

[DAR ADMINISTRATIVE ORDER NO. 12, October 24, 1994]

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

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).

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 tenorial 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:

1. Agricultural lands classified or zonified for non-agricultural uses by LGUs and approved by the HLRB before June 15, 1988, shall be governed by DAR Administrative Order No. 6, Series of 1994.
2. 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.
3. 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.
4. 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.
5. 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:

1. All irrigated lands where water is available to support rice and other crop production.
2. 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).
3. 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.

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:

1. Application for Conversion
2. Special Power of Attorney, if the petitioner is other than the owner of land
3. True copy of Original Certificate of Title (OCT) or Transfer Certificate of Title (TCT) certified by the Register of Deeds.
4. 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

5. 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.
6. 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
7. 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.
8. 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.
9. Certification from the DENR Regional Executive Director concerned, that the proposed conversion is ecologically sound.
10. 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.
 - b. Municipal/city resolution favorably indorsing the application for conversion.

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

1. 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.
2. 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: