



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel Nos. (632) 929-66-26 to 29 • (632) 929-62-52
929-66-20 • 929-66-33 to 35
929-70-41 to 43

MAY 05 2010

DENR Administrative Order
No. 2010- 12

SUBJECT: 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 2.11, 2.12 and 2.13 below.

ZK



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES

1

Let's Go Green



SEN027595

- 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 the 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

ER



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES

3



SENRO27595

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 application 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.

3R



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES



SENRO27595

- 4.1 For highly urbanized cities, the area shall not exceed two hundred (200) square meters.
- 4.2 For other cities, the area shall not exceed five hundred (500) square meters.
- 4.3 For first class and second class municipalities, the area shall not exceed seven hundred fifty (750) square meters.
- 4.4 For all other municipalities, the area shall not exceed one thousand (1000) square meters.

In the determination of the size limitation of the parcel subject of the application, the above classifications of LGUs at the time of filing of the accomplished application shall be considered.

All CENROs shall secure a copy of approved zoning ordinances of cities and municipalities within their jurisdiction for identification of zoned residential areas. They shall also secure area certifications from the LGU planning offices that the areas identified and zoned as residential lands are not needed for public use or public service. The LGU zoning at the time of filing of the application shall be considered for purposes of complying with the zoning requirement.

Sec. 5. Requirements for applications. - The application form accompanied by the requirements enumerated below shall constitute an accomplished application for the issuance of free patents for residential lands.

- 5.1 Copy of approved plan based on an actual survey conducted by a licensed geodetic engineer or copy of cadastral map showing the parcel of land applied for. For purposes of securing the approval of a survey, the application number is not necessary.
- 5.2 Copy of technical description of the parcel of land subject of the application. LMB form 700-2A or LMB form 700-2B may be used.
- 5.3 Simplified sketch of the land parcel showing the adjacent lots, corners and natural or manmade features that define the boundaries of the land.
- 5.4 Affidavit of two (2) disinterested persons residing in the barangay of the city or municipality where the land is located, attesting to the truth of the facts contained in the application to the effect that the applicant thereof has, either by himself or through his predecessor-in-interest, actually resided on and continuously possessed and occupied, under a bona fide claim of acquisition of ownership, the subject land for at least ten (10) years
- 5.5 For isolated applications, a certification from the Regional Trial Court that there is no pending land registration case involving the land parcel being applied for.

Sec. 6. Procedure in the CENRO for processing applications. - Applications for residential free patent shall be filed in the CENRO whose jurisdiction covers the area where the parcel of land subject of the application is situated. This may also include on-site acceptance of accomplished

ER



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES

5



SENRO27595

applications by the CENRO or any of his authorized representatives. The CENRO may also authorize any public office to accept applications and to prepare applications and documents for processing.

- 6.1 No application shall be accepted/processed without submitting the complete requirements including the approved plan and technical description. A preliminary assessment of compliance with the qualifications and documentary requirements based on the checklist may be made before acceptance of the application and the commencement of the 120-day period.
- 6.2 Posting of Notices. – Upon receipt of an accomplished application, the CENRO concerned shall cause the posting of notices for 15 days in two (2) conspicuous places within the municipality or city, preferably in the location of its office, or any other place that can be readily seen, such as, but not limited to, public bill boards, public plazas, municipal/city/barangay halls and market places. The CENRO shall issue the certificate of posting of notice after the 15 day period has elapsed.
- 6.3 The CENRO is required to process the application, including the publication thereof, within a non-extendible period of one hundred twenty (120) days from the date of filing of the accomplished application. The 120-day period starts the moment that an accomplished application leaves the hands of the applicant and is turned over to the CENRO or any authorized representative thereof. The period for verification with the records (e.g. determining whether or not a patent had already been issued for the parcel in question) is included in the 120-day period. The period for approval of surveys is not included in the 120-day period. The CENRO may provide for acceptance and processing of applications by batch (by date or by geography) to comply with the 120-day processing period.
- 6.4 Upon approval of the CENRO, the application and the complete records of the application shall be forwarded to the PENRO for her or his approval and signature.
- 6.5 Should the CENRO determine that the application is incomplete in requirements, she or he shall reject the application without prejudice to re filing.
- 6.6 The investigator shall conduct an ocular inspection on the parcel of land applied for and shall determine the qualifications of the applicant as well as verify the claims of the applicant on the land. The land investigator is authorized to subscribe proofs, affidavits and oaths of any kind required or necessary in connection with the application for residential free patent.
- 6.7 In case an opposition is filed, the 120-day period for processing shall be deemed interrupted. The CENRO shall notify the applicant on the opposition and shall subject the application to the regular claims and conflict procedures of the DENR.
- 6.8 The CENRO shall fast track the resolution of all claims and conflicts arising from residential free patent applications within

BR



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES

6



SENRO27595

120 days and shall notify the conflicting parties within 15 days from the date of resolution. The CENRO shall apply alternative dispute resolution (ADR) mechanisms in the resolution of claims and conflicts.

- 6.9 The CENRO shall establish a computerized data base and system of record keeping with respect to all public land applications and patents arising from the implementation of this Act.

Sec. 7. Procedure in the PENRO. – Upon the recommendation of the CENRO concerned, the corresponding PENRO shall have a non-extendible period of five (5) days from receipt of such recommendation to either approve and sign the patent or disapprove the application.

In case of approval, the PENRO shall notify the applicant within 15 days and forward the patent to the Registry of Deeds

In case of disapproval, the PENRO shall notify the applicant within 15 days and remand the entire records to the CENRO for appropriate action.

The PENRO may disapprove the application without prejudice to re-filing on the grounds of non-compliance with documentary requirements. He/she may disapprove an application with prejudice to refiling on grounds of non-qualification of the applicant and when the land applied for should undergo claims and conflict resolution procedures.

