

**[DAR ADMINISTRATIVE ORDER NO. 04, s. 2003,
January 16, 2003]**

**2003 RULES ON EXEMPTION OF LANDS FROM CARP COVERAGE
UNDER SECTION 3 (C) OF REPUBLIC ACT NO. 6657 AND
DEPARTMENT OF JUSTICE (DOJ) OPINION NO. 44, SERIES OF
1990.**

I. Prefatory Statement

Republic Act (RA) 6657 or the Comprehensive Agrarian Reform Law (CARL), Section 3, Paragraph (c) defines "agricultural land" as referring to "land devoted to agricultural activity as defined in this Act and not classified as mineral, forest, residential, commercial or industrial land."

Department of Justice Opinion No. 44, Series of 1990, (or "DOJ Opinion 44-1990" for brevity) and the case of *Natalia Realty versus Department of Agrarian Reform* (12 August 1993, 225 SCRA 278) opines that with respect to the conversion of agricultural lands covered by RA 6657 to non-agricultural uses, the authority of the Department of Agrarian Reform (DAR) to approve such conversion may be exercised from the date of its effectivity, on 15 June 1988. Thus, all lands that are already classified as commercial, industrial or residential before 15 June 1988 no longer need any conversion clearance.

However, the reclassification of lands to non-agricultural uses shall not operate to divest tenant-farmers of their rights over lands covered by Presidential Decree (PD) No. 27, which have been vested prior to 15 June 1988.

In order to implement the intent and purpose of the provisions of the aforecited laws, these guidelines are hereby issued.

II. Requirements

The applicant shall submit in quadruplicate the following documents in four (4) separate bound folders (one [1] original set and three [3] photocopy sets) with table of contents and page numbers of all documents, sequentially numbered, except for maps which the applicant shall likewise submit in quadruplicate but in four separate envelopes with proper label of the contents of each envelope. The arrangement thereof shall follow the sequence of the enumeration below, with the requirement referred to in Section 2.1 hereof being the first document after the table of contents. All references in the masculine form (he/him/his) shall interchangeably mean the feminine form (she/her/hers) or group form (it/it's/their).

- 2.1. Official receipt showing proof of payment of filing and inspection fees.
- 2.2. Sworn Application for CARP Exemption or Exclusion, duly accomplished, and subscribed and sworn to before a notary public or any person authorized to administer oaths.

- 2.2.1. Special Power of Attorney (SPA) if the applicant is not the registered owner nor one of the co-owners of the property;
- 2.2.2. Notarized secretary's certificate of a corporate or cooperative board resolution authorizing the applicant's representative to file the Sworn Application for CARP Exemption if the applicant is a corporation or cooperative or some other juridical entity. The applicant shall also submit its latest notarized General Information Sheet (GIS) which must comply with the pertinent requirements of the Securities and Exchange Commission.
- 2.3. True copy of the Original Certificate of Title (OCT) or Transfer Certificate of Title (TCT) of the subject land, certified by the Register of Deeds not earlier than thirty (30) days prior to application filing date.

In case of untitled land, the following shall be required in lieu of a title:

- 2.3.1. Certification from the DENR Community Environment and Natural Resources Officer (CENRO) that the landholding has been classified as alienable and disposable; and
- 2.3.2. Certification from the DENR CENRO (for administrative confirmation of imperfect title) or the Clerk of Court (for judicial confirmation of imperfect title) that the titling process/proceedings has commenced and there are no adverse claimants;
- 2.4. Land classification certification:
 - 2.4.1. Certification from the Housing and Land Use Regulatory Board (HLURB) Regional Officer on the actual zoning or classification of the subject land in the approved comprehensive land use plan, citing the municipal or city zoning ordinance number, resolution number, and date of its approval by the HLURB or its corresponding board resolution number.
 - 2.4.2. For lands classified as mineral: certification issued by the DENR Mines and Geosciences Bureau or the proper DENR office attesting that the subject land is classified as mineral and covered by a mining permit issued by said Bureau or the proper Local Government Unit (LGU) in case of small scale mines.
 - 2.4.3. For lands classified as forest: certification issued by the DENR Forestry Sector or the proper DENR office attesting that the subject land is classified as within the forest zone.
- 2.5. Certification of the National Irrigation Administration (NIA) that the area is not irrigated nor scheduled for irrigation rehabilitation nor irrigable with firm funding commitment.

