

[DAR ADMINISTRATIVE ORDER NO. 1, March 22, 1990]

REVISED RULES AND REGULATIONS GOVERNING CONVERSION OF PRIVATE AGRICULTURAL LANDS TO NON-AGRICULTURAL USES

I. GOVERNING PRINCIPLE

The conversion of private agricultural lands to non-agricultural uses shall be guided by the principles and policies enunciated in Section 2 of RA 6657, and EO 229, S. of 1987.

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" [Section 4(k), E.O. 129-A, S. of 1987].

B. DAR has "exclusive authority to approve or disapprove applications for conversion of agricultural lands for residential, commercial, industrial, and other land uses as may be provided for by law" [Section 5 (1), E.O. 129-A].

C. The DAR "may authorize the reclassification or conversion of the land and its disposition" subject to the conditions embodied in Sec. 65 of RA 6657.

III. COVERAGE

These Rules shall cover all private agricultural lands whether tenanted or not, regardless of crops or commodity produced. Agricultural land refers to those devoted to agricultural activity as defined in RA 6657 and not classified as mineral or forest by the Department of Environment and Natural Resources (DENR) and its predecessor agencies and not classified in town plans and zoning ordinances as approved by the Housing and Land Use Regulatory Board (HLURB) and its preceding authorities prior to 15 June 1988 for residential, commercial or industrial use.

IV. DEFINITION OF TERMS

Conversion is the act of authorizing the change of the current use of a piece of land into some other use.

Land Use Classification refers to the act of allocating lands to different activities or class of land uses, evolved and enacted through the town planning and zoning process.

The Land Use Plan, usually presented in a land use map, indicates the socially desired mix of land uses and a set of policies to guide future development.

Zoning is the delineation of areas or districts that may be put to specific uses and establishes limitations to apply in each land use district.

Zoning Ordinance is the legal regulation that enforces the land use plan. It carries penal provisions for violation. Together with land use plans, these ordinances are reviewed and approved by the HLURB.

Private Agricultural Lands are lands devoted to or suitable for agriculture as defined in RA 6657 and owned by natural or juridical persons. It includes lands owned by the government in its proprietary capacity.

V. POLICY GUIDELINES

A. DAR's primary mandate is to distribute agricultural lands to as many tenants and farmworkers as possible [Sections 2 and 3 (a), RA 6657]. If the agricultural lands are untenanted or do not have any farmworkers, it is the responsibility of DAR to locate qualified beneficiaries pursuant to Section 22 and Section 7 of RA 6657.

B. The classification of land from agricultural to non-agricultural uses shall be undertaken according to BP 337, RA 2264 and EO 648. Pursuant to EO 229 and 129-A and RA 6657, however, land use classification and re-classification after 15 June 1988 shall be subject to DAR approval.

C. Lands devoted to or suitable for agriculture shall not be converted into non-agricultural uses, except in the following instances:

1. When the land ceases to be economically feasible and sound for agricultural purposes as certified by the Regional Director of the Department of Agriculture (DA) or the land or locality has become highly urbanized and the land will have a greater economic value for residential, commercial or industrial purposes as certified by the Deputized Zoning Administrator of the HLURB; or
2. When lands are classified as commercial, industrial and residential in new or revised town plans approved by Inter-Agency Planning Task Forces organized by the HLURB with the participation of the DA, DENR, DAR, Department of Trade and Industry (DTI), National Economic and Development Authority (NEDA) and in applicable cases, the Department of Tourism (DOT). In the town planning process, the communities affected and the concerned NGOs shall be involved; or
3. When in the case of the city/municipality which does not have land use plans or integrated zoning ordinance duly approved by HLURB, the dominant use of the area surrounding the land subject of the application for conversion is no longer agricultural. If the proposed use is similar to, or compatible with the dominant use of the surrounding areas, the petition for conversion may be given due course. Moreover, the Regional Physical Framework Plan as approved by the Regional Development Council (RDC) shall be used as a basis for decision-making.

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

D. After the DAR has issued a Notice of Acquisition of an agricultural land under the compulsory acquisition process; or a Voluntary Offer to Sell or an application for stock distribution covering the subject property has been received by DAR, or there is already a perfected agreement between the landowner and the beneficiaries on Voluntary Land Transfer, no application for conversion on said land from the landowner or any person acting on his behalf shall be given due course.

E. In all cases of petitions for conversion that will result in 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 its best efforts to see to it that homelots and employment for displaced beneficiaries are provided by the applicant/developer.

F. 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 can be completed within one (1) year after the issuance of the development permit 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 fraction thereof but in no case shall the completion of development extend beyond five (5) years from the issuance of the development permit.

G. Preparation of new land use plans and zoning ordinances and the updating of existing ones, including those approved by the HLURB prior to 15 June 1988, shall be covered by the provision of this Administrative order with respect to changes in current agricultural land use or classification.

In order to ensure that the intent of this Administrative Order is effectively carried out and to speed up decisions on conversion applications, the DA, DAR, DTI, NEDA, DENR and in applicable cases, DOT shall henceforth be made members of the Inter-Agency Town Planning Task Forces at all levels and the Inter-Agency Town Planning Review Committee.

VI. WHO MAY APPLY FOR CONVERSION

A. Owners of private agricultural lands or persons authorized by them, including land developers duly licensed by the HLURB or the government agency concerned.

B. Farmer-beneficiaries of the Agrarian Reform Program after the lapse of five (5) years from award of land to them 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.

VII. DOCUMENTARY REQUIREMENTS

A. *Requirements common to all applicants:*