 13, Series of 1994);

- Prepare the land use conversion folder (LUCF) for every application attaching all documents required under Section VII and the accomplished LUC Form Nos. 11-13, Series of 1994, including recent photographs of the subject property; and

- Indorse, through the Regional Director, all applications (LUCF) to the CLUPPI for final review and evaluation not later than forty (40) working days from the receipt of completed application, except applications for land use conversion involving five (5) hectares or less that are within the non-agricultural zone per Land Use Plan approved by the HIRB/SP based on E.O. No. 72 and M.C. No. 54, Series of 1993. These applications shall be forwarded to the Regional Director for approval or disapproval. However, subsequent applications by the same landowner or his representative on a portion of the same title shall not be forwarded to the Regional Director, instead the said application shall be forwarded to CLUPPI for resolution.

C. The DAR Regional Director shall:

- Approve or disapprove applications covering lands within the non-agricultural zones with areas of five (5) hectares or less on an aggregate or project basis;

- Forward all applications acted upon by the Regional Director to the Regional CLUPPI for proper disposition; and,

- Promptly submit a monthly report on approved or disapproved applications, including pending applications to the CLUPPI, copy furnished the DAR Provincial Office (DARPO) and DAR Municipal Office (DARMO).

D. The CLUPPI shall:

- Undertake the review and evaluation for completeness and consistency of all land use conversion folders (LUCFs) received from the Regional CLUPPI;

- Whenever necessary, conduct field investigation on the area being applied for conversion and held dialogues with government officials and entities, accredited NGOs and farmers or farmworkers affected by the conversion with the assistance of the MARO;

- Prepare the draft order which recommends the approval or denial of the application for lands fifty (50) hectares or less and forward the same to the Undersecretary for Policy and Planning for his consideration within forty-five (45) working days from the receipt of LUCF from the RCLUPPI;

- Prepare the Fact Sheet (LUC Form A) on areas exceeding fifty hectares and accomplish the CEC-CLUPPI Findings and Recommendations (LUC Form No. C, Series of 1994) and forward the same to the PLUTC for further review within ten (10) working days from the receipt of LUCF from the RCLUPPI; and

- Submit quarterly report on the status of all land use conversion applications to the Secretary through the Undersecretary for Policy and Planning, copy furnished the PARC Secretariat, ten (10) days after the end of every quarter.

E. The Undersecretary for Policy and Planning shall:

- Review and approve or disapprove applications for conversion of lands not exceeding fifty (50) hectares within five (5) working days from the receipt of the LUCF from the CLUPPI; and

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- Forward the signed Order to CLUPPI.

F. The PARC Land Use Technical Committee (PLUTC) shall:

- Review the completeness and consistency of all LUCFs received from the CLUPPI, based on the existing policies on land use, and, require the submission of additional documents/information or conduct field investigation, if necessary;

- Recommend approval or disapproval of applications for conversion of lands exceeding fifty (50) hectares (LUC Form No. B, Series of 1994) and forward the same to the Secretary for his consideration; and

- Perform its duties and functions within thirty-five (35) working days from the receipt of LUCF from the CLUPPI.

G. The Secretary shall:

- Approve or disapprove land use conversion applications involving above fifty (50) hectares elevated by the PARC Land Use Technical Committee (PLUTC) within five (5) working days from receipt of the application for conversion; and

- Forward the signed order to CLUPPI.

IX
Releasing and Transmittal of Signed Order

Approved or disapproved order of application for Land Use Conversion, together with the LUCFs, shall be returned to the CLUPPI for control and monitoring purposes. In turn, the CLUPPI shall forward these documents to the Records Division for safe keeping of LUCF and distribution of copies of the order to the concerned parties.

X
Appeal from the Orders of the Regional Director

- Any aggrieved party may file a Motion for Reconsideration (MR) from the decision of the Regional Director within fifteen (15) days from receipt of the order or decision.

- The filing of the MR shall suspend the running of the period. If denied, the aggrieved party has the balance of the period to file an appeal to the Secretary.

- An appeal to the Secretary shall be made in the form of a memorandum, and upon payment of P500.00 as appeal fee, to the Cashier of the Regional Office. The Regional Director may make his comments in the appeal. Once perfected, the records shall be sent to the Office of the Secretary for Resolution.

