

**[DENR ADMINISTRATIVE ORDER NO. 2010-12,
May 05, 2010]**

**RULES AND REGULATIONS FOR THE ISSUANCE OF FREE
PATENTS TO RESIDENTIAL LANDS UNDER REPUBLIC ACT NO.
10023**

Pursuant to Section 7 of Republic Act No. 10023, otherwise known as An Act Authorizing the Issuance of Free Patents to Residential Lands ("RA 10023"), mandating the Director of the Land Management Bureau of the Department of Environment and Natural Resources to issue the implementing rules and regulations of this Act, the following rules and regulations specifically pertaining to residential lands are hereby promulgated:

Section 1. Scope of the Implementing Rules and Regulations. – This implementing rules and regulations, hereinafter referred to as the IRR, shall only cover applications for free patents pertaining to untitled public alienable and disposable lands which have been zoned as residential. It shall also cover zoned residential areas in proclaimed townsite reservations.

Section 2. Definition of terms. – For purposes of RA 10023, the following terms and phrases as used in this IRR are defined and understood as follows:

2.1 *Filipino Citizen* – as enumerated in Article IV Section I of the 1987 Constitution, the following are citizens of the Philippines:

2.1.1 Those who are citizens of the Philippines at the time of the adoption of the 1987 Constitution;

2.1.2 Those whose fathers or mothers are citizens of the Philippines;

2.1.3 Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and

2.1.4 Those who are naturalized in accordance with law.

In addition, a person with dual citizenship as provided for in Republic Act No. 9225 and its implementing rules and regulations shall be considered a Filipino citizen.

2.2 *Actual occupant* – any person who, either by herself or himself or through her or his predecessor-in-interest, is occupying, living in, inhabiting or staying in a structure, the primary purpose of which is to serve as the residence of such person, situated on the parcel of residential land subject of the free patent application. This is subject to the requirements under subsections 2.1 1, 2.12 and 2.13 below

2.2.1 For purposes of this IRR, persons employed in distant locations, either foreign or domestic, in public or private service, such that they are not able to stay at their place of residence for long periods of time, are deemed actual occupants.

2.3 *Residential lands* – all lands that have been identified and zoned as residential through the appropriate ordinance by Local Government Unit (LGU) having jurisdiction over the area. These include residential lands within areas zoned as mixed residential and commercial or mixed residential and industrial.

2.4 *Alienable and Disposable lands* – Lands of the public domain classified as agricultural that may be acquired through grant or confirmation of title.

2.5 *Townsite reservations* – proclaimed areas specifically reserved for the establishment of a new town as provided for in Chapter XI Title V of C.A. 141 or the Public Land Act as Amended.

2.6 *Highly urbanized cities (HUC)* – as defined in Republic Act No. 7610, otherwise known as the Local Government Code (LGC), cities with a minimum population of two hundred thousand (200,000) inhabitants, as certified by the National Statistics Office, and with the latest annual income of at least Fifty Million Pesos (P50,000,000.00) based on 1991 constant prices, as certified by the city treasurer. Provided that, any future changes in qualifications for classification as HUC by the concerned government agency at the time of filing of the application will prevail.

2.7 *First class municipalities* – municipalities with an average annual income of Fifty Five Million Pesos (P55,000,000.00), as provided for in Department Order No. 23-08 of the Department of Finance, dated July 29, 2008 (DO 23-08). Provided that, any future changes in qualifications for classification as first class municipality by the concerned government agency at the time of filing of the application will prevail.

2.8 *Second class municipalities* – municipalities with an average annual income equal to or more than Forty Five Million Pesos (P45,000,000.00), but not exceeding Fifty Five Million Pesos (P55,000,000.00), as provided for in DO 23-08. Provided that any future changes in qualifications for classification as second class municipality by the concerned government agency at the time of filing of the application will prevail.

2.9 *Use for Public service* – utilization of parcels of land exclusively by the government or any of its instrumentalities in providing basic services to the general public, such as, but not limited to, market places; town, city, provincial, or barangay halls; hospitals, clinics, and health centers; police stations; outposts; jails; and the like.

2.10 *Public use* – utilization of parcels of land for structures which are open to the general public, including, but not limited, to public plazas, parks, resorts, roadways, recreational facilities, libraries, meeting places, playgrounds, public parking lots, and the like.

