



Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

ELLIPTICAL ROAD, DILIMAN, QUEZON CITY • TELS. 928-7031 TO 39

ADMINISTRATIVE ORDER NO. 06
Series of 2016

**SUBJECT: GUIDELINES ON THE ISSUANCE OF THE DAR CLEARANCE TO
AUTHORIZE THE TRANSFER OF OWNERSHIP OF
AGRICULTURAL LANDS**

PREFATORY STATEMENT

Agricultural lands refer to lands devoted to agricultural activity and not classified as mineral, forest, residential, commercial or industrial land as of 15 June 1988.

Agricultural landholdings which are covered by the Comprehensive Agrarian Reform Program (CARP) are awarded to qualified farmer-beneficiaries through the issuance of a Certificate of Land Ownership Award (CLOA). Prior to CARP, a tenant-farmer who fully complied with the requirements for the grant of title under P.D. No. 27 is issued an Emancipation Patent (EP) which represents absolute ownership over the land transferred to the tiller.

There are certain restrictions imposed by laws on the transfer of ownership of agricultural lands whether or not the landholding is covered under P.D. No. 27 or CARP.

**ARTICLE I
GENERAL PROVISIONS**

Section 1. Coverage. – This Administrative Order (A.O.) governs the transfer to a private person of:

- (a) all agricultural lands through hereditary succession;
- (b) all awarded lands through sale, intervivos donation, or other forms¹ of voluntary transfer after the holding period;
- (c) all transferred awarded lands; and
- (d) all other private agricultural lands not, or yet to be, acquired for distribution under the agrarian reform programs of the State

Pursuant to the reasons provided in Section 6 hereof, this A.O. shall also govern the mortgaging of Awarded Lands.

The transfer of awarded lands through sale, intervivos donation, or other forms of voluntary transfer during the holding period shall be covered by a subsequent A.O.

¹ Other forms of voluntary transfers include, among others, the transfer/assignment of rights by an heir to another person during settlement proceedings. The transfer is made between the heir, as transferor, and the assignee, as transferee. As such, the said transfer/assignment of rights, for purposes of this A.O. shall not be deemed as a transfer through hereditary succession.

The transfer of rights under a Certificate of Land Transfer (CLT) through hereditary succession is covered by Memorandum Circular No. 19, Series of 1978. Such rights may only be transferred to another private person via hereditary succession.

The transfer of ownership of agricultural lands to any government entity does not need any prior clearance from the DAR. Such government entity, however, must inform the DAR Provincial and Regional Office of such transfer, in writing, for information and record purposes.

A waiver by an ARB or any other person of his/her ownership rights over an agricultural land in favor of another person shall hereby be deemed as a transfer and shall be subject to these rules, including the prohibitions hereto.

Section 2. Definition of Terms. – For purposes of this A.O., the following terms are defined as follows:

- 2.1. Agrarian reform cooperative – refers to an agrarian reform cooperative as defined and governed by R.A. No. 6938.²
- 2.2. Awarded Land – refers to an agricultural land distributed through an agrarian reform program of the State. This includes landholdings covered by Certificates of Landownership Award (CLOAs) and Emancipation Patents (EPs). However, agricultural lands with a CLT but without a registered EP yet, are not considered as Awarded Land under this A.O.
- 2.3. Holding Period – refers to the period of time commencing from the date of registration of the EP, CLOA, or other Title issued pursuant to an agrarian reform program of the State until the lapse of ten (10) calendar years **AND** the payment of the amortization³ thereof, whichever comes later.⁴
- 2.4. Transferred Awarded Lands (TAL) – refers to those Awarded Lands which have already been transferred, pursuant to these Rules, after the holding period.
- 2.5. Other Agricultural Land (OAL) – refers to agricultural lands that were not distributed pursuant to an agrarian reform program of the state. This may include, among others, retained areas and lands yet to be acquired and distributed under CARP.

ARTICLE II RESTRICTIONS

Section 3. General Restrictions to Transfers of Ownership of Agricultural Lands. – As a general rule, the transfer of ownership of all agricultural lands to a private person whose total ownership of agricultural lands after the transaction shall exceed five (5) hectares is prohibited. In addition, no Awarded Land may be transferred during the holding period.

² The cooperative is defined by Article 89 of R.A. No. 6938.

