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APR 21 2009

DEPARTMENT ADMINISTRATIVE ORDER

No. 2009-05

**SUBJECT: PRESCRIBING GUIDELINES FOR THE SYSTEMATIC DISPOSITION OF
ALIENABLE AND DISPOSABLE RESIDENTIAL LANDS THROUGH
MISCELLANEOUS SALES APPLICATION UNDER REPUBLIC ACT NO. 730.**

Pursuant to Executive Order No. 192 series of 1987 granting the DENR the authority to formulate policies and regulations for the effective management, conservation and development of the country's natural resources and in further implementation of Republic Act 730 in relation to Commonwealth Act 141 as amended, which reposes on the Department of Environment and Natural Resources the primary responsibility to dispose lands of the public domain primarily used for residential purposes through a private sale under certain conditions, the following regulations is hereby prescribed:

SECTION 1. OBJECTIVES. – This Administrative Order is issued to achieve the following objectives:

1. To simplify systematic disposition of public alienable and disposable residential lands covered by RA 730;
2. To provide simplified guidelines for the affordable and reasonable appraisal of residential parcels for all applicants; and
3. To enhance economic growth by improving land tenure security and fostering the development of an efficient land market in rural and urban areas by fast tracking the titling and registration of residential lands covered by RA 730;

SECTION 2. DEFINITION OF TERMS – As used in this Administrative Order, the following terms and phrases shall be defined and understood as follows:

- a) **Miscellaneous Sales** – Sale of alienable and disposable residential, commercial and industrial lands under Chapter IX of the Public Land Act (Commonwealth Act 141). Disposition under miscellaneous sales is subject to bidding.
- b) **Miscellaneous Sales Under Republic Act 730** – Sale of alienable and disposable residential lands not more than 1,000 square meters to qualified occupants as defined in Section 6 of this Administrative Order.
- c) **Private Sale or Direct Sale** – Sale of public lands to its actual occupants. Disposition under direct or private sale is not subject to bidding.
- d) **Appraisal** – Process of determining the value of alienable and disposable land for sale or lease under the Public Land Act.

- e) **Mass Appraisal** – Process of determining the value of all public land in a given locality that can be disposed under RA 730.
- f) **Appraisal Committee** – A body created pursuant to Section 116 of the Public Land Act for the purpose of determining the value of public land for sale or lease.
- g) **Systematic Adjudication or Disposition** – is a government-initiated process adjudicating land rights on a locality basis and aiming to register all untitled land in the locality.

SECTION 3. COVERAGE – This Order shall apply to the systematic adjudication and disposition of public land for residential purposes at a private sale under Republic Act 730.

SECTION 4. PUBLIC NOTICE – A declaration and public notice to inform the community of the area that will undergo the systematic adjudication shall be made by the DENR and the Local Government Unit during project preparation and before actual processing of miscellaneous sales applications. For this purpose, a notice shall be posted for a period of thirty (30) days at the Municipal Hall, Barangay Hall and CENRO office of the area that will undergo systematic adjudication. A certification of posting shall be prepared by the LGU concerned and the CENRO and the same shall be attached to the area appraisal report.

SECTION 5. LAND PARCELS THAT MAY BE ACQUIRED AND AREA LIMITATION. — Land of the public domain of the Republic of the Philippines which are non-timber or non-mineral suitable for residential purposes and are not needed for public service, the area of which shall not exceed one thousand square meters may be acquired through private sale.

SECTION 6. PERSONS ENTITLED TO A PRIVATE SALE. — Persons who have the following qualifications may purchase public lands for residential purposes through private or direct sale under Republic Act 730;

- a) Filipino citizens;
- b) Must be of legal age;
- c) Do not own a home lot in the city or municipality where the land is located; and
- d) Must occupy in good faith the land applied for, have constructed their houses thereon and reside therein.

SECTION 7. CERTIFICATION FROM THE LOCAL PLANNING AND DEVELOPMENT OFFICE – The concurrence of the local government unit's Planning and Development Office shall be secured by the DENR before commencement of systematic adjudication under RA730. For this purpose, the certification from the Local Government Unit Planning Officer that the residential lands within the systematic adjudication area are not needed for any public improvements and that the actual use of the land is residential shall be secured and the same shall be sufficient compliance with the requirements under Section 63 of the Public Land Act. The said office shall

consider the respective LGU's land use, zoning and road improvement plans in issuing this certification.

SECTION 8. APPRAISAL AND AUTHORITY TO SELL.

