



Asia-Pacific Housing Forum Manila



Organized by



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Department of Agriculture

Land Use Reclassification: “*What we’ve learned and what can we improve*” (Guidelines on the Issuance of Certification for Land Use Reclassification)’

July 29-31, 2019 | Manila, Philippines





- **The APHF 7 will focus on the following three (3) tracks:**
 1. Markets and Private Sector Solutions for Housing
 2. Land Ownership : the Key to Socialized Housing
 3. Housing and Climate Change : Building Disaster Resilient Communities and Cities



- Looking at your website, our presentation, ***Land Use Reclassification: “What we’ve learned and what can we improve” (Guidelines on the Issuance of Certification for Land Use Reclassification)*** , falls under the “Land Ownership” track wherein this session explores socialized housing in the framework of the National Land Use Bill and existing land use plans of local government units and development projects; It touches on conflicts between the use of agricultural lands and socialized housing as well as ways to harmonize the two.



- **Use of agricultural lands and socialized housing:**

The main thrust of the Department of Agriculture (DA) is to provide food to all Filipinos at all times at affordable price or in short, “*food security*”.

The main strategy to achieve it is to protect and preserve agricultural lands for food production.

However, the DA also recognizes the need of other sectors for land to address the need for housing/ residential, industrial expansion, infrastructure development, among others.





Text

- In the absence of a National Land Use Act and to ensure the judicious, equitable and sustainable use of our resources, the DA issued Administrative Order No. 01, Series of 2017, *“Guidelines on the Issuance of Certification for Land Use Reclassification”*.
- This is the guideline that governs the issuance of certificate of eligibility for reclassification of agricultural lands which is a documentary requirement of the Department of Agrarian Reform in land conversion (prior to the latest DAR issuance which will be mentioned later).





Text

- The DA AO No. 01, Series of 2017, as mentioned, is consistent with DAR AO No. 01, Series of 2002, *"2002 Comprehensive Rules on Land Use Conversion"*.
- **The DA AO No. 01, Series of 2017 gives approving authority to the Regional Executive Directors for LUR applications intended for SOCIALIZED HOUSING:**

The Regional Executive Director or his designated Regional Technical Director approves/ disapproves land use reclassification applications for areas outside of SAFDZ and with a total area of five (5) hectares and below.



Text

- However, the DA is now in a quandary in view of the issuance of DAR AO No. 01, Series of 2019, *“Streamlining the Processing of Applications for Land Use Conversion under DAR Administrative Order No. 1, Series of 2002”*.
- The above DAR AO took effect on April 25, 2019 after it was published on April 15, 2019 in Manila Bulletin and Manila Times.



Text

- The salient features of the said AO which have bearing on the issuance of DA certification on the eligibility for reclassification of agricultural lands (CERAL) are Sections 7 and 8.

Section 7. Local Government Unit (LGU) Reclassification.

Reclassification is different from Conversion.

Reclassification is the act of specifying how agricultural land shall be utilized for non-agricultural uses as embodied in the land use plan of the LGU based on Section 20 of R.A. No. 7160. **Conversion** is the act of changing the actual use of agricultural land into other uses as approved by the DAR in accordance with Section 65 of RA 6657, as amended.

Agricultural lands that are reclassified to non-agricultural uses do not *ipso facto* allow the landowner thereof to use the same for such purpose.

The submission of the Certificate of Reclassification by the Housing and Land Use Regulatory Board (HLURB) in applications for conversion shall only be required if the landholding is situated in Highly-Urbanized or Independent Component Cities and the conversion is from an agricultural use to non-agricultural use.



Text

- The salient features of the said AO which have bearing on the issuance of DA certification on the eligibility for reclassification of agricultural lands (CERAL) are Sections 7 and 8.

In lieu of the HLURB certification, the Sangguniang Bayan/Panlungsod Zoning Ordinance and the Sangguniang Panlalawigan Resolution approving said Zoning Ordinance shall be submitted in applications for conversion in case of landholdings situated in Component Cities and Municipalities and the conversion is from an agricultural use to a non-agricultural use.

In both instances, the concerned local government unit must have the proper Certificate of Eligibility for Reclassification of agricultural lands issued by the Department of Agriculture (DA) in accordance with D.A. A.O. No. 1, Series of 2017. The DA Certificate must be attached to the HLURB certificate or the LGU Resolution, as the case may be, to prove that there is a valid reclassification.



Text

- The salient features of the said AO which have bearing on the issuance of DA certification on the eligibility for reclassification of agricultural lands (CERAL) are Sections 7 and 8.

Section 8. Department of Agriculture Certification is a Requirement for Application for Land Use Reclassification

“Matters pertaining to the state of the agricultural activity on the landholding as well as whether the same is irrigated or irrigable have already been passed upon by the concerned LGU during the process of reclassification in accordance with Section 20 of RA No. 7160 and Office of the President (O.P.) M.C. No. 54 Series of 1993. Thus, the DA certificate on such matters will not be required upon an Application for Conversion of a landholding from agricultural use to non-agricultural use. This provision amends Section 10.16 of DAR A.O. 1, Series of 2002.”



Text

In brief, the DA CERAL is no longer a requirement for land conversion applications at DAR. Instead, it must be attached to the HLURB Certificate or Sangguniang Resolution, as the case may be, to prove that there is a valid reclassification.



Text

Process of Reclassification in accordance with Section 20 of RA No. 7160 and Office of the President M.C. No. 54 Series of 1993

- Republic Act (RA) 7160, otherwise known as the Local Government Code of 1991 (LGC) provides that cities and municipalities may reclassify agricultural lands into non-agricultural uses within their respective jurisdictions, subject to the limitations and other conditions prescribed under Section 20 of the LGC.