³ As intended by Section 26 of R.A. No. 6657.

⁴ These are concurring requirements. Therefore, the holding period is not deemed terminated after the lapse of the ten-year period alone or upon the full payment of the amortization alone.

Section 4. Exceptions to the General Restrictions to Transfers. – The following transfers are not covered by the abovementioned general restrictions:

- (i) Transfer via intestate succession;
- (ii) Transfer of legitimes to compulsory heirs; and
- (iii) The consolidation of ownership to a mortgagee bank after the redemption period expires after its foreclosure, Provided, That the property agricultural land acquired is intended to be under the status of “Real and Other Properties Acquired” (ROPA)⁵ Asset of the bank.

Furthermore, the aggregate agricultural land ownership ceiling of an agrarian reform cooperative, instead of five (5) hectares, shall be the number of members⁶ multiplied by five (5) hectares. Transfers to Agrarian reform cooperative will be prohibited if it will exceed the aggregate agricultural land ownership under this special rule.⁷ Such special ceiling shall not apply to other forms of cooperatives and other juridical entities.

Section 5. Restriction Regarding Landholdings Covered by Notices of Coverage or Case. – Lands covered by Notices of Coverage or an agrarian case covered by Section 30 of R.A. No. 9700 may not be transferred except through intestate succession or testate succession of legitimes to compulsory heirs.

Section 6. Restrictions to Real Estate Mortgage. – As a general rule, there is no restriction under agrarian reform in mortgaging agricultural lands since such act does not entail the transfer of ownership. It is only upon the foreclosure of the mortgage and the subsequent consolidation of the property after the redemption period that ownership is transferred and, hence, this act of consolidation of the property is regulated pursuant to this A.O. and the provisions under Sections 4 and 5 (c) hereof applies.

The abovementioned notwithstanding, pursuant to DOJ Opinion No. 59, Series of 2015, no Awarded Land may be mortgaged prior to the termination of the holding period. Due to this, the mortgaging of Awarded Lands after the termination of the holding period shall require a Transfer Clearance. In addition thereto, the subsequent consolidation of the property after the redemption period, should the property be foreclosed, shall require a new Transfer Clearance since the DAR will have to look at how the restrictions under Sections 4 and 5 will apply to the transferee.

ARTICLE III EFFECTS OF TRANSFERS

Section 7. Effects of Transfers as to Definition of Land under this A.O. – Awarded Lands validly transferred (after the holding period) pursuant to sale, intervivos donation, or other forms of voluntary transfer (other than hereditary succession)⁸ shall henceforth be considered as TAL.

⁵ ROPA refers to real and other properties, other than those used for banking purposes or held for investment, acquired by the bank in settlement of loans through foreclosure or dation in payment and/or for other reasons, whose carrying amount will be recovered principally through a sale transaction

⁶ As defined by R.A. No. 6938.

⁷ This rule applies in the concept of the agrarian reform cooperative as a transferee. This rule should not be misconstrued as to amend the provisions of A.O. No. 3, Series of 2016.

⁸ See footnote 1.

Awarded Lands transferred through hereditary succession after the holding period shall be considered as TAL, if the necessary documents showing the holding period has already terminated has been submitted in the application for Transfer Clearance.

Awarded Lands transferred through intestate succession or testate succession (if part of the legitime) shall remain as an Awarded Land, although the holding period shall not reset anew but shall continue after the transfer.

Section 8. Effects to OAL. – OAL includes retained areas and those yet to be acquired and distributed under CARP. With respect to the latter, it may already be under the acquisition and distribution process pursuant to Section 30 of R.A. No. 9700 or the said process were not initiated prior to 30 June 2015.

Unless a subsequent law provides otherwise, the coverage of an OAL transferred will not automatically remove it from coverage of the CARP based on the ownership as of 15 June 1988.

Section 9. Judicial Form for TAL. – The judicial form of the Certificate of Title resulting from the transfer of an Awarded Lands after the holding period (henceforth becoming TAL) shall not be an EP or CLOA, but shall state the EP or CLOA number of the Awarded Land. Therefore, such Title need not be generated by the DAR nor be signed by the Secretary of Agrarian Reform.

The judicial form of the Certificate of Title resulting from the transfer of a TAL shall also not be an EP or CLOA but shall state the EP or CLOA number of the original Awarded Land. Such Title need not also be generated by the DAR nor signed by the Secretary of Agrarian Reform.

