

[ADMINISTRATIVE ORDER NO. 363, October 09, 1997]

**PRESCRIBING GUIDELINES FOR THE PROTECTION OF AREAS
NON-NEGOTIABLE FOR CONVERSION AND MONITORING
COMPLIANCE WITH SECTION 20 OF THE LOCAL GOVERNMENT
CODE**

WHEREAS, Section 21, Article II of the 1987 Constitution provides that "the State shall promote comprehensive rural development and agrarian reform";

WHEREAS, Section 1, Article XII of the Constitution provides that "the State shall promote industrialization and full employment based on sound agricultural development and agrarian reform, through industries that make full and efficient use of human and natural resources";

WHEREAS, Section 9, Article XIII of the Constitution provides that "the State shall, by law, and for the common good, undertake, in cooperation with the private sector, a continuing program of urban land reform and housing which will make available at affordable cost decent housing and basic services to underprivileged and homeless citizens in urban centers and resettlement areas";

WHEREAS, it is necessary to rationalize the policy of government in protecting prime agricultural lands and in providing areas for industry, housing and commerce;

WHEREAS, the President is empowered to issue guidelines to Executive Agencies to further define the roles they are to undertake in pursuing the mandate of their respective agencies and in accordance with the priorities of government.

NOW, THEREFORE, I, FIDEL V. RAMOS, President of the Philippines, by virtue of the powers vested in me by law, do hereby direct the observance of the following guidelines:

SECTION 1. Declaration of Principles and Governing Policies

A. General Principles

1. The State shall give priority to the provision for a rational and sustainable allocation, utilization, management and development of the country's land resources.
2. The State shall protect prime agricultural lands for food production activities, and give highest priority to the completion of the Comprehensive Agrarian Reform Program (CARP).
3. The State shall ensure food self-sufficiency and food security through efficient

and sustainable use of land resources, consistent with the principles of sound agricultural development, natural resources development and agrarian reform.

4. The State shall promote the dispersal of industries nationwide to catalyze countryside development through the Regional Growth Centers (RGCs), economic zones, and growth networks/corridors.

5. The State shall promote and encourage the development of economic and socialized housing projects in order to make available adequate economic and socialized housing units for average and low-income earners in urban and rural areas.

6. The State shall institutionalize the participation of people's organizations, non-government organizations, and local communities in the formulation of a national land use plan.

B. Governing Policies

1. The following areas shall not be subject to or non-negotiable for conversion:

a. Protected areas designated under the National Integrated Protected Areas (NIPAS), including watershed and recharge areas of aquifers, as determined by the Department of Environment and Natural Resources (DENR), pursuant to RA 7586 (1992);

b. All irrigated lands, as delineated by the Department of Agriculture (DA) and/or the National Irrigation Administration (NIA) and approved by the President, where water is available to support rice and other crop production, and all irrigated lands where water is not available for rice and other crop production but are within areas programmed for irrigation facility rehabilitation by the DA and the NIA, pursuant to Presidential Administrative Order 20 (1992); and

c. All irrigable lands already covered by irrigation projects with firm funding commitments, as delineated by the DA and/or NIA and approved by the President.

For this purpose, the Network of Protected Areas for Agriculture (as of 1991), as determined by the DA and/or NIA shall serve as guide in determining non-negotiable areas. The Network may only be revised upon the approval of the President, upon favorable recommendation by the Cabinet Cluster on Agro-Industrial Development.

In all cases, applications for conversion involving lands protected from and non-negotiable for conversion shall not be given due course by the DAR.

2. The following areas shall be highly restricted from conversion:

a. Lands classified as 'Highly Restricted from Conversion' in the Network of Protected Areas for Agriculture as delineated by the DA, as follows:

a.1 Irrigable lands not covered by irrigation projects with firm funding commitments;

a.2 Agro-industrial croplands, or lands presently planted to industrial crops that

support the economic viability of existing agricultural infrastructure and agro-based enterprises; and

a.3 Highlands, or areas located in elevations of 500 meters or above and have the potential for growing semi-temperate and usually high value crops.

b. Lands issued a Notice of Acquisition/Valuation under the agrarian reform program or subject of a perfected agreement between the landowner and the beneficiaries under Voluntary Land Transfer (VLT) or Direct Payment Scheme (DPS) under CARP, as determined by the DAR; and

c. Areas identified as environmentally critical as determined by the DENR, pursuant to PD 1586 (1978) and its implementing rules and regulations;

Lands classified as highly restricted from conversion may be converted only upon compliance with existing laws, rules and regulations. An additional requirement of the social benefit cost analysis approved by the DA shall also be required before these lands may be approved for conversion.

Applications for conversion covering areas under 2 (c) above shall be subject to the Environmental Impact Assessment (EIA) and/or Environmental Compliance Certificate (ECC) of the DENR.