Section 20. *Reclassification of Lands.*

(a) A city or municipality may, through an ordinance passed by the sanggunian after conducting public hearings for the purpose, authorize the reclassification of agricultural lands and provide for the manner of their utilization or disposition in the following cases: (1) when the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture or (2) where the land shall have substantially greater economic value for residential, commercial, or industrial purposes, as determined by the sanggunian concerned:



Text

Provided, That such reclassification shall be limited to the following percentage of the total agricultural land area at the time of the passage of the ordinance:

- (1) For highly urbanized and independent component cities, fifteen percent (15%);
- (2) For component cities and first to the third class municipalities, ten percent (10%); and
- (3) For fourth to sixth class municipalities, five percent (5%):

Provided, further, That agricultural lands distributed to agrarian reform beneficiaries pursuant to Republic Act Numbered Sixty-six hundred fifty-seven (R.A. No. 6657). otherwise known as "The Comprehensive Agrarian Reform Law", shall not be affected by the said reclassification and the conversion of such lands into other purposes shall be governed by Section 65 of said Act.



Text

- Memorandum Circular (MC) No. 54, “Prescribing the Guidelines Governing Section 20 of RA 7160 Otherwise Known as the Local Government Code of 1991 Authorizing Cities and Municipalities to Reclassify Agricultural Lands into Non-Agricultural Uses”.

Text

The process of reclassification in accordance with Section 20 and MC No. 54, Series of 1993, is simplified as follows:

1. Recommend the reclassification to sangguniang bayan/ panlungsod

Sec.2. The City or Municipal Development Council (CDC/MDC) shall recommend the reclassification of agricultural lands to the sangguniang bayan or panlungsod within their jurisdiction based on the requirements for local development.

2. Securing of documentary requirements from DA and DAR

Sec. 2(b) Prior to the enactment of an ordinance reclassifying agricultural lands, the sanggunian concerned must first secure certificates from DA and DAR.

The certification from DA indicates the following:

- (i) the total area of existing agricultural lands in the LGU concerned;
- (ii) that such lands are not classified as non-negotiable for conversion or reclassification under AO 20 (1992); and
- (iii) that the land ceases to be economically feasible and sound for agricultural purposes



Text

3. Enactment of the ordinance authorizing the reclassification of agricultural lands

Sec.2.(f) Upon issuance of the certifications (DA and DAR), the sanggunian concerned may now enact an ordinance authorizing the reclassification of agricultural lands and providing for the manner of their utilization or disposition. Such ordinance shall likewise update the comprehensive land use plan of the LGU concerned.



Text

Briefly, Section 20 of RA 7160 and MC No. 54, S. 1993, shows the following:

1. No application is filed with the DA. The Sanggunian concerned only secures certification from DA.

This negates Section 8 of DAR AO No. 1, Series of 2019 which states that Department of Agriculture certification is a requirement for application for land use reclassification.

2. There was no mention of ownership of agricultural land in MC No. 54, s. 1993. The coverage of agricultural land is the total agricultural land in the LGU concerned.



Text

3. The output of the reclassification process is ordinance authorizing the reclassification of agricultural lands and providing the manner of their utilization or disposition and update the CLUP of the LGU.

The output serves as basis of the zoning classification of the property.

Text

The DA certification on the reclassification process in accordance to Section 20 of RA 7160 and MC No. 54 is **different** from the Certificate of Eligibility for Reclassification of Agricultural Lands (CERAL) in accordance with DA AO No. 01, Series of 2017.

The CERAL is issued on the following:

- 1.) There is an application filed with the DA through the RTECLUM and NTECLUM by the following applicants (Rule VI of DA AO No. 01, Series of 2017):
 - Owners of private agricultural lands or other persons duly authorized by the landowner;



Text

- Beneficiaries of the agrarian reform program after the lapse of five (5) years from award, reckoned from the date of the issuance of the Certificate of Landownership Award (CLOA), and who have fully paid their obligations and are qualified under these Rules, or persons duly authorized by them; and
- Government agencies, including government-owned or controlled corporations, and LGUs, which own agricultural lands as their property.”



Text

Further, it is stated in Section 7 of DAR AO No. 01, Series of 2019 that, *“Reclassification is different from conversion. Agricultural lands that are reclassified to non-agricultural uses do not ipso facto allow the land owner thereof to use the same for such purpose.”*

This just re-affirms the purpose by which DA AO No. 01, s. 2017 and its precedent AOs were issued because the DA certification per MC 54, s. 1993 is “not sufficient” in terms of substance/information as basis for land conversion at DAR. The conditions prescribed under RA 8435 are not included in the said DA certification.



Text

Also, Section 1.3 of DAR AO No. 01-02 states, *“Conversion of agricultural lands to non-agricultural uses shall be strictly regulated and may be allowed only when the conditions prescribed under RA 6657 and/or RA 8435 (AFMA) are present and complied with.”*

The DA certification issued per MC 54 , Series of 1993 does not include conditions prescribed under RA 8435 which was promulgated in 1997

Text

At present, the DA is in a dilemma on how to comply with DAR AO No. 01, Series of 2019.

DA ACTION/s:

- Continue to accept and evaluate applications and issue the appropriate DA certification;
- Hold a meeting with DAR pertaining to Sections 7, 8 and 10 of DAR AO No. 01, Series of 2019 and other government agencies issuing certifications/permits for land conversion (DILG, HLURB, League of Municipalities, League of Cities, etc.)

Text

Going back to the objective , “ *to harmonize the use of agricultural lands and socialized housing*”, we recommend to locate your projects in areas not classified as :

- Non-negotiable for conversion
- Areas highly restricted from conversion
- Lands within the Strategic Agriculture and Fisheries Development Zone (SAFDZ)



Text