The judicial form of the Certificate of Title resulting to the transfer of an Awarded Land pursuant to intestate succession or testate succession of a legitime during the holding period (henceforth remaining as an Awarded Land) shall be an EP or CLOA, as the case may be. Such Title must be generated by the DAR and signed (through signing machine) by the Secretary of Agrarian Reform.

ARTICLE IV TRANSFER CLEARANCE

Section 10. Transfer Clearance. – The Transfer Clearance is a certification that, based on the documents submitted by the applicants, the restrictions in transferring agricultural lands under R.A. No. 6657, as amended, does not apply to the subject transfer, and a written notification to the Registry of Deeds that, subject to the truthfulness of the documents submitted by the applicants, the DAR is not interposing any objections against the registration of the transfer.

The same document shall also state that the DAR reserves the right to annul the Transfer Clearance and file and pursue charges against erring applicants should it find that any of the documents they submitted is false.

Section 11. Effectivity and Expiry. – A Transfer Clearance shall remain effective for six months immediately after its issuance, and shall thereafter immediately expire. This is without prejudice on the part of the applicants to apply anew for a new Transfer Clearance for the purpose of the same transaction, provided that documents submitted must be updated pursuant to the required periods under Article V hereof.

The Land Registration Authority and the Registries of Deeds is hereby notified that any registration of transfer of agricultural lands beyond the effectivity of the Transfer Clearance should not be effected.

ARTICLE V DOCUMENTARY REQUIREMENTS

Section 12. General Requirements. – The following documentary requirements must be submitted regardless of the mode of transfer:

- (i) A filled-up application form, which shall state the following information:
 - (a) The date when the Application was submitted.
 - (b) The name, address, and personal circumstances of the transferee(s) and:
 - (1) transferor(s), or
 - (2) decedent, in case of through hereditary succession.
 - (c) The barangay, municipality/city, and province the subject land is located;
 - (d) The serial number of the Original/Transfer Certificate of Title covering the subject land;
 - (e) Whether or not the entire land covered by the Title or only a portion thereof is subject of the transfer;
 - (f) The size of the entire land covered by the Title, and the size of the portion to be transferred.
 - (g) The status of the subject land (Awarded Land, TAL, or OAL);
 - (h) A statement as to whether the land is under an agricultural leasehold or not;
 - (i) The location, size in hectares, and the title number of the property or other reference document if untitled (i.e. Tax Declaration);
 - (j) The mode of transfer (*sale, consolidation of ownership, or hereditary succession, etc.*); and
 - (k) The signature of the transferee(s) and of, with respect to sale, intervivos donation, and other forms⁹ of voluntary transfers, the transferor(s), or their duly designated representative(s).
- (ii) Official Receipt of Payment of Application Fees pursuant to Section 17 hereof, if applicable;
- (iii) Certified true copy of the Certificate of Title covering the land;
- (iv) Photocopy of the Owner's Duplicate Copy of the Title (except in cases provided by Section 4 [c] hereof);
- (v) Three (3) pieces of P15.00 valued documentary stamp (documentary stamp tax);
- (vi) Sketch map of the location of the land;
- (vii) A clear copy of the survey plan indicating the portion of the land to be transferred, in case only a portion of the land covered by a specific Title is to be transferred to the applicant-transferee; and
- (viii) A copy of the transferee's government-issued ID or birth certificate, should s/he be a natural person, or a copy of the transferee's GIS issued within a six-month period immediately prior to the submission of the applicable, should it be a juridical entity.

⁹ Except through hereditary succession. But see footnote 1.

Section 13. Sale, Intervivos Donation, and Other Forms of Voluntary Transfers. – The following additional documentary requirements must be submitted in case of transfers through sale, intervivos donation, and other forms¹⁰ of voluntary transfers:

- (i) Four (4) original copies of a sworn affidavit executed by the transferee(s) within a six-month period immediately prior to the submission of the application, stating that:
 - (a) he/she/it, together with his/her spouse (if applicable), shall not have an aggregate agricultural landholding ownership above five (5) hectares as a result of the proposed transfer;
 - (b) the proposed transfer is not intended to circumvent the aggregate agricultural landholding ceiling rule;
 - (c) in case the land is under an agricultural leasehold prior to the transfer, and the previous owner failed to inform the agricultural lessee, he/she/it will immediately inform the said lessee in writing of such transfer and that he/she/it is waiving the defense, for purposes of redemption cases under Section 12 of R.A. No. 3844, as amended, of the registration of his/her/its Title as judicial notice to the lessee as to the fact of transfer;
 - (d) Additional statement, in case the transferee is a juridical entity: the juridical entity was not created or maintained for purposes of circumventing the five-hectare ceiling rule.
- (ii) A sworn affidavit (one copy should suffice) executed by the transferor(s) within a six-month period immediately prior to the submission of the application, stating:
 - (a) That the proposed transfer is not intended to circumvent the aggregate agricultural landholding ceiling rule;
 - (b) Whether or not the land is covered by an agricultural tenancy as defined by the pertinent laws, and, should the land be covered by an agricultural tenancy, that the agricultural lessee has been informed in writing of the proposed transfer within one hundred eighty days from the intended sale or transfer; and
 - (c) That the land is not covered by a Notice of Coverage or an agrarian case under Section 30 of R.A. No. 9700, in case only of OAL.
- (iii) In case of an Awarded Land: Proof that the amortization required under Section 26 of R.A. No. 6657, as amended, is already fully paid, such as, but not limited to, a certified true copy of the Certificate of Full Payment of Land Amortization to be issued by the LBP if the landholding is government or LBP-financed, or a Certificate of Full Payment to awarded land issued by the DAR in case the subject land is part of a Landed Estate.

In case the transferee is an agrarian reform cooperative, the following documents shall be submitted in lieu of (i) and (iii) above:

- (1) an original copy of a certification from the proper office of the Cooperative Development Authority, issued within a six-month period immediately prior to the submission of the application for the purpose of the transfer, stating that:
 - (a) the transferee is an agrarian reform cooperative; and
 - (b) per its latest records, the number of members of the cooperative.

¹⁰ Except through hereditary succession. But see footnote 1.

- (2) Four (4) original copies of a sworn affidavit executed by the transferee(s) within a six-month period immediately prior to the submission of the application, stating that:
 - (a) it shall not have an aggregate agricultural landholding ownership above the allowable aggregate agricultural landholding ceiling, which is the number of members multiplied by five (5) hectares, as a result of the proposed transfer, and;
 - (b) the proposed transfer is not intended to circumvent the aggregate agricultural landholding ceiling rule.

Section 14. Hereditary Succession. – The following additional documentary requirements must be submitted in case of transfers through hereditary succession¹¹:

- (i) Death certificate of the decedent;
- (ii) Four (4) original copies of a sworn affidavit executed by the transferee(s) within a six-month period immediately prior to the submission of the application, stating:
 - (a) In case of intestate succession: the fact that the transfer is due to intestate succession and that the transferee is an intestate heir of the decedent;
 - (b) In case of testate succession with respect to the legitime: the fact that the transfer is due to testate succession, that the transferee is a compulsory heir of the decedent, and that the land (or portion thereof) to be transferred is part of the legitime of the decedent
 - (c) In case of testate succession with respect to the free portion:¹²
 - (1) That he/she/it, together with his/her spouse (if applicable), shall not have an aggregate agricultural landholding ownership above five (5) hectares as a result of the proposed transfer; and
 - (2) In case of OAL: that the land is not covered by a Notice of Coverage or an agrarian case under Section 30 of R.A. No. 9700
- (iii) In case of Awarded Lands where the transfer through succession is after the holding period: Proof that the amortization required under Section 26 of R.A. No. 6657, as amended, is already fully paid, such as, but not limited to, a certified true copy of the Certificate of Full Payment of Land Amortization to be issued by the LBP if the landholding is government or LBP-financed, or a Certificate of Full Payment to awarded land issued by the DAR in case the subject land is part of a Landed Estate.

In case the transferee is an agrarian reform cooperative, the following documents shall be submitted in lieu of (ii), (c), (1) above:

- (1) an original copy of a certification from the proper office of the Cooperative Development Authority, issued within a six-month period immediately prior to the submission of the application for the purpose of the transfer, stating:
 - (a) that the transferee is an agrarian reform cooperative; and
 - (b) per its latest records, the number of members of the cooperative.
- (2) Four (4) original copies of a sworn affidavit executed by the transferee(s) within a six-month period immediately prior to the submission of the application, stating that it shall not have an aggregate agricultural landholding ownership above the allowable aggregate agricultural landholding ceiling, which is the number of members multiplied by five (5) hectares, as a result of the proposed transfer.