- a) **APPRAISAL COMMITTEE — Creation and Composition.** — An Appraisal Committee charged to appraise public residential lands within an LGU area shall be created by the Regional Executive Director, and shall be composed of the following:
1. The Community Environment and Natural Resources Officer or the Land Management Officer when duly authorized by the CENRO; Chairman
 2. Local Assessor or his/her duly authorized representative; Member
 3. Local Planning Officer or his/her duly authorized representative; Member
- b) **AREA APPRAISAL** – In order to increase efficiency and to provide prospective applicants with a clear understanding of the cost of titling, the area appraisal of residential lands in each area is hereby mandated. Area appraisal should be made before or during community mobilization and prior to systematic adjudication/acceptance of application. In order to maximize the efficiency of processing of appraisals, area appraisal can be made on the whole municipality/city, on a whole barangay or group of barangays, sitio and/or settlement.
- c) **GUIDELINES IN APPRAISAL** – In conducting the appraisal under RA 730, due consideration should be given to the over-all objective of the government of enhancing economic growth by improving land tenure security and fostering the development of an efficient land markets in rural and urban areas by fast tracking of titling and registration of residential lands.

To this end, the following factors should be considered by the appraisal committee:

1. Assessed value of the land from the local assessor's office;
2. Cadastral/Survey Costs incurred by the government;
3. Estimated administrative and/or budget cost of titling; and
4. Socio-economic data of the target area as may be provided by the LGU

The capacity to pay of the prospective applicants should be given important consideration in the final determination of the cost of the land in order to make the sale affordable and to increase participation provided, however, that the appraisal should not be lower than the cost that will be incurred or may be incurred by the government in connection with the application.

d) APPRAISAL REPORT — After conducting the appraisal, the Committee shall prepare and submit an Appraisal Report containing its findings and recommendations and the reasons and/or justification in support thereof to the Regional Executive Director of the DENR which should include:

1. Estimated cost that the government will incur in processing the MSA
2. Minimum price per parcel
3. The costs/price of the land per square meter.

The report shall likewise contain a request for authority to sell all residential lands in the area under consideration that qualifies for disposition under RA 730.

e) APPROVAL OF APPRAISAL AND AUTHORITY TO SELL. — The approval of the area appraisal and the issuance of the Authority to Sell under this administrative order is hereby delegated to the Regional Executive Director.

f) LOT COST- individual lots for disposition under RA 730 within the area covered by the mass or area appraisal shall be appraised by a simple computation of the land area applied for and the appraised price per square meters provided that the cost shall not be lower than the minimum price per parcel. Appraisal approval and authorization from the RED to sell each individual lot is no longer necessary; it is sufficient that the CENRO approves the computation.

SECTION 8. FILING AND PROCESSING OF APPLICATIONS – Filing and processing of Miscellaneous Sales Application in areas covered by systematic adjudication shall be at the CENRO/PENRO, LGU and/or such other office designated as receiving and/or processing office.

SECTION 9. NOTICE. – Before the sales contract or an order of the awards is issued to an applicant, a notice of the private sale shall be posted for a period of thirty (30) days in a conspicuous place in the land itself, on the bulletin board of the Barangay Hall, the Municipal/City Hall and the CENRO. A certification of posting shall be prepared by the Local Government Units aforementioned and the CENRO Land Investigator at the end of said period attesting to the fact of compliance with this posting requirement.

SECTION 10. PAYMENT OF PURCHASE PRICE AND ISSUANCE OF PATENT– A down payment of ten per centum (10%) of the appraised value of the lot shall be collected before the Order of Award may be made in favor of the purchaser. The balance of the purchase price may be paid in full at the time of the award or in not more than ten (10) equal annual installments from the date of the award. All over due installments shall bear interest of four (4%) percent per annum. The applicant shall be entitled to the issuance of patent upon completion of payment.

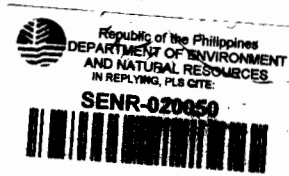
SECTION 11. AUTHORITY TO ISSUE PATENT – The PENRO is authorized to sign all patents issued pursuant to disposition of residential lands under RA 730.

SECTION 12. RESOLUTION OF CONFLICTS – Claims and conflicts arising from disposition under this Administrative Order shall be resolved in accordance with existing rules and procedures.

SECTION 13. REPEALING CLAUSE. — All orders, circulars, memoranda and other issuances inconsistent herewith are hereby repealed and/or amended accordingly.

SECTION 14. EFFECTIVITY – This Order shall take effect fifteen (15) days after the publication thereof in a newspaper of general circulation and acknowledgement of receipt of a copy from the Office of the National Administrative Register (ONAR).


JOSE L. ATIENZA, JR.
Secretary



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April 27, 2009
Acknowledgement: ONAR, U.P. Law Center
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