



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

DAR Memorandum Circular
No. 07
Series of 2004

TO : The Undersecretary for Field Operations
The Undersecretary of Policy Planning and Legal Affairs
Regional Directors
Provincial Agrarian Reform Officers
Municipal Agrarian Reform Officers
All concerned

SUBJECT: CLARIFICATORY GUIDELINES ON THE EFFECT OF
DECLARATIONS OF GENERAL AREAS IN THE COUNTRY
AS "TOURIST ZONES" TO THE COVERAGE OF LANDS
DEVOTED TO OR SUITABLE FOR AGRICULTURE WITHIN
SAID AREAS UNDER THE COMPREHENSIVE AGRARIAN
REFORM PROGRAM (CARP)

I. Prefatory Statement

As the lead implementing agency of the government's Comprehensive Agrarian Reform Program, the DAR has been clothed with the primary jurisdiction to resolve applications for exemption of lands from the coverage of the CARP under Section 3 (c) of Republic Act No. 6657 and Department of Justice (DOJ) Opinion No. 44, Series of 1990.

Accordingly, that the land subject of an application for exemption is classified as mineral, forest, residential, commercial, or industrial land is a ground for such exemption, on the basis of Sec. 3 of RA No. 6657 as further elucidated in Department of Justice Opinion No. 44, Series of 1990 (DOJ Opinion 44-1990).

DOJ Opinion No. 44, Series of 1990 states that with respect to the conversion of agricultural lands covered by RA 6657 to non-agricultural uses, the authority of the Department of Agrarian Reform (DAR) to approve such conversion may be exercised from the date of its effectivity, or on June 15, 1988. Thus, all lands that are already classified as commercial, industrial or residential before to June 15, 1988 no longer need any conversion clearance. *(emphasis supplied)*

Hence, for lands classified for the stated non-agricultural purposes prior to June 15, 1988, the DAR issues necessary exemption clearances upon a proper application for exemption and the necessary proceedings therefor, in accordance with the pertinent administrative order governing the matter [currently it is Administrative Order No. 4, S. 2003 with the subject "2003 Rules on Exemption of Lands from CARP Coverage under Section 3 (c) of Republic Act No. 6657 and Department of Justice (DOJ) Opinion No. 44, Series of 1990"]

Numerous executive proclamations have been issued declaring general areas such as whole provinces, municipalities, barangays, islands or peninsulas as tourist zones. In general, these proclamations:

1. recognize that there are certain still unidentified areas within the covered provinces, municipalities, barangays, islands, or peninsulas to be with potential tourism value and charge the Philippine Tourism Authority with the task to identify / delineate specific geographic areas within the zone with potential tourism value and to coordinate said areas' development; or
2. recognize the potential value of certain spots located within the general area declared as tourist zone (i.e. a certain scenic spot located in a province even as the whole province is declared a tourist zone) and direct the Philippine Tourism Authority to coordinate said areas' development; or

This Memorandum Circular is meant to clarify the effect of proclamations and other issuances (that took effect before June 15, 1988) declaring general areas in the country as "tourist zones," particularly to address the question on how these proclamations / issuances affect the coverage otherwise CARPable lands. Corollarily, this is intended to shed light on the issue of whether these proclamations / issuances effect a reclassification for non-agricultural purposes of the areas declared as "tourist zones," thereby exempting the same from the coverage of the CARP.

II. Policy and Operational Statements

A. As a rule, all lands devoted to or suitable for agriculture fall within the scope and coverage of the Comprehensive Agrarian Reform Program subject only to such exemptions authorized by the law.

B. Proclamations declaring general areas such as whole provinces, municipalities, barangays, islands or peninsulas as tourist zones that merely:

- (1) recognize certain still unidentified areas within the covered provinces, municipalities, barangays, islands, or peninsulas to

be with potential tourism value and charge the Philippine Tourism Authority with the task to identify / delineate specific geographic areas within the zone with potential tourism value and to coordinate said areas' development; or

(2) recognize the potential value of identified spots located within the general area declared as tourist zone (i.e. a certain scenic spot such as a mountain located in a province, even as the whole province is declared a tourist zone) and direct the Philippine Tourism Authority to coordinate said areas' development;

could not be regarded as effecting an automatic reclassification of the entirety of the land area declared as tourist zone. This is so because "reclassification of lands" denotes their allocation into some specific use and "providing for the manner of their utilization and disposition" (Sec. 20, *Local Government Code*) or the "act of specifying how agricultural lands shall be utilized for non-agricultural uses such as residential, industrial, or commercial, as embodied in the land use plan." (*Joint HLURB, DAR, DA, DILG Memo. Circular Prescribing Guidelines for MC 54, S. 1995, Sec. 2*)

A proclamation that merely recognizes the potential tourism value of certain areas within a general area declared as tourist zone clearly does not allocate, reserve, or intend the entirety of the land area of the zone for non-agricultural purposes. Neither does said proclamation direct that otherwise CARPable lands within the zone shall already be used for purposes other than agricultural.

Moreover, to view these kinds of proclamation as a reclassification for non-agricultural purposes of entire provinces, municipalities, barangays, islands, or peninsulas would be unreasonable as it amounts to an automatic and sweeping exemption from CARP in the name of tourism development. The same would also undermine the land use reclassification powers vested in local government units in conjunction with pertinent agencies of government.

C. There being no reclassification, it is clear that said proclamations/ issuances, assuming they took effect before June 15, 1988, could not supply a basis for exemption of the entirety of the lands embraced therein from CARP coverage under Section 3 (c) of Republic Act No. 6657 and Department of Justice (DOJ) Opinion No. 44, Series of 1990.

D. In regard to specific areas within tourist zones that have been clearly identified / delineated by the proper agencies to have tourism potential, which specific areas must be programmed for non-agricultural tourism development, their exemption from CARP coverage may be processed in accordance with the applicable rules and regulations governing exemption from CARP coverage of lands under Section 3 (c) of Republic Act No. 6657 and Department of Justice (DOJ) Opinion No. 44, Series of 1990.

This means that applicant must prove that the lands sought to be exempted from CARP have been, or is part of an area that had been, clearly identified or delineated for non-agricultural tourism purposes, and, additionally, that the reclassification of said lands (for non-agricultural purposes) must be prior to June 15, 1988 and clearly indicated in the land use plans of the concerned city or municipality, with such land use plans approved by the proper agencies prior to June 15, 1988.

E. The DAR records land distribution accomplishments -- pursuant to RA No. 6657 and other agrarian laws -- in areas declared as tourist zones adhering to the policy that, absent any clear and unequivocal legal basis for exemption, lands devoted to or suitable for agriculture should be subjected to the distributive scheme of the CARP. Accordingly, without any clear showing that there has been a reclassification of agricultural lands for non-agricultural purposes prior to June 15, 1988, no exemption shall be granted. This is in light of the provisions of the law, the DAR's mandate and the extensive coverage of the agrarian reform program.

F. In view of the foregoing, all concerned DAR officials and employees shall continue with the acquisition and distribution processes relative to lands within declared "tourist zones" in accordance with all applicable rules and regulations.

Strict compliance is hereby enjoined.

Done in Diliman, Quezon City, 29 March 2004.


JOSE MARI B. PONCE
OIC-Secretary