

**ADVANCING PHILIPPINE
COMPETITIVENESS (COMPETE)
PROJECT**

**Land Titling for Banks:
A Guidebook**

Program Title	: Advancing Philippine Competitiveness
Sponsoring USAID Office	: USAID/Philippines
Contract Number	: AID-492-C-13-00008
Contractor	: The Asia Foundation, Nathan Associates Inc., the REID Foundation Inc., Asia Pacific Projects Inc. and the Foundation for Economic Freedom Inc.
Date of Submission	: July 10, 2014
Author	: Foundation for Economic Freedom



Message

On behalf of the U.S. Government, we are pleased to present the first edition of *Land Titling for Banks: A Guidebook*, which was produced by the United States Agency for International Development (USAID) through its Advancing Philippine Competitiveness Project. This book is part of USAID's efforts, under the Partnership for Growth (PFG), to assist the Philippine Government in addressing constraints to achieving higher, sustained, and inclusive growth for the Philippine economy.

One important constraint to inclusive growth is weak capacity of small and medium enterprises (SMEs) to access bank financing. In particular, the lack of clear, transferable and negotiable property titles prevents SMEs with good business propositions to access credit. To address this, USAID is providing technical assistance to thrift banks, rural banks, cooperatives, and other financial institutions to enable them to facilitate land titling. This is a win-win strategy for both financial institutions and landowners seeking enhanced credit for their bankable SMEs. Titling of their clients' land not only increases access to credit through enhanced valuation, but it also gives banks greater protection through collateralized credit.

This handbook serves as a starting guide for financial institutions that are interested in the subject of property rights. It seeks to help catalyze financial institutions' capability to develop their own business models. It also serves as a reference for SMEs and the general public to increase awareness of the intricacies of land titling. USAID is engaging new partners and implementing training programs to support this endeavor.

We will continue to explore innovative ways of expanding access to finance opportunities as we work in partnership with our Filipino counterparts towards achieving more broad-based, inclusive and resilient growth in the Philippines.

Gloria D. Steele
Mission Director
USAID/Philippines

The COMPETE Project

The Advancing Philippine Competitiveness (COMPETE) Project aims to achieve greater trade and investment through better provision of infrastructure; increased competitiveness of key industries: agribusiness, tourism, and manufacturing; and enhanced access to credit of SMEs. To achieve the last objective, COMPETE intends to improve property rights as a credit enhancement mechanism. Building and expanding on the innovative partnerships of The Asia Foundation and the Foundation for Economic Freedom, supported by USAID through the Economic Growth Hubs project, COMPETE works with banks, cooperatives, LGUs, the Department of Environment and Natural Resources, as well as SMEs and landowners to establish mechanisms that will enable property owners to fully utilize their property rights and increase their access to formal bank financing.

The COMPETE project is implemented by The Asia Foundation, Nathan Associates Inc., the REID Foundation Inc., Foundation for Economic Freedom, and Asia Pacific Projects Inc.

The COMPETE-PRCEM Technical Team

Calixto Chikiamco
Atty. Ricardo Balatbat III
Atty. Erwin Tiamson
Atty. Reynante Orceo
Atty. George Katigbak
Rene Sanapo
Engr. Rhea Lyn Dealca
Dr. Diana Apistar
Vera Gesite
Loubert Tan
Fina Ong
Ranna Pintor

The Contributors

ATTY. ERWIN TIAMSON is a lawyer who has acquired a well-earned recognition in the field of land administration and management. He was a former Director of the Land Management Bureau (LMB) and Executive Director of the Land Administration and Management Project 2. He served as a Policy Consultant in various land administration reform projects supported by USAID, AusAID, World Bank and the Asia Foundation. He is the Technical Team Leader of the Property Rights as Access to Credit Mechanism (PRCEM) Project of FEF, under Component 3 (Access to Credit) of the COMPETE Project.

ATTY. REYNANTE ORCEO, LLM is a Consultant for Local Governments, Public Policy and Mining for projects at the Department of Environment and Natural Resources, The Asia Foundation, several Local Government Units, League of Municipalities of the Philippines and Mining firms. He is now working for the Foundation for Economic Freedom serving as its Senior Land and Credit Consultant for its PRCEM project. He is also a legal consultant of the Philippine Business for Social Progress.

ATTY. GEORGE KATIGBAK, EnP is a legal consultant in the field of land administration and management, and policy advocacy for the DENR. He has been involved in projects supported by the World Bank, AusAid, USAID and GIZ. As an environmental planner, he has been engaged in the development of land use policies as well as housing and land management studies. He has extensive proficiency in land policy development. He is also a Senior Land and Credit Consultant of the FEF for its PRCEM Project.

RENE SANAPO was previously a political appointee who rose up the ranks to the position of deputy mayor of Cebu City. He previously headed Cebu City's GIS Center and later became the City Government's consultant on information technology. He has done various consultancy works with projects of The Asia Foundation, such as the Transparent and Accountable Governance (TAG-4). He serves as the Visayas Technical Team Leader of the PRCEM Project.

LOUBERT TAN has extensive work in the orientation programs and trainings on enhancing the partnership of National Government Agencies, LGUs and the private sector in land related projects. Previously, he was part of the Mayor's Management Team of the City of Cebu in the implementation of projects and management of service delivery of the City. He is an assistant regional technical adviser for the PRCEM project of the FEF.

FINA ONG has extensive experience in policy research and advocacy and in the development of policy and position papers for local government units. She was also a contributor in publications such as "Strengthening Local Governance and Decentralization" by the Federation of Canadian Municipalities and VNG International and "CITYLED: Local Economic Development for Philippine Cities" by the League of Cities of the Philippines. She is currently pursuing her law degree in San Beda College.

JOHNSON MELO is the Director and Vice President of Lipa Bank Inc. He manages the over-all operation of the bank. His field of expertise includes systems evaluation, credit management, collection, compliance, bank security and business gap analysis. He has been instrumental in the implementation of bank-led land titling and credit enhancement initiatives in Region 4A.

ALLAN WILLARD ESTILLORE, MPA is the Chief of the Land Management Services of the DENR's Community Environment and Natural Resources Office in Batangas City. He has extensive work in project and program implementation on land management and disposition of public lands. His expertise also includes land investigation, resolution of land conflicts and management of public lands and foreshore lands.

LIST OF ACRONYMS AND ABBREVIATIONS

A and D	Alienable and Disposable
BIR	Bureau of Internal Revenue
BP	Batas Pambansa
CA	Commonwealth Act
CENRO	Community Environment and Natural Resources Office
CPDO	City Planning and Development Office
DAO	Department Administrative Order
DAR	Department of Agrarian Reform
DENR	Department of Environment and Natural Resources
DILG	Department of Interior and Local Government
DOF	Department of Finance
EO	Executive Order
FEF	Foundation for Economic Freedom
FMS	Forest Management Service
GE	Geodetic Engineers
LC Maps	Land Classification Maps
LGU	Local Government Units
LMB	Land Management Bureau
LMC	Land Management Council
LMO	Land Management Office/Officer
LRA	Land Registration Authority
MPDO	Municipal Planning and Development Office
NAMRIA	National Mapping and Resource Information Authority
OCT	Original Certificate of Title
PD	Presidential Decree
PENRO	Provincial Environment and Natural Resources Office
PLA	Public Land Application
PRCEM	Property Rights as Credit Enhancement Mechanism
PRS92	Philippine Reference System of 1992
RA	Republic Act
RED	Regional Executive Director
RFP	Residential Free Patent
RFPA	Residential Free Patent Application
RD	Register of Deeds
RTC	Regional Trial Court
TCT	Transfer Certificate of Title
TD	Technical Description

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About the Guidebook

This Guidebook is not intended to be a source of legal advice on dealings on land nor to be a treatise on the subject. This Guidebook has been prepared with the objective of providing a usable guide for bankers and members of the general public to gain basic knowledge on land titling and registration, enough to capacitate them to utilise administrative processes and procedures in the titling of lands. Republic Act (R.A.) No. 10023 or the Residential Free Patent Law will be discussed in more detail than the other land grants since this patent includes features that are more usable to bankers as compared to the other patents issued under Commonwealth Act No. 141 or the Public Land Act. Unlike other public land grants, patents issued under R.A. No. 10023 have no restriction on transfers (five years on agricultural free patents) that greatly impede its use as collateral to generate capital. Also, the five (5) year right of repurchase has been removed, making it easier to move foreclosed patents back to the land market. The features of this patent give bankers a great opportunity to create innovative products and services that will enable land owners to access capital for development.

This Guidebook is comprised of two (2) parts. The first part is a broad outline of the fundamental components of land ownership: land administration, surveying and boundary determination, private ownership and land registration in the Philippines. The subjects, as much as practicable, are discussed in a simple outline form to make it easier for readers to grasp essential principles of land ownership in the Philippines.

The second part of this Guidebook is a detailed discussion on R.A. No. 10023, the conditions for its grant and the procedure in the processing of the application. This will also include a guide on how banks could assist its clients in registering residential lands for use as collateral to loans. The experience of Lipa Bank, Inc. in using R.A. No. 10023 as part of its effort to bring unregistered residential lands in the formal land market will be presented in order to provide bankers with a guide model to learn from.

ATTY. ERWIN L. TIAMSON

PART 1

I. Land Administration

Land Administration — Definition, Components and Purpose

Land administration can be likened to accounting and bookkeeping, except that instead of money, it is land that is being inventoried, accounted and booked through land survey, by dividing it into parcels or lots for easy identification. The corresponding ownership or interest over the land that has been surveyed and identified is likewise accounted, awarded and adjudicated to the owner and thereafter registered in the Register of Deeds. The lands so identified, adjudicated and registered become “titled lands” whose ownership are considered as “indefeasible” or certain. Thus, land administration systems are not primarily concerned with general data on land but are concerned more with detailed information of each land parcel within its jurisdiction.

Definition

The term “land administration” refers to the processes of recording and disseminating information about the ownership, value and use of land and its associated resources. Such processes include the determination or “adjudication” of rights and other attributes of the land, the survey and description of these, their detailed documentation and the provision of relevant information in support of land markets. (United Nations Economic Commission for Europe, 1995)

Components

A good land administration system should have the following components to be effective:

- Land Survey and Mapping — where land boundaries are identified and land parcels are created;
- Land Adjudication — where interests on land are identified and ownership resolved;
- Land Registration — where land titles are created and interest on land registered in a public registry; and
- Cadastre — is normally a parcel based and up-to-date land information system containing a record of interests in land (i.e. rights, restrictions and responsibilities).

The central component of an effective land administration system is the cadastre where records on land survey, adjudication and registration are integrated. It usually includes a geometric description of land parcels linked to other records describing the nature of the interests, ownership or control of those interests, and often the value of the parcel and its improvements. It may be established for fiscal purposes (e.g. valuation and taxation), for titling/legal purposes (transfers of land), for management of land and land use for planning and other administrative purposes), and for sustainable development and environmental protection. The “tax map” and “tax roll” of the local government units in the Philippines is an example of a fiscal cadastre. The “tax map” is usually based from the “cadastral survey” of the area conducted for titling purposes.

Purpose

Land administration provides for an immediate means of identifying with certainty and accuracy the ownership and interest in a land. This information can only be provided by an efficient land administration based on a modern and efficient system that will:

- Guarantee ownership and security of tenure;
- Support the land market by facilitating recording of interest and transfers of ownership;
- Support land and property taxation;
- Reduce land disputes;
- Facilitate land reform;
- Improve urban planning and infrastructure development;
- Support environmental management; and
- Produce statistical data.

Land Administration Agencies and Functions

The primary land administration functions of land surveying and mapping, land titling and land registration are performed by different government agencies. The duties and responsibilities of the officials and employees of these agencies are prescribed by laws, rules and regulations, including the specific procedure that has to be followed in the conduct of the land administration activities.

Below are the national agencies with major land administration functions. These agencies are involved directly in activities on surveying and mapping, titling and registration of lands:

- **Department of Environment and Natural Resources (DENR)** is the main agency involved in land classification, land surveys and titling of public land. It issues land patents in the form of homestead, sales and free patents as well as land leases and other permits on public agricultural lands. (Commonwealth Act No. 141, Public Land Act, 1936, see <http://www.denr.gov.ph>);

- **Land Registration Authority (LRA)** assists court in titling of private lands (original and cadastral land registration proceeding), decides questions regarding registration of instruments, approves simple subdivisions of registered lands and exercise supervision over the Registers of Deeds (RDs). (Presidential Decree (P.D.) No. 1529, Property Registration Decree, 1978, see <http://www.lra.gov.ph>);
- **Registrars' of Deeds** registers patents, Certificate of Land Ownership Awards, Certificate of Ancestral Domain Titles/ Claims (CADT/C) issued by DENR, the Department of Agrarian Reform, National Commission on Indigenous People respectively and the judicial decrees issued by LRA. It is also responsible for the registration of subsequent voluntary and involuntary transactions on registered lands. (P.D. No. 1529, Property Registration Decree, 1978);
- **Department of Agrarian Reform (DAR)** is responsible for the agrarian reform program of the government. It issues agrarian reform land grants in the form of Emancipation Patents and Certificate of Land Ownership Awards that are registered by the Registrar of Deeds. (Republic Act No. 6657/9700, Comprehensive Agrarian Reform Law (CARL), 1988, see <http://www.dar.gov.ph>);
- **National Commission on Indigenous People (NCIP)** resolves issues on ancestral lands. It undertakes delineation of ancestral domain land (self- delineation) and issues CADT/Cs that are registered by the Registrar of Deeds. (Republic Act No. 8371, The Indigenous Peoples' Rights Act, 1997, see <http://www.ncip.gov.ph>)
- **The Courts (Judiciary)** hear and adjudicate private claims on lands of the public domain. Court judgment is the basis of LRA in the issuance of Decrees that are registered by the Registrar of Deeds. (Batas Pambansa Bilang 129, Judiciary Reorganization Act, 1980 and P.D. No. 1529, Property Registration Decree, 1978)
- **Local Government Units (LGUs)** issue tax declarations, prepare tax maps, zoning ordinances, conversions of lands and perform other land management functions. (Republic Act No. 7160, The Local Government Code, 1990)

II. Land Surveys and Boundaries

Basic Principles

The first activity in land administration is surveying and mapping. The activity is intended to create land parcels. Land parcels are the basic unit of real property and the starting point in the determination of the identity of the land by describing its location, boundaries, area, physical description, and in certain kind of surveys, the tenure claims existing at the time of the survey.

Land Survey: Land surveying is the process of measuring and delineating the natural and artificial features of the earth. The surveyor's observations, measurements and computations are usually reduced into maps that are drawn from the survey data gathered. Maps are visual representations or descriptions of the land; measured and delineated with a certain degree of precision and show the relationships between physical elements of that space through symbols (Dale, 1995)

Survey Maps: A well-drawn map is an accurate scale model of the surface of the land which when presented in two dimensions at a sufficiently large scale, can be used to indicate any point on the land with accuracy (Dale, 1995). The large/small terminology arose from the practice of writing scales as numerical fractions: 1/10,000 is larger than 1/10,000,000. However, it is important to recognize that even the most accurate maps sacrifice a certain amount of accuracy in scale to deliver greater visual usefulness to its user. Digitally and cartographically-enhanced large-scale topographic maps (1:10,000 scale) provide more detailed information on administrative boundaries, drainage systems, existing infrastructure, major establishments, road networks, topography, vegetation, and other economic indicators, showing the present development in the area at barangay level. Similarly, medium and small scale maps (1:50,000 and 1:250,000 scale) are support tools for applications at municipal and provincial levels. Administrative maps indicate political boundaries of provinces and regions of the country (NAMRIA).

Maps are used for the following purposes:

- Inventory of land parcels with its boundaries;
- Inventory and full and accurate knowledge of natural resources of the land;
- Best means of obtaining, recording and analyzing such knowledge resulting to better land classification and land use planning;
- Necessary for planned development of natural resources, town planning schemes, orderly development of industries and systems of communication;
- Enable land transactions to be effected safely, quickly and cheaply;
- The cadastral maps and corresponding index maps can be conveniently used as a BASE MAP for the recording of any information which requires maps of these scales. Cadastral maps greatly assist every branch of the public service connected with land, (e.g. taxation, irrigation, drainage, flood control, etc.) making them more efficient;
- Besides the economic, fiscal, agrarian, scientific and administrative uses, there is a growing demand for maps and plans of all kinds for recreational purposes, for air travel, for the use of tourists in connection

with historical, archeological or artistic studies, for commercial and industrial purposes and for educational purposes; and

- The record of rights greatly assists in many forms of economic enquiry and sociological study and in the development of welfare programs;

To a private land owner, the fact that the land is properly mapped and that rights are clearly registered is of the greatest benefit since it provides security of tenure, minimizes disputes and litigation, and provides better access to credit.

The two most important uses of maps for purposes of land ownership are as follows:

Use for Inventory of Land Resources — The measurements and delineations of land, when recorded in the form of maps either on paper or within a computer, can be the basis of an accurate inventory of land resources. In the Philippines, an accurate inventory of land and its legal classification is important since only certain types or kinds of public lands can be subject to disposition, private ownership, registration and titling. An example of this type of map used for inventory of natural resources are the Land Classification Maps (LC Maps) of the DENR that show the delineation between alienable and disposable (A and D) lands and those that are not subject to disposition. LC Maps are generated from forest delineation surveys that mark the boundaries of agricultural lands and the non-disposable forest/mineral lands and national parks. These maps are kept by NAMRIA that has the mandate to conduct delineation surveys under Executive Order (E.O.) No. 192.

Use for Property Identification — An accurate and large-scale map is the only sound basis for a record of rights, privileges, duties and responsibilities to land. No system of registration of rights can be effective and no system of land taxation can be just and efficient without a description which enables the land affected to be identified with certainty on the ground, and no such identification can be regarded as certain without a suitable map to which the description can be referred. Examples of this type of maps are the cadastral maps, cadastral index maps, tax maps, subdivision maps, etc. Cadastral maps and other property survey maps are kept by the DENR while subdivision maps of registered properties subdivided by the Authority are kept by LRA. Tax maps are kept by the Local Assessor's Office.

Land Survey and Mapping in the Philippines

Land survey as we use in this guideline, pertain to that survey conducted for the purpose of land disposition and registration in support of tenure or legal hold on land. The survey of the land is necessary before it can be disposed by the state, or titled or registered. Without a survey, the government cannot determine with certainty the identity of the land, its location, orientation, position, boundaries and area. Without this certainty, there is no “object certain” that will define the physical extent of ownership or holdings which is necessary for land as property, to be secured, protected, enjoyed or transferred to exist.

Government Agencies with Survey Functions

This activity of identification of land is regulated by the State. The DENR is the agency primarily responsible for the establishment of technical standards on how to conduct surveys of the land. Survey standards are currently governed by the Manual on Land Surveys under DENR Administrative Order (DAO) 07-29 (Revised Regulations on Land Surveys of the DENR) and DENR Memorandum Circular 2010-13 (Adoption of the Manual for Land Survey Procedure). All surveys for land disposition and land registration purposes have to be approved by the DENR and in certain instances, the LRA. The Professional Regulations Commission, on the other hand, is responsible in licensing Geodetic Engineers (GE), the professionals who are authorized by the State to conduct land surveys.

There are other agencies in the government that have land survey functions. Some have regulatory functions (policies and standards), direct survey functions (actual conduct of ground surveys), ancillary survey functions (creation of reference system) and approval functions (inspections and verification of survey returns submitted by GEs). Below are the survey functions performed by government agencies.

1. Department of Environment and Natural Resources (DENR)

DENR is the primary agency in-charge with the survey of lands in the Philippines. Its mandate includes:

- Issuance of Rules and Regulations that will govern the conduct of surveys in the Philippines (Land Management Bureau (LMB));
- Conduct of actual surveys on lands of the public domain;
- Conduct of administrative boundary surveys (i.e. political boundaries);
- Approval of all original surveys on untitled A and D lands (DENR Regional Office) such as Isolated Land Surveys and Cadastral Surveys;
- Approval of all subdivision and consolidation on untitled A and D lands (DENR Regional Office); and
- Approval of all subdivision and consolidation on titled lands (DENR Regional Office) which include:
 - Simple Survey Plans (the resulting lots is not more than 9 and without road lots); and
 - Complex Survey Plans (the resulting subdivision is more than 9 lots or less than 9 lots if the subdivision will create road lot/s).

2. National Mapping and Resource Information Agency (NAMRIA)

NAMRIA, an agency attached to the DENR, is the principal mapping agency of the government and is responsible for the production of thematic maps at various scales in support of the government's development planning, environmental management, and multi-hazard mapping, among other programs. It is mandated to establish and maintain the Philippine Reference System of 1992. NAMRIA also conducts forest delineation survey to segregate A and D lands from forest and mineral lands and national parks.

3. Land Registration Authority (LRA)

LRA has limited survey approval functions on "simple subdivision" of titled or registered lands. LRA and DENR can both approve simple survey subdivision on titled or registered lands. A survey subdivision is considered simple subdivision when the survey will result to the creation of not more than nine (9) lots without road lot is complex.

4. Local Governments

Cities and Municipalities also have survey and mapping functions in support of its land use regulation and land taxation mandates. These functions are as follows:

- Approval of all complex subdivisions by the Sangguniang Bayan/Lungsod under the Local Government Code;
- Ensure the conformity of subdivision surveys with the comprehensive land use plan of the LGU;
- Receive and compile copies of all approved survey plans furnished by Geodetic Engineers on surveys conducted within their jurisdiction; and
- Maintain a system of tax mapping, showing graphically all data concerning the real property (land and improvements).

Persons Authorized to Conduct Land Surveys

As earlier mentioned, land surveys are conducted by surveyors who are licensed Geodetic Engineers (GE). These GEs are organized into a professional organization called the "Geodetic Engineers of the Philippines, Inc." They are grouped into Regional and Provincial Chapters.

Geodetic Engineers are under the supervision of the DENR or LRA while doing land survey works. The GE has to comply with the survey standards and the rules and regulations set forth by the DENR under the current Manual of Surveys. In general, the GE must obtain such survey and tenure information on records available with the DENR or LRA as is necessary to locate or relocate the boundaries of any land to be surveyed and to connect his or her survey to the survey system in the Manual. A GE can conduct land survey activities pursuant to Section 2 (a) of Republic Act No. 8560 (Philippine Geodetic Engineering Act of 1998) or for works not requiring strict legal accuracy under arrangements with a client, in such a manner as agreed upon by them or if the survey is not intended for land registration, disposition or tenure definition. However, the GE must comply with the standards and the rules and regulations set forth by the DENR, if the survey is of a class that requires approval under existing land laws.

Geodetic Engineers, when conducting surveys that requires the approval of the DENR or LRA, shall give due notice in advance to the adjoining owners of the property to be surveyed of the date and hour of the survey for the protection of their rights. They are to report all objections made by adjoining property owners or claimants during the survey and demarcating/describing the boundaries claimed by them.

The survey plans/data sets that the survey project generates, including the maps and plans, are also submitted to the DENR and to the LRA (simple subdivision) for approval, before it can have full legal effects. However, GEs may prepare sketch plans that show the indicative location, position and area of land for purposes other than land registration without need of DENR/LRA approval.

Cadastral and Isolated Surveys

Surveying and identifying land by boundaries is necessary before A and D land could be disposed and registered by the government. For purposes of land disposition and property registration, surveys can be generally divided into two (2) types – Cadastral and Isolated.

1. Cadastral Surveys

Cadastral surveys are conducted to determine the “metes and bounds” of all parcels within an entire municipality or city for land registration and other purposes (Section 5, DAO 07-29). Cadastral survey involves the survey of a whole municipality (or an extensive portion of the same or those covering an area of more than 1,500 hectares under Public Land Subdivision Survey) for identifying and delineating the individual parcels of all land owners and claimants which will be the basis of the issuance of titles or patents later. It is intended primarily for the purpose of quieting titles to all lands within a particular area by way of compulsory adjudication proceedings filed by the government after the completion of the cadastral survey project. The owners of lots surveyed must lay a claim to their land holdings and must prove their ownership during the subsequent court proceedings. Failure on their part to do so may give the court no choice but to declare these lands as public lands and be disposed under the Public Land Act. All the other types of surveys are considered isolated.

The LMB assigns the Cadastral Project Number that is unique for every municipality or city. The cadastral project is then divided into cases with one barangay considered/assigned as one unique case. However, the DENR has resorted to contracting the cadastral projects by Module, wherein one (1) Module consists of one (1) barangay. A municipality with twelve (12) barangays may have twelve (12) cadastral survey module contractors. All said modules will bear the same Cadastral Survey Project Number. The first municipality that underwent cadastral surveying is Pilar, Bataan in 1909 with Cadastral Project Number 1 or "Cad-1" issued to it.

Every parcel of lot in a cadastral survey project is assigned a unique lot number which will be done consecutively from Lot No. 1 without duplication. An assigned lot number in one (1) barangay (barrio) cannot be assigned to a certain lot in another barangay (barrio) of the covered municipality.

Once a cadastral survey project is conducted on a municipality or city, all previous isolated surveys of parcels conducted within the area should be integrated and reflected in the cadastral records either as accepted, amended or rejected. If a previous survey is accepted, the surveyor will designate a new lot number in the cadastral survey. The previous isolated survey and the lot number of the land, however, are still indicated in the cadastral survey map for reference purposes.

Cadastral Surveys also include the delineation of the boundaries of the various political units (barangay, municipality, and province) as well as the boundaries between the forested areas and A and D lands.

Cadastral maps generated by the surveys are also used as preliminary reference in real property tax mapping and land use mapping by local governments.

2. Isolated Surveys

Land claimants may request for an isolated survey of his land prior to the government initiated cadastral survey for purposes of ordinary land registration or patent application. The government also initiates surveys of public land for land disposition purpose such as free patent, homestead and sales. These surveys are conducted on A and D lands of the public domain in areas where there is no approved or existing

cadastral survey or cadastral project.

Isolated surveys may contain a single lot as in the case of private survey (PSU), free patent survey, homestead, agricultural sale or multiple lot/ parcels such as in the case of Public Land Surveys. As mentioned earlier, the approved isolated land surveys are integrated, either as accepted or modified or rejected, once a cadastral project is subsequently conducted in the area.

Under the present land survey manual, all surveys that are not cadastral are categorized as isolated surveys including subsequent subdivision and consolidation surveys of a previously surveyed land, though these may be within a cadastral area.

Survey Authority and Survey Order on Surveys of Public Lands

If a land is still unsurveyed, a private land claimant or a public land applicant on said land is required to secure a Survey Order or Survey Authority from the DENR before a land survey can be conducted on the land that he/she claims. A Survey Authority is an instruction issued by the authorized DENR Official to a private GE authorizing him/her to conduct survey over a parcel of land of the public domain for a specific purpose, usually for land registration or public land disposition. When issued to a government GE, the same is referred to as Survey Order. Survey Authority or Survey Order for isolated survey less than 12 hectares are issued by the DENR Community Environment and Natural Resources Office (CENRO). Survey authority is valid for a period of six (6) months following its issuance. (Section 19 of Revised Regulation on Land Surveys, DAO 2007-29).

A Survey Authority is granted under the following conditions:

- The parcel of land is within the A and D area;
- The survey is an **original survey**, meaning there is **no existing approved survey on the land** or any ongoing cadastral or public land subdivision project;
- There is no existing claims or conflicts on the land;
- The land is outside of any existing civil, military or any other reservations; and

- There is no pending land registration case or pending litigation in court involving the land or an existing public land application other than that of the Survey Authority applicant.
- The survey applicant must be a public land applicant (homestead, sales, free patent) or must show that he/she has acquired a registerable private right recognized by law (i.e. acquisitive possession, prescription and accretion).

Reference System

To be an effective tool in land identification, a land survey system and the maps that it generates must have a good survey reference system for survey consistency. The reference system serves as the guide to all surveyors in conducting surveys to avoid parcel overlaps. The backbone of the system is the land survey markers. Land survey markers or land survey monuments are established and placed as survey points for use as reference by surveyors conducting subsequent surveys. Markers must be durable since these are intended to be permanent reference. These can be as simple as permanent land marks, a chisel mark on rock pillars, etched markings on concrete monuments or stamped metal disks that are set into concrete or rock pillars. These survey references include those established by the former Bureau of Coast and Geodetic Surveys and the Bureau of Lands.

Executive Order No. 45, s. 1993 as amended by E.O. No. 280, s. 2000 and E.O. No. 321, s. 2004, mandates the use of the PRS92 as the standard reference system for all surveying and mapping activities. NAMRIA is spearheading the implementation of PRS92 Project in coordination with DENR regional offices, particularly the LMB, the Forest Management Services (FMS) and the Lands Management Services. The project aims to transform old maps and surveys into PRS92. It also aims to upgrade the horizontal and vertical control networks of the country and ensure the reliability, completeness, and accuracy of PRS92 as the national geodetic network. The other key activities of the project are the upgrading and densification of geodetic control points, the conduct of leveling and gravity surveys, and the installation and upgrading of tide monitoring stations.

Through the years, surveyors, GEs, the then Bureau of Lands and presently the DENR, have used these land survey monuments/markers in fixing the location of land surveys. Technical descriptions in Certificate of Titles usually

designate these reference markers as Bureau of Lands Location Monuments, Municipal Boundary Monument and Barrio Boundary Monument where the point of beginning of the polygon of the land parcel is connected. The position of the lot is fixed in relation to this monument using bearing and distance. It is commonly called as the “tie point” of the lot.

Defining Legal Boundaries

Lot boundaries delineate the extent of land ownership of land owners. Boundaries define the extent of the parcel, lot or property unit in accordance with specific standards, rules and regulations issued by the DENR. Boundaries also help identify the land as it will show the contiguous parcels bordering the land. Boundary lines (also commonly called property lines) define the extent of legal limits of ownership of land parcels. Marked boundaries are prima facie evidence of the legal extent of the ownership of property. Marking may be through natural boundaries, survey monuments or enclosed occupation such as fences and walls.

Generally, boundaries of land are fixed and do not move, although the interpretation of the location of the boundary can be difficult and professional judgment may vary in its interpretation, especially if the lots in question came from two different survey systems.

The situation with regard to “natural boundaries” formed by seas, lakes, river, etc., is more complex as such boundaries are not fixed and are periodically moved. These boundaries cannot be marked on the ground and are not fixed in one place but changes position over time through slow and imperceptible accretion or erosion of the described feature.

- **Boundary Indicators in Built-up Areas** — In built-up areas like old towns, the primary indicator of boundaries will most likely be walls and fences. However, these can be subject to survey confirmation to ensure that the fences were properly located before it were built and are not subject to encroachment by the owners of the adjoining lands.
- **Boundary Indicators in New Land Developments** — In a new subdivision, the primary indicators of land boundaries will be the survey marks place by the surveyor on the lots or parcels. These survey marks are made of concrete monuments that conform to the Manual of Land Surveys.

Narrative Technical Description

In the Philippines, the description of boundaries to the land (commonly called technical description) is included in the Certificate of Title issued by the Register of Deeds.

- Technical description uses directions and distances along with physical features of the land to define and describe the boundaries of a parcel of land.
- The boundaries are described in a narrative style, working around the parcel in sequence, using bearing and distance from a known control point (location monuments) to a point of beginning (point 1), going to the next point or corner (point 2 and succeeding) and finally returning to the point of beginning to create a polygon. It may include references to other adjoining parcels (lots). The description is based on the markings on the ground with permanent concrete monuments.
- Sample of a Narrative Technical Description

LOT 18, BLK. 15, Pcs-13-003519

A parcel of land (Lot 18, Blk. 15 of the cons. subd. plan, Pcs-13-003519, being a portion of the consolidation of Lots 17 Blk. 2, 15 Blk. 3, 15 Blk. 4, 15 Blk. 5, 12 Blk. 5, 15 Blk. 7, 1 & 17 Blk. 9 & 16 Blk. 12, all of Pcs-13-001412, Lots 5 & 5-A, both of Pcs-3866 & Lot 783-A, Psd-49419, LRC Rec. No.), situated in the Barrio of Bagbag, City of Quezon, Province of Metro Manila, Island of Luzon.

Bounded on the S., along line 1-2 by Lot 14; along line 2-3 by Lot 15; along line 3-4 by Lot 16; along line 4-5 by Lot 17, all of Blk. 15 of the cons. subd. plan; on the NW., along line 5-6 by Lot 541, Piedad Estate; on the N., along line 6-7 by Lot 12 of Blk. 15 and on the E., along line 7-1 by Road Lot 6, both of the cons. subd. plan.

Beginning at a point marked "1" on plan, being S. 85 deg. 37' E., 1,305.16 m. from LM No. 20, Piedad Estate.

thence Due West, 13.00 m. to point 2;
 thence Due West, 10.00 m. to point 3;
 thence Due West, 10.00 m. to point 4;
 thence S. 65 deg. 10' E., 6.5 m. to point 5;
 thence N. 40 deg. 35'E., 16.78 m. to point 6;
 thence Due East, 16.16 m. to point 7;
 thence Due South, 10.00 m. to the point of;

beginning, containing an area of THREE HUNDRED THIRTY FOUR (334) SQUARE METERS, more or less. All points referred to are indicated on the plan and are marked on the ground by P.S. cyl. conc. Mons 15x60 cms; bearings True; Date of the original survey, July 1 – Dec. 14, 1907 and that of the cons. subd. survey on May 20-30, 1988.

Court Determination of Land Boundaries

Actual occupation and described measurement of the ownership in documents or titles may be conflicting. If the description of the boundary is ambiguous or otherwise uncertain, or is in conflict with the occupations, courts may settle the position of the disputed boundary. The actual location of any boundary, when disputed, should be subject to the evidence of an on-ground assessment of the land in relation to survey records, and is best undertaken by a GE.

Reminder: The lot/s on survey plans and land titles are projected in a simple plane of which the curvature of the earth was adjusted in order to present the parcel in a two dimensional map. The adjustments sometimes create seeming overlap when projected against the map of a different contiguous parcel plan from a different survey system. It is advisable for land buyer to engage the services of a Geodetic Engineer in order to be sure where the true boundaries of the land lie. Incurring this survey expense makes good sense to any land buyer or mortgagee.

Where any two or more boundary features or descriptions present conflicting evidence in the determination of the true boundary position, the courts usually favor long, acquiescent and undisturbed occupation dating to the time of the survey as the most convincing evidence of a boundary between properties.

As a rule though, when a property is described by “metes and bounds”, the described bounds (abuttals) take priority over the stated measurements. What really defines a piece of land is not the area, calculated with more or less certainty mentioned in the description, but the boundaries as enclosing the land and indicating its limits. However, special circumstances may lead courts to give more weight to other evidence presented.

In determining the boundary of the land, the court may consider the following physical features and survey marks and descriptions:

- Monumented lines (boundaries marked by survey or other defining marks, natural or artificial);
- Adjoining boundaries, i.e. contiguous lots, natural or artificial features such as a street or road;
- Statement of length, bearing or directions (“Metes” or measurements in the described direction); and
- Actual occupation.

A GE is not the final arbiter of boundaries which are under dispute between owners. This is within the jurisdiction of the regular courts. The GE’s role in these matters is one of fact-finder and expert witness, providing the evidence of what the boundaries are or how it was derived, upon which the court will make the judgment.

Survey Records and Survey Maps

Survey records may be found generally at the Survey Records sections of government land agencies. In the DENR, survey records are with the Technical Records Section, Survey Division of the DENR Regional Office. The LMB only retains some survey records, mostly duplicates, after it decentralised its records to the DENR Regional Offices. In LRA, survey records are with the Subdivision and Consolidation Division.

Large scale government surveys such as cadastral surveys generate the following survey records:

- Cadastral Maps indicating individual parcels and their actual geographic position;
- Lot Data Computation Books;
- Lot Description Books;
- Monument Description Books;
- Technical Description (TD) of all lots within the Cadastre;
- Geographic Positions of Reference Points;
- Land Use Maps and Land Use Registers;
- Political Boundary Maps;
- Tax Maps used for Realty Tax Valuation/Collection;
- List of all claimants/occupants or owners of lands; and
- Cadastral Cost Registers.

Below are some of the commonly used large scale maps that establish land ownership and support land titling and registration.

1. Land Classification (LC) Maps

These maps are generated by the land classification unit of the DENR/ NAMRIA/Forest Management Bureau after delineation survey is conducted, to ascertain the extent of A and D lands of the public domain.

2. Cadastral Maps

These maps are generated by cadastral surveys executed by the DENR for purposes of land titling. It covers all parcels of an entire or large

portion of municipality. There is also a list of cadastral claimants per lot that is submitted by the surveyor to DENR as part of the survey data set. All land parcels are given a unique parcel identifier (by lot number). Cadastral maps are not updated once it is approved. Subsequent changes to the parcels are not reflected in the approved cadastral map.

3. Subdivision Maps

These are parcel maps derived from subdivisions of isolated survey plans and isolated cadastral lots. All derivative parcels of the subdivision are assigned a unique lot number that follows the sequence of the original or "mother lot", i.e. Lot 1 to Lot 1-A, Lot 1- B, and so forth.

4. Tax Maps

These maps are generated by the Assessor's Office of the LGU for purposes of identifying land parcels for land taxation (real property tax). A unique parcel identifier (Property Index Number) is assigned to each parcel within the municipality. Updating of the map is done by the tax mapping section of the Assessor's Office, based from subdivision/consolidation survey plans of GEs submitted to the LGU. The initial component of LGU tax maps are mostly derived from DENR cadastral maps.

5. Cadastral Digital Database (DCDB)

The Digital Cadastre Database (DCDB) is the spatial representation of the land parcels and land use/administrative/ political boundaries in a locality. The DCDB generates a computerized map base that is used in storing related information on land and at the same time, generates hard copy of different map products for the public. The parcels are generated by computer programs that convert numerical survey data sets or by digitizing existing paper maps. DCDB usually consists of layers of different spatial representation of land boundaries that can include administrative boundaries such as LGU boundaries, proclaimed areas and reservations, land use, roads, natural features, and others, that can be overlaid and used for land management purposes, taxation or land tilting and registration. CDCB are usually used by LGUs as part of its real property tax system.

III. Land Ownership

Basic Principles

There are two basic principles that underpin land ownership in the Philippines. The first is State ownership under the concept of the Regalian Doctrine. The second is the right to private ownership.

The first principle in our land laws is the Regalian Doctrine, which holds that all lands belong to the State and only by a grant from the State can land pass into private ownership. Thus under the Constitution, all lands of public dominion and all other natural resources are owned by the State and all lands not otherwise clearly appearing to be privately owned are presumed to belong to the State, which is the source of any asserted rights to ownership of land. Under this concept, private title to lands must be traced to some grant, express or implied, from the State. This finds expression in Section 2, Article XII of the 1987 Constitution (National Economy and Patrimony) and likewise incorporated under Book 2, Title 1, Chapter 3 of the New Civil Code.

The second principle is the principle of private ownership. It includes not only the right to use and enjoyment, but also the right to exclude others, including the State, from the land. This right is protected under the Constitution and under the law that gives land owners absolute control and exclusive rights on the basis of legal, state-conferred ownership, subject only to certain limitation on police power (land use and environmental protection) and eminent domain.

System of Land Ownership

Systems of land ownership or land tenure are the modes of holding or occupying land. In the Philippines, land tenure can be generally divided into public and private lands.

1. **Public Domain Lands** — are lands that are owned by the State. These are referred to as lands of the Public Domain. It includes lands that are intended for public use, such as roads, canals, rivers, torrents, ports and bridges constructed by the State, banks, shores, roadsteads and others of similar character, and lands that are intended for some public purpose. Forest and mineral lands and national parks are all lands of the public domain and no private ownership is allowed in this type of lands. Lands that are held by the State in its private capacity are called patrimonial properties.
2. **Private Lands** — are those lands that are owned by private persons. Private lands are originally acquired from the State by qualified private persons (original disposition). Once acquired, it becomes private property and it can be transferred by the owner to any person who is allowed by the law to acquire lands.

Private land ownership is limited to A and D lands and is primarily governed by the following laws:

- The Constitution
- New Civil Code of the Philippines
- Public Land Laws
- Property Registration Decree
- Agrarian Reform Laws
- Ancestral Domain Law

Regalian Doctrine: The Spanish Crown acquired lands in the Philippines by discovery. The country was considered as ered as ulliusine: The Spanish Crown acquired lands in the Philippines by discovery. The country was considerfirst introduced during the Spanish period. Subsequently, Spain granted private ownership to its citizens and to the indigenous subjects by way of crown grants, sale or prescriptive rights. Private ownership is allowed and protected under the Spanish Civil Code (existed up to 1951 when it was revised by Republic Act No. 386 or the New Civil Code of the Philippines). Formal land conveyancing and transfers were provided under the Spanish Mortgage Law (Ley Hipotecaria).

The Americans acquired all Spanish Crown lands under the Treaty of Paris in 1898. Land that has been disposed by Spain to private persons were considered as private lands, all the rest were considered as lands of the public domain and were owned by the State. The Americans introduced the Public Land Act that governs the disposition of lands owned by the State. The Americans also introduced a land registration system patterned after the Torrens System from Australia under Act No. 496 or the The Land Registration Act for the registration of private lands.

Land Classification

The classification of land as a natural resource is important in the determination of tenure in the Philippines, because not all types of lands can be acquired as private property. Only lands that have been classified as A and D agricultural lands can be disposed to and acquired by citizens for private ownership. Lands that have been classified as forest, mineral or national parks belong to the State and are not subject to private ownership. Unclassified lands are considered as public forest.

The criteria of the physical features of land for land classification purposes are provided under Presidential Decree No. 705 or the Revised Forestry Code. However, once classified, such classification becomes the legal classification of the land and the physical features of the land is no longer controlling. The fact that a forest land has been denuded and its utilization is already agricultural does not by that fact means that it has ceased to be a forest land. What is important for purposes of determining whether private rights on land can exist

is the legal classification and not the physical feature of the land. Classification is also categorical, that is, land is either completely agricultural or completely forest or park.

Classification is previously an exclusive prerogative of the executive department of the government and is exercised by the Chief Executive and the Secretary of the Natural Resources Department. The mandate of DENR is now limited to those lands of the public domain, denominated as "public forest" under the Revised Forestry Code. Reclassification of lands that has already been subject to original classification is now with Congress pursuant to Section 4(a) of Republic Act No. 6657 (CARL). The 1987 Constitution also provides that Congress will now determine the final forest line. Forest lands and national parks/protected areas are delimited on the ground from A and D lands by the DENR Regional Composite Survey Team. This activity is pursuant to Sections 3 and 4, Article XII of the 1987 Constitution, 705 or the Revised Forestry Code and Republic Act No. 7586 or the National Integrated Protected Area System Act of 1992.

The National Mapping and Resources Information Administration (NAMRIA), attached to DENR, is the primary government agency involved in actual land classification activities that involves demarcating, segregating, delimiting, and establishing the best category, kind, and use of a public land. Its objective is to determine, through inter-bureau action, which portion of the public domain is suitable as a forestland and which could be released as agricultural (A and D) land. Lands which are found suitable for agricultural purposes and declared as such are then slated for distribution to qualified beneficiaries under public land laws.

Direct and Indirect Mode of Acquiring Lands of the Public Domain

The process where private rights to a parcel of land is finally and authoritatively determined can either be through a direct land grant (patent) from the mass of public land or through an indirect land grant by operation of law, i.e. accretion on land and possession/ prescription of A and D lands.

1. Direct Public Land Grants through Land Patents

Under the first mode, the acquisition of right to land is through a direct grant from the State. The applicant applies for a specific kind of public land grant under public land laws. The application is administratively processed and the rights adjudicated by the DENR. If the applicant is qualified and the conditions for the grant, i.e. homestead, are complied with, a patent is issued.

2. Indirect Land Grants by Operations of Law

Under the second mode, the acquisition of right to land is indirect. There is no public land application that is filed. Instead, title to land is deemed acquired by qualified individuals by operation of law or upon compliance by them of certain legal conditions provided by law. Ownership to the land is automatically acquired by the person, provided he is qualified. The grant is said to be indirect since the State does not confer a formal land grant or patent before ownership is acquired. Instead of a public land application however, the "land owner" must file a case in court for the registration of the title that he acquired. In effect, the land owner's title has to be confirmed by the State through a judicial determination of his/her qualification to own land and his/her fulfillment of the requirements for ownership as provided by law (P.D. 1529, Sec. 14).

Public Land Grants through Patents

The State allows disposition of A and D agricultural lands to qualified citizens through a land grant or patent. There are different patents that are issued to a particular kind of land, depending mostly on the suitability or actual use of the land. Each patent is appropriately covered by a separate chapter of the Public Land Act and/or other public land laws, with specific conditions, requirements and application procedures for every mode.

"Agricultural lands" is used in a broad sense and this includes residential, commercial and industrial lands. The public land to be disposed must be:

- Delimited and classified as A and D agricultural lands;
- Surveyed;
- Not reserved for public or quasi- public uses;
- Not appropriated by the government;

- Not in any manner become private property; and
- Not the subject of a private right recognized by law.

The following lands of the public domain cannot be disposed to private ownership:

- A and D that are intended for Public or Semi-public Use, Public Service, Military Reservations and Civil Reservations;
- Foreshore and reclaimed lands;
- Lakes, Navigable Rivers and Creeks;
- Forest or Timber;
- Mineral Lands; and
- National Parks.

1. Public Land Grants in Agricultural Lands

There are different kinds of land patents that are issued to lands that are intended to be used, suitable or are actually being used for agricultural purposes. Homestead and sales are used to dispose unoccupied lands intended for agricultural use, while free patents are used to give lands to those who have been occupying and cultivating agricultural lands. Patents are issued only to Filipino citizens and are limited to 12 hectares.

• Agricultural Free Patent

Agricultural Free Patents are issued to natural born Filipino citizens. It is conditioned upon occupation/ possession and payment of real property taxes for a certain period. The conditions in the last agricultural free patent amendment under Republic Act No. 6940 are actual possession, cultivation and payment of real property tax for 30 years prior to 1990. Filing of application is up to 2020 only under Republic Act No. 9176. The area limit on free patent is 12 hectares. (Title II, Chapter VI, Sections 44 to 46 of Commonwealth Act No. 141).

- **Homestead Patents**

Homestead patents are issued to frontier lands and newly released A and D lands where no possessory rights exists. Upon approval of homestead application, homesteaders are allowed to enter and cultivate A and D lands. Grant of homestead patent is conditioned upon entry, occupation, improvement, cultivation (1/5 of the land), residency (1 year) and final proof within five (5) years. Homesteader cannot use share tenancy in complying with the conditions under Presidential Decree No. 152 (1973). Original homestead grantees or direct compulsory heirs who still own the original homestead at the time of the approval of CARL retains the same areas as long as they continue to cultivate the homestead under Section 6 of Republic Act No. 6657 as amended. The area limit for homestead is 24 hectares under the 1935 and 1973 Constitution and 12 hectares under the 1987 Constitution. (Title II, Chapter III, Sections 12 to 21 of Commonwealth Act No. 141).

- **Sales Patents**

Sales patents are issued to Filipino citizens who want to acquire lands from the lands of the public domain for agricultural purposes. Upon approval of application, land is appraised and notice is made by publication for bidding on the land. Sale is conditioned upon appraisal, bidding, entry, cultivation and payment. Payment by 10 equal yearly installments is allowed. Under the 1935 Constitution, the area limit is 144 hectares. It was reduced to 24 hectares under the 1973 Constitution and to 12 hectares under the 1987 Constitution. (Title II, Chapter IV, Sections 22 to 32 of Commonwealth Act No. 141).

- **Lease**

Corporations can lease up to 1,000 hectares while private individuals (citizens) can lease up to 500 hectares of land. Lease is also subject to appraisal, bidding, entry, and rental payment. (Title II, Chapter V, Sections 33 to 43 of Commonwealth Act No. 141)

2. Public Land Grants in Residential, Commercial, Industrial Lands

- **Sales**

Sales of residential, commercial and industrial lands are called Miscellaneous Sales to differentiate it with sales of agricultural lands. It has the same

requirements or conditions as agricultural sale that includes appraisal, bidding, entry, payment and introduction of improvements for the use it was intended. (Title III, Chapter VIII, Sections 60 to 68 of Commonwealth Act No. 141)

• **Direct Sale of Residential Lands under Republic Act No. 730**

Sale of residential lands under Republic Act No. 730 is not subject to bidding but is subject to the following conditions: (1)The applicant must be a Filipino citizen who is not an owner of a home lot in the municipality or city where the land is located; (2) that he/she has constructed his/her house on the land and actually resided therein; (3) he/she has established his/her residence on the land in good faith; (4) the land is not needed for public service; (5) the area is not more than 1,000 square meters; (6) 10% payment upon approval balance may be paid in full, or in 10 equal annual installments; and (7) restriction on transfer was 15 years but it was removed in 1985 under PD No. 2004. (Republic Act No. 730)

• **Residential Free Patent under Batas Pambansa Bilang 223 from 1982 to 1987**

Residential Free Patent (RFP) was first introduced under Batas Pambansa Bilang 223 in 1982. The law expired in 1987 without being extended. It was granted to any Filipino citizen, not a registered owner of a residential land in 5th class municipalities who has been actually residing on, and continuously possessing and occupying, under a bona fide claim of acquisition of ownership and paid all the real estate taxes thereon since June 12, 1945. The area shall not exceed 3,000 square meters. Free Patent under Batas Pambansa Bilang 223 is not applicable in cities, and in first class, second class, third class, and fourth class municipalities, and in townsite reservations. (Batas Pambansa Bilang 223)

• **Residential Free Patent of 2010**

Residential Free Patent under Republic Act No. 10023 is issued to Filipino citizens who are actual occupants of a residential land zoned as residential under a bona fide claim of ownership for 10 years. The land must be surveyed and must not be needed for public service and/or public use. In addition, the application must be supported by two affidavits of disinterested person. Townsites and delisted military reservations or abandoned military camps are included under R.A. No. 10023. (Republic Act No. 10023)

Restrictions and Limitation on Land Grants through Patents

Transacting patents for the first time is difficult because there are restrictions that are imposed by law on transfers. Patents issued by the government are subject to restrictions regarding transfer under Sections 118, 119, 120, 121 and 122 of the present Public Land Act. The restrictions are intended to keep the patent within a certain period to the patentee. Exceptions to this are patents issued under R.A. No. 10023 and R.A. No. 730. Hereunder are the restrictions on land grants through patents:

- Restriction under Section 118 on encumbrance or alienation — agricultural free patents cannot be encumbered or sold within a period of five (5) years and homestead patents for twenty five (25) years from the date of issuance except in favor of the government. Rural banks are exempted from this restriction under Section 6 of the Rural Bank Act (Republic Act No. 7353);
- Restriction under Section 119 on repurchase — homestead patents and agricultural free patent are subject to repurchase by the patentee, his widow, or legal heirs, within a period of five (5) years from the date of the conveyance (Section 119). In effect, in case of foreclosure, the redemption period would become five (5) years if the land is an agricultural free patent or homestead patent instead of the usual one (1) year; and
- Patents issued under Republic Act No. 730 and Republic Act No. 10023 removed the restrictions under the Sections 118, 119, 120, 121 and 122 of the present Public Land Act. The recent policy of the government is to encourage the development of formal land market by making the titles to the land freely tradable.

Patents are also subject to other restrictions on use and easement:

- The land patented shall likewise be subject to public servitudes that exist upon lands owned by private persons, including those with reference to the littoral of the sea and the banks of navigable rivers;
- The State likewise reserves a right of way not exceeding sixty (60) meters for public highways, railroads, irrigation, ditches, aqueducts, telegraph and telephone lines and similar works as the government or any public or quasi-public service or enterprise including mining

or forest concessionaires, may reasonably require for carrying on its business, with damages to improvements only;

- Republic Act No. 1273 amended Section 90 of the Public Land Act and provided that a strip of forty (40) meters wide starting from the bank on each side of any river or stream that may be found on the land patented, shall be demarcated and preserved as permanent timberland to be planted exclusively to trees of known economic value, and that the grantee shall not make any clearing thereon or utilize the same for ordinary farming purposes even after patent shall have been issued to him/her or a contract of lease shall have been executed in his favor; and
- All public land patents issued to applicants do not convey title to all kinds of mineral resources as the same remain to be property of the State.

Land Grants by Operations of Law

The State also allows acquisition of ownership over A and D lands of the public domain by operations of law. Lands acquired by operation of law are indirect land grants by the State and acquisitions of the land by qualified private persons are made without a public land application. Under this concept, a person becomes the owner of a land, by operation of law, without a need of a formal land application or government grant once all the requirements of acquisition of lands that are set in the law are fulfilled by him/her.

However, the ownership of lands acquired by operations of law is considered imperfect or incomplete until the owner proved in a judicial proceeding (more commonly called as "land registration case" filed before the Courts) the fulfillment of the conditions that entitles him/her to claim private ownership of the land by operations of law. Applications for confirmation of title are always opposed by the State (through the Solicitor General) and the burden of proof is with the applicant/claimant to prove compliance with the conditions that will qualify the applicant as owner. Unlike patents (except those issued under R.A. No. 10023 and R.A. No. 730), land grants by operations of laws are not subject to restrictions on transfers and repurchase.

These lands are also referred to as "untitled private lands." The term is a misnomer since the land is already appropriated by the owner and has been separated from the mass of the lands of the public domain. The proper term for this is "unregistered private lands" since the land is considered as private

but remains unregistered under the Torrens system. As said, this ostensible ownership is subject to confirmation of the State in a land registration proceeding.

Under present law, there are two (2) ways to acquire land from the State by operations of law. These are through:

1. Possession

Some types of possessions on A and D agricultural lands ripen to ownership, as provided by law, without the need for a formal or direct land grant:

- Actual, open, continuous, exclusive and notorious possession on A and D lands since June 12, 1945 under P.D. No. 1529, Section 14 (a); and
- Adverse possession (Prescription) on patrimonial lands of the State for 30 years under P.D. No. 1529, Section 14 (b).

2. Accession/Accretion

- Accretions or the accumulated deposits brought by the current on riparian lands are considered as private lands of the riparian owner under the principle of accession; law of increase (P.D. No. 1529, Section 14 [c]).

Government Agencies In-Charge of Original Land Titling

1. The Department of Environment and Natural Resources (DENR)

The DENR processes all public land applications and issues patents to those who are qualified, as provided by public land laws. DENR provides for the rules and regulations regarding the disposition of public lands including the procedures for the processing of public land applications. DENR has the authority to determine the conflicting claims of applicants and occupants. DENR acts as a quasi-judicial tribunal in the processing of the applications and has exclusive jurisdiction over the disposition of lands of the public domain in absence of specific legislation to the contrary. Such disposition is subject to judicial review in case of fraud or mistake, other than error of judgment in estimating the value or effect of evidence. Processes and procedures are governed by administrative orders, circulars and manuals.

2. The Regional Trial Courts/Municipal Trial Courts and the Land Registration Authority (LRA)

Land registration cases for confirmation of titles are done through the regular courts under Batas Pambansa Bilang 129. The court determines in a land registration proceeding whether the applicant has complied with all the requirements necessary for the acquisition of private ownership on lands of the public domain. The court, upon judgment favourable to the applicant, shall order the LRA to issue a Decree of Registration. Said Decree is transmitted to the Register of Deeds for registration and issuance of a Title.

General Procedure in the Acquisition of Public Land

The procedure for public land application is administrative in nature while the procedure for confirmation of titles acquired by operation of law is judicial.

➤ In Public Land Application

The right to lands disposed by the State through patents is administratively determined during the public land application process. The process is not adversarial since the applicant does not claim private ownership on the land. The applicant in public land applications is asking the State for a land grant conditioned generally on the utilization of the land for productive purposes. During the process of adjudication, the applicant establishes his/her personal qualification and proves his/her fulfillment of the conditions necessary for the issuance of the particular grant or patent that he/she applied for.

The government agency that handles the adjudication process is the DENR. Public land applications are processed at the DENR CENRO and patents are generally signed and issued by the DENR Provincial Environment and Natural Resources Office (PENRO). The approved and signed patents are transmitted by the DENR to the Register of Deeds of the province or city for registration.

Application for a public land grant is administrative in nature, although the DENR is exercising quasi-judicial powers in the process. The procedure in public land application is as follows:

- Survey of the Land
- Survey is a requirement before public lands can be disposed to private persons under the different public land laws. Survey is necessary in order to identify the land and delineate its boundaries.

- DENR has records of all approved land surveys. If the land has no approved survey, the applicant must request for a Survey Authority from the DENR in order to have the land surveyed by a private GE.
- If the land is unsurveyed, the applicant may file the public land application (PLA) first and thereafter request for a Survey Authority/ Order to delineate his/her claim.
- The DENR sometimes conduct simultaneous survey and adjudication of land (systematic adjudication process).

1. Filing of Application (CENRO)

- Non-lawyers can file and process PLA since the procedure is non-technical, informal and not adversarial. DENR personnel assist PLA applicants in the accomplishment of forms and gathering of documents, evidence and certifications in support of the application.
- Public Land Applications are submitted under oath. DENR officers may administer oath to applicants when filing an application.
- A representative with Special Power of Attorney may file in behalf of the applicant.
- Application must be complete including all documentary requirements to enable the land examiner and/or inspector to evaluate the application.

2. Examination of the Applicant for Personal Qualification to own public land

- Check the nationality of the applicant
- Check land holdings of the applicant in the land allocation record book

3. Examination and Inspection of the Land

- Ocular Inspection by the Land Inspector to check status (A and D), actual use of the land and to validate if there are claims or conflicts on the ground
- Notice of the application shall be posted by the DENR

- Inspection Report shall be prepared by the Public Land Inspector
- Inspection Report must be approved by the Land Management Officer

4. Approval of application

- In **Free Patents**, upon approval of application, a patent is prepared at the CENRO for signing of the PENRO.
- In **Homestead**, upon approval of the application, an entry permit is issued allowing the homesteader to enter, occupy and cultivate the land upon payment of the entry fee.
 - Final Proof upon completion of the 1/5 cultivation requirement has to be filed by the homesteader.
 - Re-investigation and preparation of Re-investigation report, (Cultivation, residency, etc.) upon filing of the final proof.
- In **Ordinary Sales**, upon approval of the application, the land shall be appraised and the sale shall be published for bidding.
 - The land shall be awarded to the highest bidder.
 - The applicant, however, can match the highest bid to secure the award.
 - Upon full payment (10 equal yearly installment is allowed), the DENR shall inspect the land to check compliance and shall prepare a re-investigation report.
- In **Direct Sale** under Republic Act No. 730, upon approval of the application, the land shall be appraised by an Appraisal Committee at the CENRO.
 - There is no bidding under R.A. No. 730.
 - The appraisal has to be approved by the DENR Secretary before an Order of Payment shall be issued.
 - Upon full payment (10 equal yearly installment is allowed), the DENR shall inspect the land to check compliance and shall prepare a re-investigation report.

5. Approval and Signing of the Patent

For the approval and signing of Patents under E.O. No. 192 (1987), the Secretary of the DENR was given a general mandate to implement public land laws including the power to delegate the signing of patents. At present, the signing authority is as follows: up to 5 hectares (PENRO), more than 5 but not exceeding 10 hectares (Regional Executive Director), and in excess of 10 hectares (Secretary). But under Republic Act No. 10023, the PENRO is specifically designated by the law as the final approving officer of Residential Free Patents.

6. Transmission to the Register of Deeds of the Patent by the Approving Officer (Section 103, P.D. No. 1529)

It is the duty of the approving officer to transmit the Patent to the Register of Deeds for registration. Applicants, however, shall pay the necessary registration fees before the registered patents are released to them.

➤ In Judicial Confirmation of Titles Acquired by Operation of Law

Lands that have been acquired by operation of law under the second mode are adjudicated through judicial proceedings (confirmation of title). The claimant must be able to show that he/she is qualified to own lands and he/she has already acquired ownership over the lands and has complied with the conditions set by law.

The proceedings are formal and adversarial (formal court hearing). The State and other interested persons are given an opportunity to oppose the application. The burden of proof is with the land claimant and he/she has to prove that the land subject of the application is already private land and no longer part of the public domain. The proceedings may be voluntary or involuntary. It is voluntary when the ostensible owner files a land registration case with the court to have the land adjudicated in his name. The procedure becomes involuntary when the government files a Cadastral Proceeding in court to adjudicate all land claims within a given area, usually an entire municipality or city. The procedure is almost the same, except that in a cadastral proceeding, the ostensible owner files an answer, alleging his/her claim to the land. Both processes will result in the issuance of a Decree of Registration.

Land registration cases for confirmation of titles on land that has been acquired by operation of law are done through the regular courts under P.D. No. 1529

and Batas Pambansa Bilang 129. Below is the general procedure in voluntary or ordinary land registration cases.

1. Survey of the Land

The land must be surveyed and the survey must be approved by the DENR. This is a necessary preliminary activity prior to the filing of land registration cases because the applicant must include/attach to the application an approved original survey plan, and two white or blue copies of the said plan and an approved technical description of the land. If the land is unsurveyed, the applicant must request for a Survey Authority/Order from the DENR for survey of private lands. If the land is already surveyed, the applicant may request for the survey records from the DENR.

2. Preparation of the Application

The applicant needs a lawyer to prepare the land registration case because of the technical/formal nature of the proceedings and the rigid requirements necessary to prove that the land is private land already and not part of the public domain.

3. Notice to the DENR

Prior to the filing, the applicant must furnish the Regional Executive Director (formerly Director of Lands) of the filing of the application and its annexes.

4. Filing of the application in Court

The application shall be filed in court after payment of the filing fees and cost of publication of the notice of initial hearing on the Official Gazette. The application should be subscribed by the applicant and sworn to before any officer authorised to administer oaths.

5. Order for the setting of the Initial Hearing

The court upon filing of the application shall issue an Order setting the date and hour of the initial hearing which shall not be earlier than forty-five (45) days nor later than ninety (90) days from the date of the order.

6. Notices

- Publication Official Gazette;
- Mailing; and
- Posting.

7. Filing of Opposition

Any person claiming an interest may appear and file an opposition on or before the date of initial hearing or anytime as may be allowed by the court. The opposition shall state all the objections to the application and shall set forth the interest claimed by the party, the remedy desired, signed and sworn.

8. Initial/Jurisdictional hearing

Applicant presents evidence of compliance to the order of the court for notices on the setting of initial hearing and the court will ask if there are oppositions.

9. Order of Default

If no person appears or files an answer, upon motion of the applicant, the court may order a general default to be recorded and then require the applicant to present evidence. But when an appearance has been entered and an answer was filed, a default order shall be entered only against persons who did not appear or filed an answer.

10. Hearing/Referee/Commissioner

The court may hear the case (applicant presents evidence; oppositors presents evidence) or refer the case or any part to a referee or commissioner who shall submit his/her report thereon to the court within fifteen (15) days after the termination of the proceedings. The court may adopt the referee/commissioner's report or set it aside for further proceedings.

11. Judgment

Judgment shall be rendered within ninety (90) days from the date the case is submitted for decision. The Court, after considering the

evidence and the reports of the Commissioner of Land Registration and the Director of Lands finds that the applicant or the oppositor has sufficient title proper for registration, judgment shall be rendered confirming the title of the applicant or the oppositor to the land. Such judgment becomes final upon the expiration of thirty (30) days, to be counted from the date of receipt of notice of the judgment. An appeal may be taken from the judgment of the court as in ordinary civil cases.

12. Partial Judgment

All conflicting claims of ownership and interest in the land subject of the application shall be determined by the court. However, the court may also render partial judgment where only a portion of the land is contested.

13. Issuance of Decree

After judgment has become final and executory, the court shall issue an order to LRA for the issuance of the decree of registration and the corresponding Certificate of Title in favor of the person adjudged entitled to registration.

14. Transmission of the Decree to the Register of Deeds

The LRA shall transmit the Decree to the Register of Deeds under whose jurisdiction the land is situated for registration and issuance of an Original Certificate of Title.

Records on Land Titling or Adjudication

1. Public Land Applications Records

The DENR record is also called “carpeta” and contains all the records pertaining to public land applicants. Said records are kept at the DENR PENRO offices where the patent was issued.

2. Land Registration Records

The LRA record is called “expediente” and contains all the records pertaining to decreed properties. Said records are centrally kept at the LRA office in Quezon City.

IV. Land Registration

Land Registration in General

Every land administration system should include some form of land registration component for the recording of rights and interest on land. In some countries, this information is guaranteed by the State, an example of which is the Torrens system of land registration that originated from Australia. The information regarding ownership is usually contained in a cadastre or a parcel based inventory of land with ownership/interest attributes for each parcel. Land registration provides for a safe and certain foundation for the acquisition, enjoyment and disposal of such rights in land.

Title as Naked Right of Ownership

As discussed earlier, we say that the source of all title to lands is the State. Lands that are held by private persons are originally acquired from the State through land grants, direct (patents) or indirect (by operations of law). Once the land has been granted, it becomes private and the land becomes segregated from the lands of the public domain. Thereafter, said land becomes the absolute property of the private owner to the exclusion of everyone, including the State.

As private property, the owner can exclude anyone, use and occupy the land, and transfer complete ownership or allow its use by some other persons with minimal interference from the State. In the strict legal sense, this ownership is referred to as a **“title”**. It means the lawful cause or ground of control and enjoyment of land.

Land registration is the official recording of rights on land through deed or title recording. Land registration is not a source of land right nor is it a mode of acquiring ownership. It is only an official source of information on rights to land. It gives an answer to the questions of what, who and how. “What” pertains to the identity of the land, “Who” pertains to the person with interest on the land and “How” pertains to the specific dealings on the land that change the legal situation like transfers or assignments of the whole or a specific interest on the property, i.e. sale, donation, barter, lease, etc.

Titled Land as Registered Land

We tend to use the word “titled land” differently from the legal sense of these words. We use “titled land” in the colloquial to mean that a land has been registered in the Register of Deeds and covered by the Torrens System. Thus, the significance of the word “titled land” and its opposite “untitled land”, does not lie on the bare ownership of the land (the legal meaning) but on the fact of whether or not “such ownership on the land has been registered” at the Register of Deeds. In short, when we use the word titled land, what we really mean is registered land.

Untitled Land as Unregistered Land

We use the word “untitled land”, on the other hand, to mean private lands that is not registered in the Register of Deeds and not covered by the Torrens System. When we use the word untitled land, we refer to bare ownership of land or ownership that has not been adjudicated either judicially or administratively and registered as Torrens title under P.D. No. 1529. The land has already been acquired by operation of law and is now private land although its final adjudication for purposes of Torrens registration is still suspended.

This ordinary meaning of the word “untitled land” has been used in the same ordinary sense by some land agencies as well. For example, Untitled Private

Agricultural Lands (UPAL) are used by the DENR and DAR to mean lands that have been considered as private lands already by operation of law but said private ownership is not registered with the Register of Deeds. Although UPALS are unregistered land, the DAR pays the owner/claimant compensation when such land is covered and distributed. The most common evidence of ownership on this type of tenure is the tax declaration that is filed by land owners in the Assessor's Office of Local Governments for purposes of real property tax assessment and payment.

Land Registration Systems in the Philippines

There are two (2) general types of land registration systems: Deed Registration and Title Registration. In the Philippines, our land registry or the Register of Deeds is both a deed and a title registry. Our land laws give the Register of Deeds the mandate to provide for a facility for the registration of deeds or instruments covering dealings on "unregistered" or "untitled lands" and for the registration of titles for those lands covered by the Torrens system of land registration.

1. Deed Registration System

In a **Deed Registration System**, the land registries merely provide for a facility for the recording of the instruments or deeds that contain the dealing made by parties to a land transaction. Under this system, what is registered is the deed or instrument itself, being a document that describes the transaction of the parties on the land. The registered instrument or deed serves as the evidence that a particular transaction took place between the parties concerning a particular real property. The registration of the instrument or deed is not a proof of the legal rights of the parties over the land but is merely evidence that the transaction occurred. The registry does not guarantee the ostensible ownership of the transferor and the legal effect of the transfer to the transferee. Thus, before any dealing on the land can be safely effected, the transferor must be able to trace his/her ownership back to a good root of title.

The "Recording of Instruments Relating to Dealing on Unregistered Lands" under Section 113 of P.D. No. 1529 is a deed recording system. Under said section, the Register of Deeds is mandated to maintain a system for recording transaction on unregistered lands. The effect of the recordings by express provision of law, however, is valid only between the parties and such recording made does not prejudice a third person with a better right.

Tax declarations issued by the local assessors are usually used as evidence of unregistered ownership on lands. This document is the most acceptable document to the public to show ownership on the land because of its importance in land registration proceedings and certain public land grant application like free patent. Tax declarations are accepted evidence in court to establish possession or occupation of the land by the tax declarant in land registration proceedings. This is also a condition in the grant of agricultural free patent.

2. Title Registration System

In **Title Registration System**, the land registries do not only provide for a facility of recording land transaction, but also guarantee the legal effect of the transaction or dealings of the parties by conferring titles to the owners. The system works through the creation of "land titles" or "indefeasible titles" in the land registry. These titles are ownership on land that have been adjudicated or confirmed by the Registry through a judicial or administrative proceeding and guaranteed true, correct and superior as against the whole world.

Thus, to have a land title in the Registry, land ownership must undergo "adjudication" or "confirmation" to enable other claimants, including the State, to lay its claim on the land. Only after the true extent of ownership has been adjudicated in this "original registration" can a "land title" or an "indefeasible title" be issued to the ostensible owner.

The first or "original titles" that have been initially registered comprises the initial component of the titles in the Registry of Titles. Thereafter, subject only to some exceptions, the Registry of Titles guarantees the ownership of the title holder as "indefeasible". As a result of this prior adjudication of registered title, the Registry of Titles does not record the instruments or deeds covering subsequent dealings or transactions, but instead records the consequent effect of such deed or instrument on the title. It is not the deed describing the transfer of rights that is registered but the legal consequence of the transaction or the right itself that is registered. Thus in land sale for instance, what is registered by the Registry of Titles is not the deed or instrument of sale but the new title of the buyer.