¹¹ See footnote 5.

¹² If Awarded Land during the holding period, this transfer is not allowed, hence this document is not necessary.

Section 15. Consolidation of Ownership to the Mortgagee Bank After the Lapse of Redemption Period. – The following additional documentary requirements must be submitted in case of the consolidation of ownership to the mortgagee bank after the lapse of the redemption period after foreclosure of the mortgage:

- (i) Certified true copy of the transferee's license to operate as a bank (or as a bank branch);
- (ii) Four (4) original copies of a sworn affidavit executed by the duly authorized officer of the bank within a six-month period immediately prior to the submission of the application, stating that the:
 - (a) entity is authorized by the BSP to conduct banking operations, including the circumstances thereof;
 - (b) land was mortgaged to the same bank, which was subsequently foreclosed in favor of the bank;
 - (c) redemption period has expired and ownership is being consolidated in favor of the bank; and
 - (d) land will be booked by the bank as a ROPA asset.
- (iii) Proof of authority of the officer who executed the above-required affidavit.

ARTICLE VI PROCESSING AND STANDARDS OF DECISION

Section 16. Filing. – Applications for Transfer Clearance shall be filed with the DAR Provincial Office (DARPO) which has jurisdiction over the land proposed to be transferred.

All of the documents required under the pertinent provisions under Article V hereof must be submitted, otherwise the application will not be accepted and all documents submitted will be returned to the applicant.

Section 17. Amount of Application Fee. – The fee for the Application for a Transfer Clearance shall be in the amount of One Hundred Pesos (Php100.00) for those involving transfers through any mode other than hereditary succession. There is no fee for applications for the issuance of a DAR Transfer Clearance transfers via hereditary succession.

The amount of the application fee may be changed by the DAR Secretary through a Memorandum Circular which shall take effect not earlier than ten (10) days from its publication in a newspaper of general circulation.

Section 18. Standards in Processing. – The DARPO shall process the application. In determining whether or not a Transfer Clearance should be issued, the DARPO shall look at the following factors:

- (i) Completeness, sufficiency, and compliance to the requirements of this A.O. of all of the documents submitted;
- (ii) Based on the records of the DAR, whether or not the land is covered by a Notice of Coverage or an agrarian case pending with the DAR (PARAD, RARAD, Regional Office, DARAB, BALA, and OSEC);

- (iii) In case of Awarded Land: whether or not the ten-year period has already lapsed based on the date of registration of the Title;
- (iv) In case of TAL: whether or not the landholding is indeed a TAL and not an Awarded Land

Should all the abovementioned be verified, the DARPO shall prepare the Transfer Clearance for the signature of the PARPO.

Section 19. Issuance of the Transfer Clearance. – The PARPO shall resolve the application using the standards provided in the immediately preceding Section. Once s/he verifies the same, s/he shall issue four (4) original copies of the Transfer Clearance which shall be distributed in the following manner:

- First copy: to the applicants
- Second copy: for the registry of deeds (to be released to the applicants)
- Third copy: to the Barangay Agrarian Reform Committee (BARC)
- Fourth copy: file copy of the DARPO

Three of the four original copies of the affidavit executed by the transferee(s)/authorized officer of the bank shall be attached to the first to third copies of the Transfer Clearance. P15.00 valued Documentary Stamp Tax stamp shall be affixed on the first to third copies of the Transfer Clearance.

The decision of the PARPO in denying the request for the issuance of a DAR Transfer Clearance may be questioned by any party through the filing of a Transfer Action Complaint which is in the nature of an Agrarian Law Implementation (ALI) Case. It shall therefore be governed by the Rules of Procedure for ALI cases.

ARTICLE VII MISCELLANEOUS PROVISIONS

Section 20. Disqualification to be Beneficiaries. – Any agrarian reform beneficiary who voluntarily transfers his/her land to another private person shall by reason thereof be disqualified to be a beneficiary of another landholding to be distributed by the DAR subsequent to the transfer.