2.11 *Disinterested person* – any person who has no claim over the parcel of land subject of the free patent application and who does not stand to benefit from titling and registration or any other transaction over such parcel of land. A person is also disinterested when her or his relation to the cause or to the parties is such that she or he has no incentive for exaggerating or giving false color to her or his statements, or for suppressing or perverting the truth or for stating what is false.

2.12 *Predecessor-in-interest* – a person who, before having lawfully transferred the parcel subject of the application to the applicant, has held and possessed the same in her or his own right and under a color of title acquired through any of the modes of acquisition recognized by the Civil Code. She or he has formerly occupied this parcel of land in the concept of an owner under a bona fide claim of ownership, but relinquishes her or his right over the same in favor of the applicant.

2.13 *Actual residence* – utilization of and presence in a residential structure on the parcel subject of the application with the intention to reside, coupled with conduct indicative of such intention, either continuous or interrupted or intermittent, as long as the applicant possesses such structure and the parcel on which it stands in the concept of an owner.

2.14 *Continuous possession and occupation* – use either by the applicant herself or himself, or through her or his predecessor-in-interest, of the parcel subject of the application in the concept of an owner. This may be actual possession or occupation, or constructive possession that provides for non-residence, but with the desire to come back as soon as practicable. The possession and occupation, whether actual or constructive, must be without interruption, except when prevented by force majeure or circumstances beyond human control, or not of intermittent character while it continues. A person who lawfully recovers possession unjustly lost, shall be deemed, for all purposes which may redound to her or his benefit, to have enjoyed it without interruption.

2.15 *Bona fide claim of acquisition of ownership* – claim for the parcel subject of the application that is legally adequate as proof of possession and as acceptable to the community to separate that particular parcel as being owned by the applicant to the exclusion of others. It means that the applicant holds the property by virtue of or through any of the modes of acquisition recognized by the Civil Code. It also refers to a state of mind which is manifested by the acts of the applicant, done with honest intention to abstain from taking an unconscionable or unscrupulous advantage of another. It is the opposite of fraud and its absence should be established by convincing evidence.

2.16 *Accomplished application* – a proper application form completely and duly filled in with the requisite information and that which does not require any additional inputs other than those already provided in the form, together with all other requirements enumerated under Section 5 of the IRR.

2.17 *CENRO* – the Community Environment and Natural Resources Office of the Department of Environment and Natural Resources (DENR) having jurisdiction over the parcel subject of the application, which shall accept the accomplished application submitted by the applicant. In the National Capital Region, the Regional Office shall perform the functions of the CENRO. Where portions of the parcel subject of the applications are spread over two (2) or more areas under the jurisdiction of more than one (1) CENRO, the parcel shall be divided such that the portions shall be the subject of separate free patents applied for in the corresponding CENRO where they are located.

2.18 *PENRO* – the Provincial Environment and Natural Resources Office of the Department of Environment and Natural Resources (DENR) having jurisdiction over the parcel subject of the application, which has the power to approve or disapprove such application. In the National Capital Region, the Regional Executive Director shall perform the functions of the PENRO. Upon approval of the application, the PENRO shall issue the patent over such parcel of land.

SEC. 3. Qualifications. – Applicants for the issuance of a residential free patent shall possess the following qualifications, namely:

3.1 Filipino citizenship, as defined in subsection 2.1. In case of doubt, the CENRO or the land investigator concerned may ask for proof of citizenship such as, but not limited to, a copy of the birth certificate, passport, decree or order of naturalization, or certificate of dual citizenship.

3.2 Actual occupation, actual residence and continuous possession and occupation of the parcel subject of the application, either by herself or himself or through her or his predecessor-in-interest, under a bona fide claim of acquisition of ownership, for at least ten (10) years prior to the filing of the application.

There shall be no age requirement for applicants as long as minor applicants, aged below eighteen (18) years old, are duly represented by their legal guardians. The heirs of a deceased applicant may substitute the applicant provided that they themselves possess the required qualifications. There shall likewise be no limit as to the number of applications which may be filed under RA 10023, provided that the limitations as to the size of the parcel as stated in Section 4 shall not be exceeded.

No application shall be approved for any individual whose total landholding would exceed a total of an accumulated twelve (12) hectares, including agricultural lands, should the application be granted.

SEC. 4. Coverage. – The IRR covers all residential lands that have been identified and zoned through the appropriate ordinance of the LGU concerned, provided that the land applied for is not needed for public service and/or public use.

4.1 For highly urbanized cities, the area shall not exceed two hundred (200) square meters.