The introduction of a title system shifts the balance significantly towards facility of transfer or ease of transaction in the land market. It provides a public register of interests in land and enables a purchaser of titled lands to acquire ownership free of a prior interest which is not recorded in the Register. As a

result, the system for the transfer of land should be more efficient and simple that even non-lawyers can handle it. In summary, a good title registration system has the following characteristics:

- Titles require prior adjudication by the State to be secure and indefeasible;
- After adjudication, subsequent purchaser need not investigate further what is stated in the title issued by the Register, thus eliminating the need to investigate the “root” of the title;
- The register should reflect as accurately as possible the true state of title of the land, so that persons who propose to deal with land can discover all the facts relative to the title; and
- There should be an adequate compensation where an innocent purchaser has suffered loss due to the operation of the system.

Difference Between Deed and Title Registration — In deed registration, what is being registered is the legal transaction or dealing on the land. The focus of the registration is the act of the parties and the document they execute to effect such act. While in title registration, what is being registered is not the act but the legal consequence of the act. Thus, in a land sale for example, the Deed Registry registers the Deed of Sale of the buyer and seller while the Title Registry registers the consequence of the sale, that is issuance of a new title to the new owner (the buyer) that cancels the title of the former owner (the seller).

Registering Lands

As mentioned, the title system needs prior enrolment of lands in the land registry to be effective. This will require investigation and adjudication of rights on lands. Said registration is done as a consequence of judicial confirmation of title and a consequence of public land disposition.

1. Original Registration — Registering Lands for the First Time

Original registration takes place when ownership on a parcel of land is adjudicated and registered for the first time in the Title Registry. This initial registration creates the original title to land. Original registration is the first function that the system of land registration has to fulfill in order to create land titles. This is done when public land grants or patents issued by the DENR and the decrees issued by LRA are registered with the Register of Deeds for the first time. Under our public land laws, all patents and decrees issued by the government are required to be registered with the Register of Deeds. Once registered, the patents or decrees serve as the Original Certificate of Title that comprises the initial component of the “indefeasible title” in the Title Registry.

In order to register land ownership in sufficient number, the government initiates mass registration of title to lands through a mass and compulsory process called cadastral proceedings. Under the cadastral proceedings, whole municipalities and cities undergo cadastral survey and land claimants/owners of all the parcels are required to present in court evidence of their claim. If the claimant/owner successfully presents evidence of ownership, their title to the land is confirmed by the court and a decree is issued for registration. Mass titling are also done using patents by DENR in various land tilting projects of the government. The land registry is also populated by patents and decrees coming from voluntary and isolated applications initiated by private individuals using patents or through voluntary registration proceedings for confirmation of title acquired by operations of law.

2. Subsequent/Transfers Registration — Transactions after First Registration

Subsequent registration takes place when a registered title is transferred to another person or an interest on the land, such as mortgage or lease, is recorded through a deed or instrument filed in the land registry.

- Simple transfer of title

In simple transfers of title, a person merely takes the interest of another person on a land title as the same well- defined parcel. The transfer occurs without changes in the property unit.

Example: Juan dela Cruz holds a title on Lot 1 of Cadastral Project of Manila. He executed a deed of sale in favor of Pedro Penduko. Pedro Penduko filed the deed for recording and transfer of title to the land. The Register of Deeds, upon examination of the deed, transfers the title over Lot 1 to Pedro Penduko. Pedro Penduko now holds title on Lot 1.

<p>Certificate of Title No. 987</p> <p>Lot 1 of Cad of Manila (1,000 sqm)</p> <p>Registered Owner: Juan dela Cruz</p>	<p>Deed of Absolute Sale</p> <p>Juan Dela Cruz in favour of Pedro Penduko</p>	<p>Certificate of Title No. 1243</p> <p>Lot 1 of Cad of Manila (1,000 sqm)</p> <p>Registered Owner: Pedro Penduko</p>
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- **Transfers of Title with Changes in the Property Unit**

The transaction caused the formation of a new property unit. In this kind of transfer the property as a unit and not only the interest on the property changes as a result of the transfer. This means that the existing registers have to be updated due to subsequent changes in the boundaries of the parcel by reason of subdivision or consolidation of the property. These changes are caused by subdivision or consolidation of land and involve an elaborate procedure of delineation of the new property unit/s. The new owner or his interest will have to be connected to the newly formed parcels.

Example: Juan dela Cruz holds an original title to Lot 1 of Cadastral survey of Manila. Juan dela Cruz caused the subdivision of Lot 1 to Lot 1-A and Lot 1-B. He then sold Lot 1-A to Jose and donated Lot 1-B to Pedro. Jose and Pedro filed the deed of sale and the subdivision plan to transfer of title of Lot 1-A and Lot 1-B. The Register of Deeds cancels the title of dela Cruz and issues new titles to Jose and Pedro. The resulting transaction created two new titles (transfer titles) from two new property units, Lot 1-A to Jose and Lot 1-B to Pedro.

<p>Certificate of Title No. 987</p> <p>Lot 1 of Cad of Manila (1,000 sqm)</p> <p>Registered Owner: Juan dela Cruz</p>	<p>Subdivision of Lot 1 of Cad of Manila</p> <p>Lot 1-A (500 sqm)</p>	<p>Deed of Absolute Sale</p> <p>Juan Dela Cruz in favour of Jose</p>	<p>LRA Certificate of Title No. 1243</p> <p>Lot 1-A of Cad of Manila (500 sqm)</p> <p>Registered Owner: Jose</p>
	<p>Subdivision of Lot 1 of Cad of Manila</p> <p>Lot 1-B (500 sqm)</p>	<p>Deed of Donation</p> <p>Juan dela Cruz in favour of Pedro</p>	<p>LRA Certificate of Title No. 10023</p> <p>Lot 1-B of Cad of Manila (500 sqm)</p> <p>Registered Owner: Pedro</p>

- Registration of Interest without Transfer of Title

The transaction is a recording of registrable interest on the title like mortgage or lease. The purpose of the recording is to put third persons in notice of the registered interest on the land. **Example:** Pedro holds title to Lot 1. He obtained a loan from a bank and mortgaged the land as collateral. The bank files the deed of mortgage to the Register of Deeds. The Register of Deeds registers the mortgage on the title.

Principles of Torrens Title Registration

The Torrens title of registration adheres to three (3) principles to achieve efficiency in dealings on registered lands. These principles are incorporated under our Torrens system that was first established under Act No. 496 in 1902 (Land Registration Decree) and presently under Presidential Decree No. 1529 (1978). These are the Mirror, Curtain and Insurance principles.

1. Mirror Principles

The register is supposed to reflect the correct legal situation on the parcel.

- The correct legal situation on the ground is determined in the first instance during the original registration proceedings, cadastral registration proceedings or through the processing of public land application under public land laws.
- Land identification is done through survey which is a requirement before a land can be registered. The Certificate of Titles issued by the Register also contains a description of the land covered by the title.
- Statement of personal circumstances of the registered owner in the certificate of title ensures the identity of the owner. (Section 45 of P.D. No. 1529)
- Thereafter, title to land will be transferred only upon compliance with the formal requirements, i.e. public document, acknowledgment of the parties and their acts by the notary public and presentation of the owner's duplicate to ensure that ownership or interest on land remains with the registered owner, unless he freely conveyed the lands in accordance with the law.

2. Curtain Principle

No further historical investigation on the title beyond what is stated in the register is necessary.

- Every registered owner receiving a Certificate of Title in pursuance of a decree of registration and every subsequent purchaser of registered land taking a Certificate of Title for value and in good faith holds the same free from all encumbrances except those noted in the Certificate. (Section 44, P.D. No. 1529)
- A Certificate of Title shall not be subject to collateral attack. It cannot be altered, modified or cancelled, except in a direct proceeding in accordance with the law (Section 48, P.D. No. 1529)

- No title to registered land in derogation of the title of the registered owner shall be acquired by prescription. (Section 47, P.D. No. 1529)
- **Case Laws:** Where innocent third persons relying on the correctness of the Certificate of Title issued acquire rights over the property, the court cannot disregard such rights and order the total cancellation of the certificate for that would impair the public confidence in the Torrens system.

3. Insurance Principle

Registered owners are compensated for damages as a result of the operation of the system.

- Section 93 to 102 of P.D. No. 1529 the Assurance Fund is an indemnity fund created for the purpose of compensating a person who sustains loss or damage, or is deprived of land or any interest therein in consequence of the bringing of the land under the operation of the Torrens system or arising after original registration of the land, through fraud or in consequence of any error, omission, mistake or misdescription in any Certificate of Title or in any entry or memorandum in the registration book.
- The Fund is sourced from the amount collected by the Register of Deeds upon the entry of a Certificate of Title in the name of the registered owner, as well as upon the original registration on the Certificate of Title of a building or other improvement on the land covered by said certificate equivalent to one-fourth (1/4) of one (1) percent of the assessed value of the real estate on the basis of the last assessment for taxation purposes. All the money received by the Register of Deeds shall be paid to the National Treasurer who shall keep the same in an Assurance Fund which may be invested in the manner and form authorized by law.

Subsequent Transactions on Registered Lands

In the original registration of title, the Court and the DENR confirms or adjudicates titles to land. After confirmation or adjudication, the decrees or patents that are issued are registered and an indefeasible Torrens titles are created for the first time. Thereafter, subsequent transactions or dealings on land are effected either voluntary by the parties through the execution of the

necessary instruments or deeds or involuntary, through the court when the property becomes liable for the satisfaction of a judgment against the owner or the State and through an eminent domain proceeding.

Voluntary transactions are contracts or agreements willfully executed by the landowners or his duly authorized representative, such as sales, leases, mortgages, donations, exchanges, trusts or variations thereof affecting real estate. Involuntary transactions, refers to those executed against the will or without the consent of the landowner contrary to his interest that will affect him/her adversely, such as attachments, levy on execution, adverse claim, lis pendens and other liens. Bank transactions on land are voluntary transactions occurring mostly by way of mortgage when land is used as collateral for loans. This guideline will discuss voluntary dealings on registered land since these are the most common transactions entered into by banks.

Requirements in the Registration of Voluntary Transactions on Registered Lands

Below are the essential requirements for the registration of voluntary transactions or dealings on registered lands. The Register of Deeds cannot transfer titles or register interest on registered lands if these requirements are not complied with by the parties.

1. Compliance with the essential requisites of a contract

- Consent — agreement or meeting of the minds of the parties to a contract;
- Object Certain — subject of the contract; within the commerce of man and lawful; and
- Cause — consideration; prestation, services, benefits, pure beneficence or liberality. The contract must be executed in the form of a public instrument.

2. Observance of the “Formal Requirements” of a public instrument

When the law requires that some contracts be in some form in order for it to be valid or enforceable, i.e. must be in writing (agreements in marriage, lease of more than one year, agency to sell real property, donations inter- vivos, etc.), all requisites must be present:

- Signed by the person/s executing the same;
- In the presence of two witnesses who shall likewise sign and acknowledge to be their free act and deed of the parties;
- Signed before a notary public or other public officer authorized by law to take acknowledgment. Documents executed in a foreign country should be acknowledged before a Philippine diplomatic or consular official. If acknowledged before a foreign notary public, it should be authenticated by the Philippine diplomatic or consular official before it can be registered;
- All pages of the deed must be signed;
- The documents presented shall contain the full name, nationality, residence and postal address of the grantee or other person acquiring or claiming interest; and
- The document must state marital status and name of wife/husband if married.

3. Submission of supporting documents for certain transactions before registration as provided by special laws

- Certified true copy of the Tax Declaration in transactions involving transfer of ownership;
- Certificate Authorizing Registration or Certificate of Exemption from the Bureau of Internal Revenue (BIR) in case of sale, exchange or other disposition of real property;
- Certification from the BIR that the documentary stamp tax has been paid;
- Certification from the LGU Treasurer that the property is not delinquent in the payment of real estate taxes in case of alienation, transfer or encumbrance of real property (Sec. 209, R.A. 7160, LGC 1991);
- Certification from the LGU Treasurer that the land transfer tax due on the transaction has been paid in case of sale, donation, barter or any other mode of transferring ownership or title of real property (Sec. 135, LGC 1991);

- Clearance from DAR and Affidavit of Total Landholdings by the vendee in case of sale of agricultural lands;
- An Order from the DAR Regional Director approving the sale in case the property sold is covered by an Emancipation Patent;
- Duly approved subdivision plan and its corresponding Technical Description where the property to be titled by virtue of the transaction is a resulting lot of a subdivision;
- Special Power of Attorney if the transaction is through an agent;
- Court Order if made through guardians or administrators; and
- For Corporations — Secretary’s Certificate or a copy of the Board Resolution authorizing the transaction (sale, purchase, exchange) designating the officer authorized to sign the deed.

4. Performance of the jurisdictional requisites for registration

- Entry of the document in the primary entry book;
- Payment of entry and registration fees; and
- Production of the owner’s duplicate of title.

Registration Procedure in Voluntary Registration

Below is the summary of the procedure in voluntary registration under the Torrens system.

1. Entry of the document in the primary entry or day book accompanied by all supporting documents applicable to the transaction

- All supporting documents applicable to the transaction should also be submitted together with the basic instruments.
- Section 56 of P.D. No. 1529 requires each Register of Deeds to keep a primary entry book where all instruments relating to registered land shall be entered in the order of their reception. Entry in the day book is the preliminary step in registration. The annotation of memorandum or the issuance of a new certificate of title is the

final step to accomplish registration. While the preliminary step and the final step may not be accomplished in the same day, this however, is of no consequence because if actual registration is accomplished, its effect retroacts to the date of entry in the day book. Thus, it has been held that when a sale is registered in the name of the purchase, registration takes effect on the date when the deed was noted in the entry book and not when final registration was accomplished.

- To be noted in this book is the date, hour and minute of reception of all instrument in the order they were received.

2. Payment of the entry and registration fee

- Upon entry of the document, the corresponding entry and registration fees should be paid.
- In default of payment, the entry in the primary entry book will ipso facto become null and void.

3. Surrender of the owner's duplicate certificate and all co-owner's duplicate if any had been issued.

- No voluntary instrument shall be registered by the Register of Deeds, unless the owner's duplicate certificate is presented with such instruments.
- Exception in cases expressly provided for in P.D. No. 1529 or upon order of the court, for cause shown.
- If co-owner's duplicate certificates have been issued, all outstanding certificates so issued shall be surrendered whenever the Register of Deeds shall register any subsequent voluntary transaction affecting the whole land or part thereof or any interest therein.