- 2.6. Certification of the Municipal Agrarian Reform Officer (MARO) attesting compliance with the public notice requirement in Part III hereof and its corresponding report in 7.6 hereof.
- 2.7. Photographs, size 5R (five [5] inches by seven [7] inches), using color film, and taken on the subject land under sunlight. The applicant shall attach the pictures to a paper background, and the photographer who took said pictures shall sign on said paper background to certify the authenticity of the pictures. On each background paper shall be written a short description of each picture. The pictures shall consist of:
 - 2.7.1. At least four (4) photographs taken from the center of the landholding: one (1) facing north, one (1) facing east, one (1) facing south, and one (1) facing west;
 - 2.7.2. At least one (1) photograph per corner, taken from each corner of the landholding's borders;
 - 2.7.3. At least two (2) photographs each for all distinct man-made structures existing on the land, taken from opposite angles;
 - 2.7.4. At least two (2) photographs each of the front view of the billboard(s) required in Part III hereof. The applicant shall set aside the second copy of said billboard photographs for submission to the MARO; and
 - 2.7.5. Sufficient number of photographs of the most conspicuous landmarks on the ingress and egress routes leading to and from the subject landholding, for the purpose of assisting the ocular inspection team in locating the site.
- 2.8. Proof of receipt of payment of disturbance compensation or a valid agreement to pay or waive payment of disturbance compensation.
- 2.9. Affidavit/Undertaking in a single document of the applicant stating:
 - 2.9.1. The number and names of the farmers, agricultural lessees, share tenants, farmworkers, actual tillers, and/or occupants in the landholding; if there are no such persons, a statement attesting to such fact;
 - 2.9.2. That the applicant has erected the billboard(s) required in Part III hereof; and undertakes not to remove, deface or destroy the same; and that he shall repair or replace the same when damaged, until after the approving authority disposes of the application with finality;
 - 2.9.3. That he has not committed any act of forum shopping as defined in the rules governing Agrarian Law Implementation (ALI) cases; and

2.9.4. That when there is a dispute on the fixing of disturbance compensation pending before the Provincial Agrarian Reform Adjudicator (PARAD) or Regional Agrarian Reform Adjudicator (RARAD) or DAR Adjudication Board (DARAB), the applicant shall abide with the decision of the Adjudicating Authority on the fixing of disturbance compensation.

2.10. Lot plan prepared by a duly-licensed geodetic engineer indicating the lots being applied for and their technical descriptions.

2.11. Vicinity or directional map to assist the ocular inspection team in locating the subject land. The directional map need not be drawn to scale but must show the orientation of the subject land in relation to adjoining lands; existing infrastructures and improvements thereon including any house or tillage by any occupant therein; owners of adjacent properties; the nearest barangay, municipal, city, and/or provincial feeder road; and other popular landmarks within a one (1) kilometer radius.

III. Public Notice

The applicant shall post in a conspicuous place within the subject property a public notice contained in a billboard made of strong materials such as weather-resistant plywood, galvanized iron, tin, panaflex, or other similar durable material, measuring 1.22 meters by 2.44 meters (4 feet by 8 feet). There shall be installed at least one (1) billboard for every twenty (20) hectares. The billboard shall be written in the local dialect and shall display the following information:

3.1. Announcement that the applicant is applying for exemption;

3.2. Complete name(s) of the landowner(s) and applicant(s);

3.3. Total area and exact location of the exemption proposal;

3.4. Date of filing of the application for exemption;

3.5. Date of posting of billboard;

3.6. Deadline for filing protest;

3.7. Addresses of DAR offices where resident oppositors may conveniently file their protests;

3.8. Address of the approving authority;

3.9. Date of ocular inspection, which shall be left blank, and which the applicant shall fill up after the MARO determines its exact date, but not later than seven (7) days before ocular inspection day; and

3.10. Date of approval or denial of the application, which shall be left blank,

and which the MARO or applicant or any party-in-interest shall fill up after approval or denial of the application.

IV. Disturbance Compensation

- 4.1. The applicant shall pay disturbance compensation, in cash or kind or combination of cash and kind, to the farmers, agricultural lessees, share tenants, farmworkers, and actual tillers (as defined and following the order of priority in Section 22 of RA 6657) found in the subject landholding, in such amount and under such terms which the parties may mutually agree upon among themselves.
- 4.2. The amount of disturbance compensation shall not be less than five (5) times the average of gross harvests on the subject landholding during the last five (5) preceding calendar years, pursuant to Section 36 of RA 3844, as amended by Section 7 of RA 6389.
- 4.3. Compensation in kind may consist of some or all or mixture of housing, homelots, employment, and/or other benefits. The DAR shall approve the terms of any agreement for the payment of disturbance compensation and monitor compliance therewith.
- 4.4. Whenever there is a dispute on the fixing of disturbance compensation or entitlement to disturbance compensation, the Regional Director shall refer the matter to the Adjudicator who shall be bound to take cognizance of and resolve the case despite the non-finality of the issue on whether or not the subject land is exempt from CARP.
- 4.5. The Approving Authority may grant a conditional exemption order, despite non-payment of disturbance compensation or while awaiting determination of entitlement thereto, subject however to the condition that the applicant and/or landowner shall post a bond in an amount to be determined by the Adjudicator. Notwithstanding the posting of such bond, the property applied for exemption shall not be developed for non-agricultural purposes and the farmers, agricultural lessees, share tenants, farmworkers, and actual tillers thereof cannot be ejected therefrom until the finality of the exemption order.

V. Approving Authorities

- 5.1. For properties with an area less than or equal to five (5) hectares, the approving authority shall be the Regional Director, acting upon the recommendation of the Regional Center for Land Use Policy Planning and Implementation (RCLUPPI).
- 5.2. For properties with an area larger than five (5) hectares, the approving authority shall be the Secretary, acting upon the recommendation of the Center for Land Use Policy Planning and Implementation – 2 (CLUPPI-2).
- 5.3. When the applicant owns (or represents the owner of) two (2) or more parcels of land within the same barangay or within two (2) or more barangays that are adjacent to each other, and the sum of the areas of said parcels of land exceeds five (5) hectares, the approving authority