Section 21. PARPO as Custodian and Registrar. – The PARPO shall maintain a Registry Book on Transfer Clearance containing the Transfer Clearances issued. The said Officer shall ensure that the information contained in the Application Form, and his/her action on the matter (approved/denied) shall be stated in the Registry Book. The PARPO shall be responsible for the accuracy of the entries and safekeeping of the Registry Book at all times.

In addition, the DARPO shall keep the DARPO copy of the DAR Transfer Clearance in the corresponding File Folder, together with all the documents filed, and shall report to the BLTI on first week of every month all Transfer Clearances it issued.

Section 22. ROPA to BPFEE. – The change of status of an agricultural land in the books of a bank from ROPA to its bank/QB premises, furniture, fixture, and equipment (BPFEE) shall be considered, for purposes of this A.O., as an Other Form of Voluntary Transfer, and shall thus require a Transfer Clearance. A bank may not own, as BPFEE, an aggregate agricultural landholding of more than five (5) hectares.

ARTICLE VIII FINAL PROVISIONS

Section 23. Citizen's Charter. – The Finance, Planning, and Administrative Office is directed to make a standard design of flowcharts of the procedures set by this Administrative Order within thirty (30) days from the effectivity of these Rules.

All regional, provincial, and municipal offices of the DAR are hereby directed to print and place the abovementioned standard flowcharts in a conspicuous location in or around their office within fifteen (15) days from receipt of the said design.

The Undersecretary for Field Operations shall be responsible for ensuring that this provision is implemented and that the Department through the Undersecretary for Field Operations shall confer with the Land Registration Authority regarding this Administrative Order.

Section 24. Registry Book/Forms for the DAR Transfer Clearance. – The Field Operations Office is directed to issue immediately the registry books and application forms for the issuance of the DAR Transfer Clearance

Section 25. Transitory Provisions. – Applications for the issuance of the DAR Transfer Clearance which are already pending at the time of the effectivity of these Rules shall be governed by the following:

- (i) The application fees provided under Section 17 hereof shall not apply to the said pending application.
- (ii) In case any of the documentary requirements provided under previous A.O.s but are no longer required under this A.O. was not submitted, the DARPO shall still proceed with the processing of the said pending application for the Transfer Clearance.
- (iii) In case any of the documentary requirements provided under these Rules, but not required under previous A.O.s was not submitted, the PARPO shall immediately issue a written notice to the applicants requiring them to submit the same within thirty days from receipt thereof. Non-submission of the requirements shall merit the denial of the application without prejudice.
- (iv) In all cases, the decision whether or not a DAR Transfer Clearance may be issued shall be based on the principles and policies provided under this Administrative Order.
- (v) Pending the release of the official application form, applicants may instead submit signed written pleadings stating the information provided under Section 12 (i) hereof.

Section 26. Repealing Clause. – All orders, circulars, rules and regulations, and issuances or portions thereof that are inconsistent herewith, such as A.O. No. 1, Series of 1989 and A.O. No. 8, Series of 1995, are hereby repealed or amended accordingly.

M.C. No. 19, Series of 1978 is modified insofar as such Circular is now only applicable to succession of CLT holders, and not that of EP holders.

Section 27. Separability Clause. – Any judicial pronouncement declaring as unconstitutional any specific provision of this A.O. shall have no effect on the validity of the other provisions.

Section 28. Effectivity Clause. – These Rules shall take effect ten (10) days after publication in two (2) newspapers of general circulation.

31 MAY 2016, Diliman, Quezon City.


VIRGILIO R. DE LOS REYES

Secretary

Department of Agrarian Reform
Office of the Secretary



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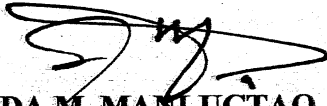


Republic of the Philippines
DEPARTMENT of AGRARIAN REFORM

CERTIFICATION

This is to certify that Administrative Order No. 6, Series of 2016 entitled **“GUIDELINES ON THE ISSUANCE OF THE DAR CLEARANCE TO AUTHORIZE THE TRANSFER OF OWNERSHIP OF AGRICULTURAL LANDS”** was published today, 07 June 2016 in the Business Mirror and Malaya Business Insight newspapers.

Issued this 7th day of June 2016 for whatever purpose it may serve.


ERLINDA M. MANLUCTAO
Director IV
Public Assistance and Media
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