4. Examination of the document, certificate of title and supporting papers by the “deeds examiner”

- Registrability of an instrument is initially determined by the deeds examiner of the registry. If the document is found to comply with all requirements, the examiner recommends its registration to the Register of Deeds. Otherwise, he recommends denial of registration.
- The deeds examiner, on his own, is generally not allowed to register or deny registration.

5. Review by the Register of Deeds of the action taken by the “deeds examiner”

- The Register of Deeds is required to review the action taken by the deeds examiner as it is the Register’s mandate to approve or deny registration.
- He/She may adopt, alter, modify or reverse such action depending upon his own appraisal of registrability of the instrument filed for registration.

6. Registration of the document or denial of registration by the register of deeds

- If the Register of Deeds finds that the document presented complies with all the requisites for registration, it is his duty to immediately register the same.
- If the instrument is not registrable, he/she shall forthwith deny registration thereof and inform the presenter of such denial in writing, stating the ground or reason therefor, and advising him of his right to appeal by Consulta in accordance with Section 117 of P.D. No.1529.

7. Issuance of New Certificate of Titles

- In the conveyance of simple titles, such as in sales, donations, barter and other conveyances, the Register of Deeds shall make out in the registration book a new Certificate of Title to the grantee and

shall prepared and deliver to him as owner an owner's certificate, noting the original and owner's duplicate certificate the date of transfer, the volume and page of the registration book in which the new certificate is registered and a reference by number to the last preceding certificate. The original and owner's duplicate of the grantor's certificate shall be stamped "cancelled".

- Should there be subsisting encumbrance/s or annotation/s on the grantor's title, they shall be carried over and stated in the new certificate of title except so far as they may be simultaneously released or discharged.

8. Annotation of Interest on the certificate of title when the dealing is less than transfer of ownership

- In case the instrument does not divest the ownership or title from the owner or from the transferee of the registered owner, no new certificate of title shall be issued. The instrument creating such interests less than ownership shall be registered by a brief memorandum made and signed by the Register of Deeds upon the Certificate of Title.
- The cancellation or extinguishment of such interests shall be registered by a brief memorandum made and signed by the Register of Deeds upon the Certificate of the Title. The cancellation or extinguishment of such interests shall be registered in the same manner. In case the conveyance affects only a portion of the land described in the Certificate of Title, no new certificate shall also be issued until a plan of the land showing all the portions or lots into which it has been subdivided and the corresponding technical descriptions shall have been verified and approved. The instrument shall only be registered by annotation on the grantor's title and its owner's duplicate. Pending approval of the plan, no further registration or annotation of any subsequent deed or other voluntary instrument involving the unsegregated portion conveyed shall be affected, except where such unsegregated portion was purchase from the government or any of its instrumentalities.

Duties of the Registrar of Deeds

1. The office of the Registrar of Deeds constitutes a public repository of records of instruments affecting registered or unregistered lands and chattel mortgages in the province or city wherein such office is situated.
2. It is the duty of the Registrar of Deeds to immediately register an instrument presented for registration on dealing with real or personal property that complies with all the requisites for registration. If the instrument is not registrable, he/she shall immediately deny its registration in writing, stating the ground or reason and advising the presenter of his/her right to appeal (Consulta) such denial to the Administrator of the LRA.
3. Ministerial Duty — The function of the Registrar of Deeds with regards to registered and unregistered lands are ministerial. The Registrar must register the instruments that are presented for registration as long as it complies with the substantial and formal requirements for registration including payment of registration fees. Generally speaking, he/she should accept the qualification of the property adopted by the person who presented the instrument for registration and should place the instrument on record, upon payment of the proper fees, leaving the effects of registration to be determined by the court, if such questions should arise for legal determination.
4. The Registrar of Deeds should not look for defects in the rights of the parties in the transaction sought to be registered outside of the documents presented. He/She can only determine the registrability of an instrument presented for registration by what appears on its face. The Registrar of Deeds can only determine the nature, validity and legality of a document and the capacity of the parties in interest, only by what appears on its face. The duty of the Registrar is to see to it that a document presented for registration is regular and in due form, and when the document sought to be registered is sufficient in law and drawn up in accordance with the existing requirements. It becomes incumbent with the Registrar of Deeds to perform his ministerial duty without unnecessary delay. The Registrar of Deeds can only be restrained to act by proper injunction from the Court.

He/She has no authority to inquire into the intrinsic validity of a document based upon proofs alluende. Litigious matters are to be decided, and the appropriate relief granted, not by the Registrar of Deeds but by a court of competent jurisdiction.

5. The Registrar of Deeds has no discretion to deviate from the tenor of the instruments presented for registration. It is his/her ministerial duty to record, without any material alteration, such instruments as is by law entitled to be recorded. Registrars of Deeds are not guardians entrusted with watching over the private interests of contracting parties who are presumed to be fully capable of looking after their own affairs.

PART 1

V. Republic Act No. 10023 (Residential Free Patent Act)

The Residential Free Patent (RFP) Act is the latest law on public land disposition. The RFP Act was approved into law on March 9, 2010, authorizing the issuance of free patents on A and D lands zoned and used as residential. The law gives the DENR the mandate to adjudicate actually occupied, possessed and used but untitled residential A and D lands, through the more efficient and less costly administrative adjudication. The law also removes the restrictions on sale and transfers, as well as the right of repurchase that are included in the regular patents issued under the provisions of the Public Land Act (Commonwealth Act No. 141, 1936). The purpose of the removal of these restrictions is to enable owners of land under the RFP Act to use the land as a tool in accessing credit or capital.

The procedure in the application for RFP was also simplified by mandating the DENR to process the application within one hundred twenty (120) days. The new law creates an opportunity for banking institutions to convert unsecured loans that use unregistered lands (tax declarations) as collaterals to secure loans, by helping its clients to secure a residential free patent from the government.

Mode of Disposition

Residential Free Patent is a direct land grant from the State. The grant is given through a patent issued to qualified individuals provided that the conditions stated under the law are complied with, including period of occupation, classification, survey and zoning. The patent is issued after administrative adjudication process conducted by the DENR.

Coverage

RFP covers untitled public A and D lands that are zoned as residential by the local government. It also covers townsites, delisted and abandoned military camps or reservations, provided that the land is within a residential zone. An area limit has been placed under No. 10023 for the issuance of RFP. The maximum land area that can be issued under RFP is based on the schedule provided in Table 1 below.

Table No. 1 Area Limit of RFP per LGU type

LGU Category	Maximum Land area per RFP
Highly Urbanized Cities	200 square meters
Other Cities	500 square meters
1st and 2nd Class Municipalities	750 square meters
Other Municipalities (3rd, 4th, 5th and 6th)	1,000 square meters

Qualification and Conditions

1. Applicant's Personal Qualification

- Citizenship: The applicant must be a Filipino citizen. This includes dual and naturalised citizens;
- Possessory Requirements: The applicant must have continuously possessed and occupied the land through himself or through his predecessor in interest for at least ten (10) years; and
- Not a grantee of more than twelve (12) hectares of public land.

2. Condition of the Land Subject to the application

- Delineated and classified as A and D (NAMRIA/CENRO);
- Zoned as residential (LGU);

- Not needed for public use or public purpose (LGU);
- Surveyed (DENR); and
- No private interest or private rights recognisable by law (Regional Trial Court/Affidavits).

3. Public Land Application Requirements

- **Public Land Application Form**

An application form may be obtained from any DENR CENRO. It may also be downloaded from the DENR's website www.denr.gov.ph. The PLA form is free of charge and may be reproduced from the downloaded soft copies.

- **Approved Survey**

The land must have an approved survey before a patent is issued (C.A. No. 141, Sections 8, 107 and 108, R.A. No. 10023, Section 3). An applicant may inquire with the DENR CENRO regarding the survey status of the land subject of the application. The DENR land management officer or land inspector will know if the land is located in cities or municipalities with an approved cadastral or other large scale government survey. If the land is included in the surveyed area, survey records/documents may be requested from the DENR Regional Office Surveys Division. If the land is not included in the cadastral survey area, the applicant must secure a Survey Authority from the DENR CENRO to have his/her land survey.

- **Technical Description of the Land Applied For**

The technical description of the land applied for should be attached as part of the application as required under Section 3 of R.A. No. 10023. The technical description is included in the survey data produced by the survey of the land.

- **Affidavit of Two Disinterested Persons**

The affidavits of two (2) disinterested persons from the area where the land applied for is situated must be attached to the application form. The affidavit should state, among others, that the person executing the affidavit swears under oath by himself that he/she knows the applicant

to be the person in possession of the land being applied for and that the applicant is in possession thereof for the last ten (10) years or that the applicant's predecessors in interest has been possessing the land for ten (10) years or more. A disinterested person is a person who does not stand to gain should the patent be awarded to the applicant.

- **Certification that the Land is not Needed for Public Use**

A certification that the land applied for is not needed for public use can be obtained from the Municipal or City Planning and Development Office (MPDO/CPDO) where the land is situated and must be attached to the application form. Previously, such certification must be obtained by the applicants from the Department of Public Works and Highways to ascertain that the national government is not intending to use the land for some public use or purpose. However, R.A. No. 10023 only requires the LGU concurrence.

- **Certification that the Land Applied for is Zoned as Residential**

A certification that the land applied for is zoned as residential can be obtained from the MPDO/CPDO. Such certifications are mostly based on the approved zoning ordinance of the city or municipality. If an individual certification cannot be obtained, then a certified true copy of the zoning ordinance indicating that the land being applied for is within a zoned residential area will be sufficient.

- **Certification from the Court**

A certification that there is no filed, pending or decided land registration case and/or land conflict on the land may be required in areas where a cadastral proceeding has been previously filed by the government. This is intended to avoid issuance of patents on private lands that will result in double titling or issuance of another title on lands that has been previously disposed and registered by the government. This certification shall be obtained from the Regional Trial Court having jurisdiction of the area where the land being applied for is located.

Removal of Restrictions

Patents issued under R.A. No. 10023, upon registration in the Register of Deeds, can be immediately transferred or mortgage without the need for the usual five (5) year holding period of free patent and the five (5) year period for

repurchase. These restrictions on transfers apply only on free patents issued under the Public Land Act but not those issued under R.A. No. 10023.

Although exempted from the five (5) years prohibition on free patent conveyance under Section 6 of Rural Bank Act, rural banks still avoid patents as collateral because of the right of repurchase under Section 119 of the Public Land Act. This Section in effect extends the period of redemption from the usual one (1) year on regular titles to five (5) years in case of patents. The right of repurchase of patentees and their legal heirs unnecessarily prevents consolidation of ownership and affects the ability of the bank to disposed acquired assets within five (5) years as required by banking regulations. Section 5 of Republic Act No. 10023 removes these restrictions in order to make RFP a good instrument of landowners for use as collateral in accessing capital from banks and financial institutions.

VI. Land Investigation Process on Residential Free Patent Applications

The CENRO and PENRO Offices of the DENR administratively adjudicate residential lands to qualified claimants and applicants. This is done through the issuance of residential free patents on parcels of land that have been ascertained to have met the requirements set by R.A. No. 10023.

Just like any other public land application, the land investigation process on residential free patent application is undertaken at the CENRO. The responsibility to investigate lands applied for issuance of residential free patent is vested primarily to the Land Investigators/Inspectors, who conduct land investigation to determine whether a particular lot qualifies for residential land titling and that the applicant has satisfied the criteria for the grant of a residential free patent.

The investigation process involves identification of the land, verification of the applicant's claim, field verification and records verification.

Initial Examination of Public Land Applications

1. DENR Public Land Records Verification

Parcels of land covered by approved cadastral or isolated surveys should have verifiable records on file with the DENR field and regional offices. DENR records that can be used to verify new public land applications comprise of old public land application records or "carpeta", lot allocation book, patent books and survey records. Research/verification on these records may show the current status of the lots being applied for patent, whether the land has already been patented or whether there is an existing application or claim on the land applied for. Records verification is important to make an initial determination of the following:

- Whether a patent/title has already been issued on the subject lot;
- Whether the lot being applied for patent is not covered by existing public land application (If there is an application previously filed by an individual other than that of the present applicant, further verification is conducted and said old application must first be ordered rejected/ cancelled);
- Whether a Survey Authority has been previously issued on the lot being applied for;
- Whether there is a pending case on claims and conflicts or complaint affecting the disposition of the land; and
- Whether there is a pending administrative, civil or land registration case affecting the land applied for.

2. Verification of the Identity of the Land

A particular parcel of land, subject of investigation for residential free patent, must be identified categorically and with certainty using the documents, survey plans and proofs of ownership initially presented by the claimant/applicant and existing DENR survey records. Proper identification of lot is established upon showing that the parcel of land described in the documents submitted by

the applicant are consistent and matches up with the survey data of the DENR and the findings in the ocular inspection of the subject lot.

In identifying the lot subject of the application, it is important to assess and determine the following:

- Whether the land is within the A and D land of the public domain, meaning the lot being applied for residential free patent can be subject for disposition and eligible for titling in favor of private claimant/applicant;
- Whether there is an existing survey plan/cadastral map or sketch plan covering the land applied for patent (Lot area described in the survey plan should tally with the land area indicated in the tax declaration and the documents, and the same does not exceed the area limitation set forth by Residential Free Patent Act);
- Whether the identification of the land based on the Tax Declaration of the property is consistent with other survey documents (location of the land, boundaries, lot area and lot number if the land has been previously surveyed and/or the municipality/city has been cadastrally surveyed);
- Whether the lot being claimed for issuance of residential free patent covers an entire area of a cadastrally surveyed parcel of land, or a mere part or portion thereof (This fact is described and shown in the survey plan/cadastral map, the tax declaration and usually indicated in the supporting proofs of ownership submitted by the applicant);
- Whether the lot being applied for residential free patent is zoned as residential by the LGU;
- Whether the lot being applied for is within lands of the public domain that is designated for public use or public purpose; and
- Whether the lot being applied for residential free patent complies with the area limitation as prescribed by R.A. No. 10023.