The disapproval of the application by the PENRO may be appealed to the Secretary of the DENR through appropriate channels

Sec. 8. Other Pending Applications. – Pending miscellaneous sales applications falling within the purview of RA 10023 prior to the order of award may be converted to applications for residential free patent. Provided, that the applicant is informed and his/her consent is obtained.

All pending miscellaneous sales application after the order of award and those applicants thereof who have commenced payment on any of the required equal annual installments shall be given the option to continue with the miscellaneous sales application or to convert their application into an application under RA 10023, provided that an affidavit of relinquishment of rights to the MSA and of forfeiture of previously paid installments shall be executed.

The conversion of pending Miscellaneous Sales Applications shall comply with the area limits specified in Section 4.

The CENRO shall issue an order cancelling the miscellaneous sales application and converting the MSA to a residential free patent application.

Townsite sales applications falling within the qualifications of R.A. 10023 and before the bidding has been conducted, may also be converted to residential free patent applications. Provided, that the applicant consents to the conversion and provided further, that the applicant relinquishes any other type of claim through an affidavit. And provided further, that the conversion shall comply with the area limits specified in Section 4.

3R



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES



SENRO27595

Sec. 9. Removal of Restrictions. – The following restrictions under Chapter XIII, Title VI of Commonwealth Act No. 141 shall not be applicable to patents issued under RA 10023, to wit:

“Section 118. Except in favor of the Government or any of its branches, units, or institutions, lands acquired under free patent or homestead provisions shall not be subject to encumbrance or alienation from the date of the approval of the application and for a term of five years from and after the date of issuance of the patent or grant, nor shall they become liable to the satisfaction of any debt contracted prior to the expiration of said period, but the improvements or crops on the land may be mortgaged or pledged to qualified persons, associations, or corporations.

No alienation, transfer, or conveyance of any homestead after five years and before twenty-five years after issuance of title shall be valid without the approval of the Secretary of Agriculture and Commerce, which approval shall not be denied except on constitutional and legal grounds.”

“Section 119. Every conveyance of land acquired under the free patent or homestead provisions, when proper, shall be subject to repurchase by the applicant, his widow, or legal heirs, within a period of five years from the date of the conveyance.”

“Section 121. Except with the consent of the grantee and the approval of the Secretary of Natural Resources, and solely for commercial, industrial, educational, religious or charitable purposes or for a right of way, no corporation, association, or partnership may acquire or have any right, title, interest, or property right whatsoever to any land granted under the free patent, homestead, or individual sale provisions of this Act or to any permanent improvement on such land.

The provisions of Section 124 of this Act to the contrary notwithstanding, any acquisition of such land, rights thereto or improvements thereon by a corporation, association, or partnership prior to the promulgation of this Decree for the purposes herein stated is deemed valid and binding; Provided, That no final decision of reversion of such land to the State has been rendered by a court; And Provided, further, That such acquisition is approved by the Secretary of Natural Resources within six (6) months from the effectivity of this Decree.”

“Section 122. No land originally acquired in any manner under the provisions of this Act, nor any permanent improvement on such land, shall encumbered, alienated, or transferred, except to persons, corporations, associations, or partnerships who may acquire lands of the public domain under this Act or to corporations organized in the Philippines authorized therefor by their charters.

Except in cases of hereditary succession, no land or any portion thereof originally acquired under the free patent, homestead, or individual sale provisions of this Act, or any permanent improvement on such land, shall be transferred or assigned to any individual, nor shall such land or any permanent improvement thereon be leased to such individual, when the area of said land, added to that of his own, shall

3R



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES



exceed one hundred and forty-four hectares. Any transfer, assignment, or lease made in violation hereof, shall be null and void.”

“**Section 123.** No land originally acquired in any manner under the provisions of any previous Act, ordinance, royal order, royal decree, or any other provision of law formerly in force in the Philippines with regard to public lands, terrenos baldios y realengos, or lands of any other denomination that were actually or presumptively of the public domain, or by royal grant or in any other form, nor any permanent improvement on such land, shall be encumbered, alienated, or conveyed, except to persons, corporations or associations who may acquire land of the public domain under this Act or to corporate bodies organized in the Philippines whose charters authorize them to do so: Provided, however, That this prohibition shall not be applicable to the conveyance or acquisition by reason of hereditary succession duly acknowledged and legalized by competent courts; Provided, further, That in the event of the ownership of the lands and improvements mentioned in this section and in the last preceding section being transferred by judicial decree to persons, corporations or associations not legally capacitated to acquire the same under the provisions of this Act, such persons, corporations, or associations shall be obliged to alienate said lands or improvements to others so capacitated within the precise period of five years; otherwise, such property shall revert to the Government.”

Sec. 10. Separability Clause. – If, for any reason, any section or provision of this Implementing Rules and Regulations is declared null and void, no other section, provision, or part thereof shall be affected and the same shall remain in full force and effect.

Sec. 11. Repealing Clause. – All orders, circulars, memoranda and other issuances inconsistent herewith are hereby repealed and/or amended accordingly.

Sec. 12. Effectivity. – This order shall take effect fifteen (15) days after the publication thereof in a newspaper of general circulation and acknowledgment of receipt of a copy from the Office of the National Administrative Register.

Approved:


HON. HORACIO C. RAMOS
Secretary

Recommending Approval:


ATTY. ALLAN V. BARCENA
Director, Land Management Bureau

Publication: *The Philippine Star*
May 16, 2010

Acknowledgement: ONAR, U.P. Law Center
May 18, 2010



Republic of the Philippines
DEPARTMENT OF ENVIRONMENT
AND NATURAL RESOURCES



SENRO27595