XI
Appeal from the Decision of the Undersecretary or Secretary

Appeal from the Decision of the Undersecretary shall be made to the Secretary, and from the Secretary to the Office of the President or the Court of Appeals as the case may be. The mode of appeal/motion for reconsideration, and the appeal fee, from Undersecretary to the Office of the Secretary shall be the same as that of the Regional Director to the Office of the Secretary.

XII
Posting of DAR Conversion Order

Immediately upon approval of a conversion order, the developer/applicant shall post in a conspicuous place of the

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project area, a public notice stating the following: "The conversion of this landholding has been approved by the Secretary of the Department of Agrarian Reform for Undersecretary for Policy and Planning or Regional Director depending on the authority provided in this A.O.) under Conversion Order No. ____, dated _____". It will include the name of the project and area, name of the developer/landowner, and date when the development permit was granted. Failure to post such notice shall be a ground for the suspension of the development of the area and for possible cancellation of the conversion order, pursuant to Section XIV hereof.

XIII
Monitoring

Compliance with the terms and conditions of this Order shall be monitored as follows:

- The Regional CLUPPI shall monitor compliance by the applicant/developer, based on the terms and conditions stipulated in this Order, including the posting of the approved order as provided under Item No. XII of these guidelines. It shall submit monthly reports to the Undersecretary for Policy and Planning, through the CLUPPI, of all land use conversion transactions (i.e., approved and disapproved applications including applications under process), copy furnished DARPO and DARMO.

- The CLUPPI shall evaluate the reports submitted by the Regional CLUPPI, and render quarterly reports on the status of all land use conversion applications to the Secretary, through the Undersecretary for Policy and Planning, copy furnished the PARC Secretariat.

XIV
Protest or Opposition to Conversion Application

The Regional CLUPPI shall evaluate written protests filed by any person who may be displaced or affected by the proposed land use conversion. Findings and recommendations on protests shall be forwarded to the Secretary, through the CLUPPI for resolution, except protests involving five (5) hectares or less and within the non-agricultural zone. Such protests shall be forwarded to the Regional Director for resolution within fifteen (15) days, reckoned from receipt of the protest, subject to appeal to the DAR Secretary through the Assistant Secretary of Legal Affairs Office.

XV
Cancellation or Withdrawal of Approval

The DAR may cancel or withdraw authorization for land use conversion, based on the following grounds:

a. Misrepresentation or concealment of material facts in the application;

b. Failure to implement and complete the land development of the area within the specified time; and

c. Any other violations of the rules and regulations which are material to the grant of the conversion order.

XVI
Disapproved Applications or Cancelled Conversion Orders

Lands covered by a petition for conversion which had been disapproved or those covered by a conversion order which had been cancelled or withdrawn under this administrative order, shall be placed under CARP compulsory coverage, in accordance with the schedule of implementation prescribed in Section 7 of R.A. No. 8657 and be distributed to all qualified beneficiaries.

XVII
Transitory Provisions

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The provisions of this Administrative Order shall be applicable to all applications filed on or after its effectivity. All other applications filed previous to this Administrative Order shall be governed by the pertinent administrative order or issuances in force, at the time of the filing of the applications, and shall be processed accordingly.

However, applications covering lands five (5) hectares and below situated within non-agricultural zones which are pending in the Region and either DAR field offices, shall be approved or disapproved by the Regional Director concerned, upon the effectivity of this Administrative Order. Applications covering 5 hectares and below pending at the DAR Central Office shall be processed in accordance with AO No. 1, Series of 1990.

XVIII
Penal Provisions

Pursuant to Section 73 and 74 of R.A. No. 6657, any person who knowingly or willfully converts any agricultural land without the approval of the DAR, shall be subject to criminal prosecution as provided for under the Joint DAR-DOJ Administrative Order No. 4, Series of 1993. Applications covering such areas, shall be summarily disapproved and the land shall be placed under CARP and distributed to qualified FBs.

XIX
Repealing Clause

This Administrative Order repeals Administrative Order (A.O.) Nos. 8 and 15, Series of 1990 and 1988, General Order No. 1, Series of 1989, A.O. Nos. 15, 16, and 18, Series of 1989, A.O. No. 7, Series of 1992 and amended A.O. Nos. 1 and 2, Series of 1990. All other issuances not consistent with this order are likewise repealed.

XX
Effectivity

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

Adopted: 24 Oct. 1994

(SGD.) ERNESTO D. GARILAO
Secretary

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