3. Conversion of priority areas under Executive Order 124 (1993), as identified below, falling within the areas highly restricted from conversion may be allowed and the social benefit cost analysis for these areas may be waived; PROVIDED that the requirement of an EIC or ECC shall always be required; PROVIDED FURTHER that in no case shall conversion be allowed if these sites fall under those classified as non-negotiable areas:

a. specific sites in regional agri-industrial centers/regional industrial centers (RAICs/RICs) identified by the Department of Trade and Industry (DTI) and the Department of Agriculture (DA), attached as Annex A;

b. tourism development areas (TDAs) identified by the Department of Tourism (DOT), attached as Annex B; and

c. sites identified by the local government units (LGUs) for socialized housing.

4. In all cases, farmers or prospective beneficiaries of the agrarian reform program affected by the conversion shall be paid sufficient disturbance compensation. In addition, the owners and or developers of the land shall be encouraged to provide capital which will enable the affected farmers and other legitimate stakeholders to shift to another livelihood, skills training, relocation sites, and priority in employment for them and their children. Investment arrangements which give affected farmers and other legitimate stakeholders a stake in the development of the land, such as, but not limited to, joint ventures and partnerships, shall also be encouraged.

5. No application for reclassification by LGUs shall be given due course by HLURB without the approved Comprehensive Land Use Plan approved by the HLURB for provinces, highly urbanized cities, independent component cities and the cities and

municipalities of Metropolitan Manila, or the Sangguniang Panlalawigan for component cities and municipalities, after 1 January 1989. The following requirements or certifications from various agencies shall also be required:

a. Certification from the local HLURB specifying the total area of zoned agricultural lands in the local government concerned based on the approved Comprehensive Land Use Plan or Zoning Ordinance prior to the application for conversion;

b. Certification from the NIA that the area to be reclassified is not covered under Presidential A.O. 20, s. 1992;

c. Certification from the DAR indicating that such lands are not distributed or covered by a Notice of Valuation under CARP; and

d. Certification from DENR that the area applied for reclassification has been classified as alienable and disposable, and is not needed for forestry purposes in case the area applied for falls within public lands.

6. No application for conversion shall be given due course by DAR without the following certifications from various agencies:

a. Certification of the Viability or Non Viability of Agricultural Land from the DA and that the land is not part of the area identified as non-negotiable for conversion or a certification as to whether the land is classified as highly restricted from conversion or not;

b. Certification that the land does not fall under the NIPAS area or is not classified as environmentally critical from the DENR. For applications for conversion involving environmentally critical areas, the DAR may issue an Order of Conversion, subject to the issuance of an ECC by the DENR.

The DENR, in coordination with the DAR, shall institute an Environmental Guarantee Fund to ensure environment protection and to provide government the financial capability to handle negative impacts of the conversion;

c. Certification from the NIA stating that the area is not covered under Presidential A.O. 20, S. 1992; and

d. Certification from the HLURB that the land has been reclassified and that said reclassification is within or outside the maximum allowable limits set by law.

7. In all cases, the decision of the DAR Secretary shall be appealable to the Office of the President. The President may allow the conversion of areas considered non-negotiable for conversion only upon the favorable recommendation of the Cabinet Cluster on Agro-Industrial Development; PROVIDED that where lands affected are irrigated, the owner/developer shall be required to replace the areas affected by an equal area of irrigated lands, whether within or outside the area/locality being applied for conversion; and PROVIDED FURTHER that such conversion shall not adversely affect the irrigation system.

SECTION 2. Definition of Terms. — As used in and for purposes of this

Memorandum Circular, the following terms shall mean:

Agricultural Lands refer to lands devoted to agricultural activity and not classified as mineral, forest, residential, commercial or industrial land (Sec. 3 (c), RA 6657).

Aquifer Recharge Areas refer to sources of water replenishment where rainwater or seepage actually enters the aquifers. Aquifers are sources of water from the ground.

Environmentally Critical Areas refer to areas declared by law as:

- a) areas for natural parks, watershed reserves, wildlife preserves, and sanctuaries;
- b) areas set aside as aesthetic potential tourist spots;
- c) areas which constitute the habitat for any endangered or threatened species of indigenous Philippine wildlife (flora and fauna);
- d) areas of unique historic, archeological, or scientific interests;
- e) areas which are traditionally occupied by cultural communities and tribes;
- f) areas with critical slopes;
- g) areas frequently visited and/or hard hit by natural calamities (geologic hazards, floods, typhoons and volcanic activities);
- h) areas classified as prime agricultural lands;
- (i) recharge areas of aquifers;
- j) water bodies;
- k) mangrove areas;
- l) coral reefs;
- m) mossy and virgin forests;
- n) river banks; and
- o) swamp forests and marshlands.

Highly Restricted Areas Within Network of Protected Areas for Agricultural Development refers to the most efficient agricultural land that can be grown to a wide range of crops with minimum to moderate level of farm management requirement.

Land Use refers to the manner of utilization of land, including its allocation, development and management.