



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

MEMORANDUM CIRCULAR No. 07
Series of 2011

SUBJECT: ADOPTING AND IMPLEMENTING THE RIGHT TO INFORMATION WITH RESPECT TO THE QUASI-JUDICIAL AND DISCIPLINARY FUNCTIONS OF THE DEPARTMENT OF AGRARIAN REFORM AND PROVIDING THE GUIDELINES THEREFOR

SECTION 1. Rationale.

Section 7 of Article 3 (or the Bill of Rights) of the 1987 Constitution declares that: "The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to limitations as may be provided by law". Moreover, Section 28 of Article 2 of the Constitution declares that the the State adopts and implements a policy to full public disclosure of all its transactions involving public interest.

Conformably with the foregoing, Republic Act (R.A.) No. 6713 ('An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time-Honored Principle of Public Office Being a Public Trust xxx, Otherwise Known as the "Code of Conduct and Ethical Standards of Public Officers and Employees"') provides that all public officials and employees are obligated to, among others, make documents accessible and readily available to the public [Section 5 (e)]. In addition, Section 4 (e) of the said law prescribes that in the discharge and execution of their official duties, said public officials and employees shall, among others, provide information of their policies and procedures.

The foregoing notwithstanding, there have been numerous instances where farmers and farmworkers were denied access to pertinent information and/or documents in the files of cases involving the lands they till and over which they have entitlements under the Constitution and agrarian reform laws. In not a few cases, such denial of information and/or documents has somehow led to the undue dislocation of these farmers and farmworkers from their lands, or even to the actual loss of titles by holders of Certificates of Land Ownership Award (CLOAs) or Emancipation Patents (EPs), or the loss of pertinent land rights to their farms, especially in cases that proceeded without their participation or knowledge and where they were unable to intervene precisely on account of such lack of information/documents. As such, this problem urgently needs to be addressed.

The right to information and access to official documents to cases is integral to the land rights of farmers, farmworkers, and tenants per se. Thus, R.A. No. 9700 or the CARPER law affirmed their legal standing as real parties in interest with respect to cases involving the land they till. The

effective exercise of such recognized legal standing requires that they are properly informed of all matters relevant to these cases and allowed access to all pertinent documents.

The implementation of the constitutional right to information, especially of actual and potential agrarian reform beneficiaries and leaseholders, will contribute to the effective and transparent disposition of cases by the Department of Agrarian Reform (DAR). This will contain corruption in the bureaucracy and allow the meaningful participation of stakeholders in the agrarian reform program.

In order to fully implement the right to information in the DAR, the "Confidentiality Rule" incorporated in Article 4 of Memorandum Circular No. 10, Series of 2007, in Memorandum Circular No. 25, Series of 1995, and in other related administrative guidelines, must be amended accordingly, to conform to the "open door and disclosure" policy of the DAR as mandated under the Constitution and R.A. No. 6657, as amended. Mindful also of the possible abuse of disclosing confidential information for private interests which is prohibited in Section 7 (c) of R.A. No. 6713, such right must be subject to reasonable limitations as provided hereunder.

SECTION 2. Coverage. These guidelines shall apply to all DAR offices, officials, and employees in acting on any and all requests for information and/or documents by the public in general and parties in interest in particular, with respect to any cases pending with the Provincial or Regional Agrarian Reform Adjudicator (PARAD or RARAD), the Regional Center for Land Use Policy, Planning, and Implementation (RCLUPPI), the Regional Offices, the Bureau of Agrarian Legal Assistance (BALA), the Center for Land Use Policy, Planning, and Implementation (CLUPPI), the Office of the Assistance Secretary for Legal Affairs, the Office of the Undersecretary for Legal Affairs, the DAR Adjudication Board (DARAB), or the Office of the Secretary.

SECTION 3. Information Defined. Information refers to any data or material in any form, including records, documents, memoranda, opinions, advisories, press releases, circulars, orders, logbooks, pleadings, and papers, as well as data material held in any electronic form.

SECTION 4. Open Door Policy. All DAR officials and employees are hereby enjoined to implement an open door policy allowing farmers, landowners, and other stakeholders of the agrarian reform program to freely enter the DAR premises for purposes of requesting or availing the services of the Department, subject to reasonable safeguards and conditions to be imposed by the DAR office concerned as may be warranted under the circumstances, but without exercising any form of discrimination or imposing undue requirements, and giving full support to their constitutional right to information.

SECTION 5. Right to Information in the DAR. Any person who is a party to an agrarian law implementation (ALI) case, a DARAB case, or a personnel discipline case, or who has an actual legal interest thereon, or who is a duly authorized representative thereof, shall have the right to obtain information and obtain or inspect documents, and take notes, extracts, or certified copies thereof held or controlled by, or in the custody or possession of, DAR offices and officials, subject to reasonable limitations provided in this Circular and in other pertinent administrative

rules and guidelines. The term "ALI case" shall include those pertaining to conversion and exemption/exclusion cases filed with the CLUPPI/RCLUPPI.

SECTION 6. Mandatory Disclosure. As a general rule, the DAR shall allow all parties to a case, and any person adversely affected by a decision therein, or their duly authorized representatives, to access, upon request, all official pleadings, applications, notices, position papers and briefs, investigation or ocular inspection reports, transcript of stenographic notes (TSNs), and other related papers pertaining to his, her, or its particular case, subject to such reasonable conditions and limitations as may be necessary to prevent undue pressure on concerned DAR employees, avoid possible abuses in the disclosing or securing of confidential information, and preclude pre-empting the course of action or decision to be undertaken or rendered.

SECTION 7. Exceptions. A request for information on or access to documents may be denied or mandatory disclosure thereof may be omitted, in case the request concerns the following:

- A. Privileged information as protected by law or by the Rules of Court;
- B. Personal information of any individual;
- C. Drafts of decisions, resolutions, or orders prepared by any DARAB Board Member, DAR Adjudicator, DAR lawyer, DAR legal officer, or CLUPPI Committee, in any DARAB, ALI, or personnel discipline case, including unsigned initial or subsequent execution copies thereof, recommendations contained in investigation or ocular inspection reports, routing or transmittal slips, case briefs, and memoranda containing preliminary or subsequent recommendations, as well as notes and comments on any of the foregoing, whether handwritten, typewritten, or printed, and also the identity of the ponente/DARAB Board member assigned to a particular DARAB case which has not yet been promulgated or the identity of the DAR lawyer or legal officer assigned to handle a particular ALI or personnel discipline case which has not yet been promulgated, especially when the revelation thereof would reasonably tend to impair the impartiality of judgments or obstruct the administration of justice or lead to possible or actual bribery, graft, and corruption;
- D. The contents of an investigation or ocular inspection report and the name of the investigator or DAR personnel preparing the same prior to its submission to the proper DAR Office;
- E. The identity of the person or persons conducting the investigation or ocular inspection as well as the factual findings thereof prior to the issuance and release of the report thereon;

- F. Internal inter-office memoranda/legal opinions and confidential reports, provided that they are clearly marked and identified by the DAR office generating the same or having custody thereof as privileged or confidential; and
- G. Information which, in the determination of the DAR, will create clear and present danger to the person, liberty, or security of the leaseholders, agrarian reform beneficiaries, landowners, or DAR employees concerned, or to national sovereignty.

SECTION 8. Lifting of Exception. The exceptions listed in Section 7 of this Circular can only be lifted by a duly issued *subpoena duces tecum* or other legal processes.

SECTION 9. Request for Information. Any person requesting for information which is subject to mandatory disclosure under Section 6 of this Circular shall submit a written request by filling out a form provided by the DAR office having custody thereof, stating therein their legal interest on the case. The request may be addressed to the person officially in custody of the information or the record thereof; if such person is unknown, the request may be addressed to the head of the office in custody thereof. If the person is unable to write, he/she can ask assistance from any of the DAR employees in the said office to help him/her make the request.

If the request is submitted personally, the requesting party shall show a current identification card issued by any government agency, or public or private employer or school, or any other sufficient proof of identity. If the request is submitted by mail or through electronic means, the requesting party may submit a photocopy or electronically scanned copy of the identification.

The information or access requested shall be supplied not later than seven (7) working days therefrom, unless a longer period is required but which in no case shall exceed fifteen (15) days reckoned from the date of receipt of the request therefor. If the information requested is available in electronic form, the office may provide electronic copies as long as appropriate storage devices, such as a USB drive, are provided by the requesting party.

Any denial of a request for access to information or record thereof shall be fully explained in writing, stating the name and office to of the person making the denial, and the grounds upon which the denial is based. Failure to afford access within the prescribed period, without any written explanation or extension, shall be deemed a denial of the request, and entitles the party concerned to appeal the same administratively.

Such a denial of a request for access to information may be appealed to the person or office next higher in authority to the person or office making the prior denial. The person or office to whom or which the denial is appealed shall decide within three (3) days after its receipt, stating the name and office of the person rendering the decision and the grounds upon which such decision is based. Failure to decide the appeal within the said period shall be deemed a denial of the appeal. However, if the denial appealed from is reversed, the official information shall be made available within a period of seven (7) working days from the date thereof, unless a longer

period is required but which in no case shall exceed fifteen (15) days reckoned from the date of receipt of the request therefor.

SECTION 10. Expenses in Photocopying. Actual expenses for the photocopying of the documents requested and/or the certification thereof shall be for the account of the requesting party, subject to the applicable law and administrative rules on pauper litigants provided in Memorandum Circular No. 12, Series of 2009 and other related issuances and guidelines. The photocopying must be done under the supervision of a DAR employee.

SECTION 11. Duties of DAR Officials and Employees. All officials and employees are hereby enjoined to observe the provisions of R.A. No. 6713, particularly the following:

“Section 5. Duties of Public Officials and Employees. - In the performance of their duties, all public officials and employees are under obligation to:

- (a) Act promptly on letters and requests. - All public officials and employees shall, within fifteen (15) working days from receipt thereof, respond to letters, telegrams or other means of communications sent by the public. The reply must contain the action taken on the request.
- (b) Submit annual performance reports. - All heads or other responsible officers of offices and agencies of the government and of government-owned or controlled corporations shall, within forty-five (45) working days from the end of the year, render a performance report of the agency or office or corporation concerned. Such report shall be open and available to the public within regular office hours.
- (c) Process documents and papers expeditiously. - All official papers and documents must be processed and completed within a reasonable time from the preparation thereof and must contain, as far as practicable, not more than three (3) signatories therein. In the absence of duly authorized signatories, the official next-in-rank or officer in charge shall sign for and in their behalf.
- (d) Act immediately on the public's personal transactions. - All public officials and employees must attend to anyone who wants to avail himself of the services of their offices and must, at all times, act promptly and expeditiously.
- (e) Make documents accessible to the public. - All public documents must be made accessible to, and readily available for inspection by, the public within reasonable working hours.

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Section 7. Prohibited Acts and Transactions. - In addition to acts and omissions of public officials and employees now prescribed in the Constitution and existing laws, the following shall constitute prohibited acts and transactions of any public official and employee and are hereby declared to be unlawful:

x x x

- (c) Disclosure and/or misuse of confidential information. - Public officials and employees shall not use or divulge, confidential or classified information

officially known to them by reason of their office and not made available to the public, either:

(1) To further their private interests, or give undue advantage to anyone; or

(2) To prejudice the public interest.

x x x"

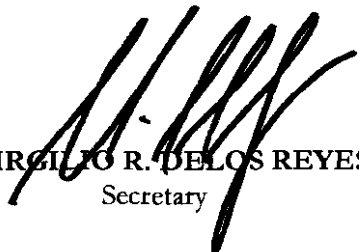
SECTION 12. Separability Clause. Any judicial pronouncement declaring as unconstitutional any provision of this Circular shall have no effect on the validity of the other provisions not affected thereby.


SECTION 13. Repealing Clause. Memorandum Circular No. 25, Series of 1995, Memorandum Circular No. 4, Series of 2004, Memorandum Circular No. 10, Series of 2007, and other administrative issuances inconsistent with this Circular are hereby deemed modified and amended accordingly.

SECTION 14. Effectivity. This Circular shall be effective immediately.

For strict compliance.

Done in Diliman, Quezon City. 19 JULY, 2011.


VIRGILIO R. DELOS REYES
Secretary

Department of Agrarian Reform
Office of the Secretary

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