3. Verification of the Applicant's Claim in the Public Land Application

The claims of the applicants regarding the land are all stated in the Public Land Application form that is provided by the DENR. The applicant generally must prove that he/she is qualified to receive a public land grant since he/she has complied with all the conditions stated under the Residential Free Patent Act. For an RFP application, it is important to examine the following:

- The citizenship of applicants with foreign sounding names to comply with the constitutional requirement on land ownership;
- The documents submitted by the applicant on the nature of his possession/ownership and how he/she acquired the land in order to determine if there are other possible claimants (Deed of Sale, Deed of Donation, etc.) to prove period of possession, lot identity, among others. It is important to check if the applicant is in actual occupation, actual residence, continuous possession and occupation of the land, either by himself or through his/her predecessor-in-interest, under a bonafide claim of ownership, for at least 10 years prior to the filing of the application;
- The predecessor-in-interest/original owner/occupant/survey claimant and determine tacking of possession, if applicable; and
- The applicant's possession of any survey plan previously approved in his/her name or that of his/her predecessor-in-interest. The approved subdivision survey plan is a basic requirement when the lot applied for is a subdivided portion of a mother lot/cadastral lot.

4. Field Verification

The DENR will not only rely on the documents submitted by the public land applicant to determine whether he/she is entitled to a Residential Free Patent or not. Field or Ocular inspection is a pre-requisite before a DENR land inspector submits his/her Land Investigation Report.

This report is the summary of findings on the land based on existing DENR records, certifications/documents from other agencies, applicant's claims and the field inspection/verification conducted. Field verification is intended to avoid fraud, misrepresentations or mistakes by applicants. There are instances where an applicant can fully substantiate his/her claim by official documents/

certifications but has no actual or lawful possession on the ground or his/her claim of ownership is not accepted by the community or that the land that he/she is claiming is wrongfully identified in the documents.

Field verification over the subject land is aimed at verifying:

- Actual occupation/possession;
- Whether the documents presented specifically pertains to the lot subject of the ocular inspection;
- Whether the land is affected by any case of claims and conflicts;
- Whether the lot applied for patent is owned by the applicant in its entirety or just a portion thereof; or whether there is a need to survey or subdivide the property;
- Whether the lot boundaries are properly established on the ground and as described in the available plan/map, the tax declaration and other documents presented;
- The actual use of the land and the improvements/structures thereon;
- Whether lot does not fall within an area subject of proclamation or reservation, or lands reserved for public use or purposes; and
- Whether lot applied for residential free patent is not within legal easements/salvage zone of rivers/ seas/waterways or established 'no-build' zones.

5. Processing of Public Land Application by the CENRO/PENRO

Evaluation of the RFP application (RFPA) at the CENRO/PENRO is basically aimed at examining the application and the supporting documents, as well as the completion of the requirements, to ensure that the land is technically qualified to be issued patent and the applicant deserves a grant of residential free patent in his/her name.

6. Technical Research and Verification

- Verifying the availability and correctness of the technical data of the land to be applied for (Cadastral Map, Technical Description);
- Checking of the boundaries; computation; checking if the polygon is closed; sketching of the parcel covered by the application;
- Ensuring that all information of the applicant and technical data of the lot are correctly typewritten / encoded in the judicial form;
- Ensuring that the Technical Description is duly certified correct and signed by the checker/verifier and the GE of the CENRO who is authorized to sign the judicial form;
- Categorically verifying that the land is indeed A and D, as per Land Classification Map and the required certification is issued by the FMS that the land is A and D.

7. Completion of Requirements for Residential Free Patent

- Examine submitted documents to ensure that the applicant is a qualified applicant for residential free patent;
- Accomplished application forms, duly subscribed by the assigned Land Investigator/Inspector;
- Pertinent affidavits of the witnesses in support of the applicant's claim and ownership of the residential lot, as well as any necessary sworn statement of the applicant are attached to the RFPA. R.A. No. 10023 requires the submission of affidavits of two (2) disinterested persons in support of the applicant's claim.
- Compliance with other requirements such as Community Tax Certificate, Clearance/Certification from the LGU/Municipal/City Planning and Development Office that the land is within an area zoned as residential.
- Ensure that the land applied for is issued clearance by the Court who has jurisdiction over the area and/or the LRA, if necessary.

After due verification and examination of the RFPA by the CENRO and PENRO, the approval of the application and issuance of the corresponding patent is granted, and the duly approved residential free patent is transmitted to the Register of Deeds for issuance and registration of the original certificate of title in the name of the applicant-patentee.

Time Frame

The DENR is mandated to conclude the land investigation process in 120 days and the approval process in five (5) days. The processing of the application is with the CENRO and the 120 days shall start from the submission of a completed application. Upon the favorable completion of the land investigation process and within the 120 day period, the CENRO shall transmit the Public Land Application to the PENRO. The PENRO has five (5) days to approve or disapprove the patent.

Fees and Costs

Below is an estimate of the fees and costs that an applicant may spend in the processing of the patent. These expenses are shouldered by the public land applicants and directly payable to the office concerned.

Table No. 2. Fees and Costs

Description	Provider	Fees (in Pesos) Loanable Amount
Application form fee	DENR CENRO	50.00
Documentary stamp tax	BIR issued/usually available in government offices	80.00 (20.00 each)
Cadastral Cost if the land is part of an approved cadastral survey project	DENR	20.00 per Muniment
Original survey of subdivision survey if land has not yet been surveyed or if surveyed a subdivision survey is needed	Private Geodetic Engineer	Cost may vary depending on the work involve (Estimated at 15,000 per lot)

Table No. 2. Fees and Costs (Continuation)

Description	Provider	Fees (in Pesos) Loanable Amount
Court Clearance that no pending land registration case or civil case over the land	Office of the Clerk of Court of the Regional Trial Court	50.00 - 100.00
Notarial fee for the Affidavit of two (2) disinterested persons	DENR Public Land Inspector or Notary Public	100.00 (if DENR - Free)
Certification fee for the Certificate that the land is zoned as residential	Municipal/City Planning and Development Office	50.00 - 500.00
Certification fee for the Certificate that the land is not needed for public purpose	Municipal/City Planning and Development Office	50.00 - 500.00
Tax Declarations	Municipal/City Assessor's Office	100.00 - 200.00 (certified copy)

DENR Field Offices

DENR field offices comprise of the Regional, Provincial and Community field offices. Public land applications are filed and processed at the DENR CENRO. The DENRO approves patents with an area of not more than five (5) hectares. Residential Free Patents are approved by the DENR DENRO by express provision of Republic Act No. 10023. Below is the list of DENR CENRO offices and the town/city in the province where it can be found.

Table No. 3. Location of DENR Regional Field Offices Nationwide

REGION	PROVINCE	LOCATION OF DENR CENRO
Cordillera Administrative Region	Abra	Bangued, Lagangilang
	Apayao	Calanasan, Conner, Luna
	Benguet	Baguio, Buguia, La Trinidad
	Ifugao	Alfonso Lista, Lamut
Cordillera Administrative Region	Kalinga	Pinukpuk, Tabuk
	Mt. Province	Paracelis, Sabangan
	6	14

Table No. 3. Location of DENR Regional Field Offices Nationwide (Continuation)

REGION	PROVINCE	LOCATION OF DENR CENRO
I Ilocos Region	Ilocos Norte	Bangui, Laoag City
	Ilocos Sur	Vigan, Tagudin
	La Union	San Fernando City
	Pangasinan	Urdaneta City, Dagupan City, Alaminos City
	4	8
II Cagayan Valley	Batanes	-
	Cagayan	Aparri, Alcala, Sanchez Mira, Solana, Tuguegarao
	Isabela	Cabagan, Palanan, Naguilian, Roxas, Cauayan, San Isidro
	Nueva Vizcaya	Aritao, Bayombong, Dupax
	Quirino	Diffun, Nagtipunan
	5	16
III Central Luzon	Aurora	Casiguran, Baler, Dingalan
	Bataan	Dinalupihan, Bagac
	Bulacan	Tabang, San Rafael
	Nueva Ecija	Cabanatuan, Talavera, Muñoz
	Pampanga	Arayat
	Tarlac	Tarlac City, Camiling
	Zambales	Olangapo, Botolan, Masinloc
	7	16
IV-A CALABARZON	Batangas	Batangas City, Calaca
	Cavite	Trece Martires City
	Laguna	Los Baños
	Quezon	Calauag, Catanauan, Gumaca, Pagbilao, Real
	Rizal	Antipolo City
	5	10

Table No. 3. Location of DENR Regional Field Offices Nationwide (Continuation)

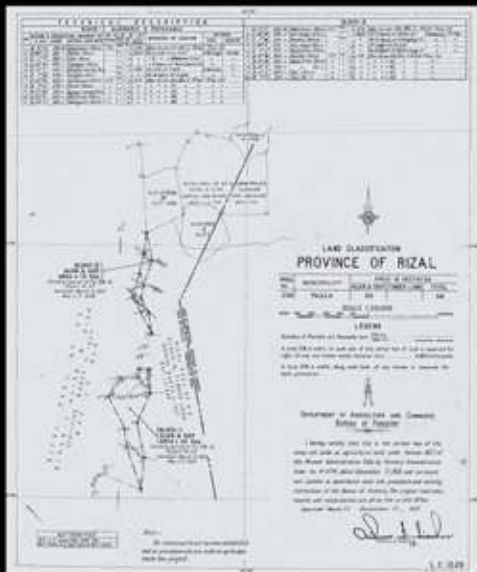
REGION	PROVINCE	LOCATION OF DENR CENRO
IV-B MIMAROPA	Oriental Mindoro	Calapan, Socorro, Roxas
	Occidental Mindoro	Mamburao, Sablayan, San Jose
	Marinduque	Boac
	Romblon	Odiangan
	Palawan	Pto. Princesa, Narra, Quezon, Brooke's Pt., Roxas, Taytay, Coron
	5	15
V Bicol	Camarines Norte	Daet
	Camarines Sur	Naga City, Iriga City, Goa, Sipocot
	Albay	Legazpi City,
		Guinobatan
	Sorsogon	Sorsogon
	Masbate	Mobo, San Jacinto
	Catanduanes	Virac
	6	11
VI Western Visayas	Aklan	Kalibo, Boracay
	Antique	San Jose, Culasi
	Capiz	Roxas City
	Iloilo	Iloilo City, Barotac Nuevo, Sara
	Guimaras	-
VI Western Visayas	Negros Occidental	Bacolod City, Cadiz City, Kabankalan City, Sipalay City
	6	12
VII Central Visayas	Cebu	Cebu City, Carmen, Argao, Toledo
	Bohol	Tagbilaran, Talibon
	Negros Oriental	Dumaguete, Ayungon
	Siquijor	-
	4	8

Table No. 3. Location of DENR Regional Field Offices Nationwide (Continuation)

REGION	PROVINCE	LOCATION OF DENR CENRO
VIII Eastern Visayas	Leyte	Palo, Albuera, Baybay
	Biliran	-
	Southern Leyte	Maasin, San Juan
	Samar	Catbalogan, Sta. Rita
	Eastern Samar	Borongan, Dolores
	Northern Samar	Catarman, Pambujan
	6	11
IX Zamboanga Peninsula	Zamboanga del Norte	Dapitan City, Dipolog City, Liloay, Siocon
	Zamboanga del Sur	Pagadian City, Guipos
	Zamboanga Sibugay	Buug, Ipil
	Zamboanga City – Interim	Zamboanga City - West, Zamboanga City - East
	4	10
X Northern Mindanao	Bukidnon	Talakag, Manolo Fortich, Malaybalay City
	Camiguin	Don Carlos, Pangantucan
	Lanao del Norte	Iligan City, Kolambugan
	Misamis Occidental	Oroquieta City, Ozamiz City
	Misamis Oriental	Initao, Gingoog City
	5	11
XI Davao	Mati, Davao Oriental	Mati, Baganga, Manay, Lupon
	Tagum, Davao del Norte	Tagum, Panabo
	Nabunturan, Compostela Valley	Nabunturan, Monkayo, Maco
	Digos, Davao del Sur	Digos, Malalag, Don Macelino, Davao City - East, Davao City - West
	4	14
XII SOCCSKSARGE N	Cotabato	Midsayap, Kidapawan City, Cotabato City

Table No. 3. Location of DENR Regional Field Offices Nationwide (Continuation)

REGION	PROVINCE	LOCATION OF DENR CENRO
XII SOCCSKSARGEN	Sultan Kudarat	Tacurong City, Kalamansig
	South Cotabato	Banga, General Santos City
	Sarangani	Gian, Kiamba
	4	9
XIII CARAGA	Agusan del Norte	Nasipit, Tubay
	Agusan del Sur	Bayugan, Talacogon, San Francisco, Loreto, Bunawan
	Surigao del Norte	Surigao City, Dapa, Dinagat
	Surigao del Sur	Bislig, Lianga, Tandag, Cantilan
	4	14
National Capital Region	Land Management Service - Regional Technical Director	
Total	76	179



An example of a Land Classification Maps (LC Map) of the DENR that show the delineation between alienable and disposable (A and D) lands and those that are not subject to disposition.



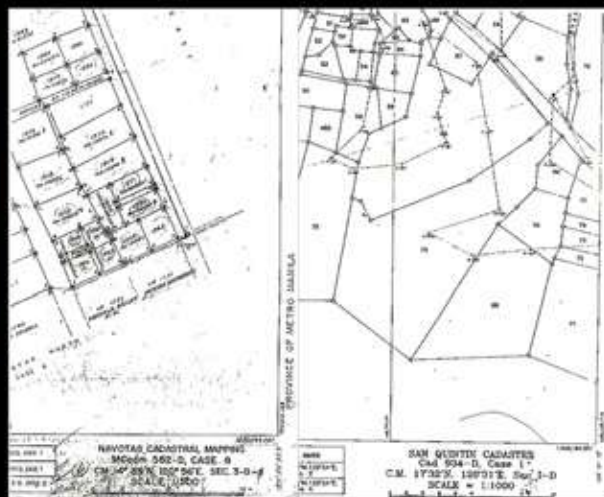
A control point is an accurately surveyed coordinate location for a physical feature that can be identified on the ground.



Cadastral surveys are conducted to determine the "metes and bounds" of all parcels within an entire municipality or city for land registration and other purposes



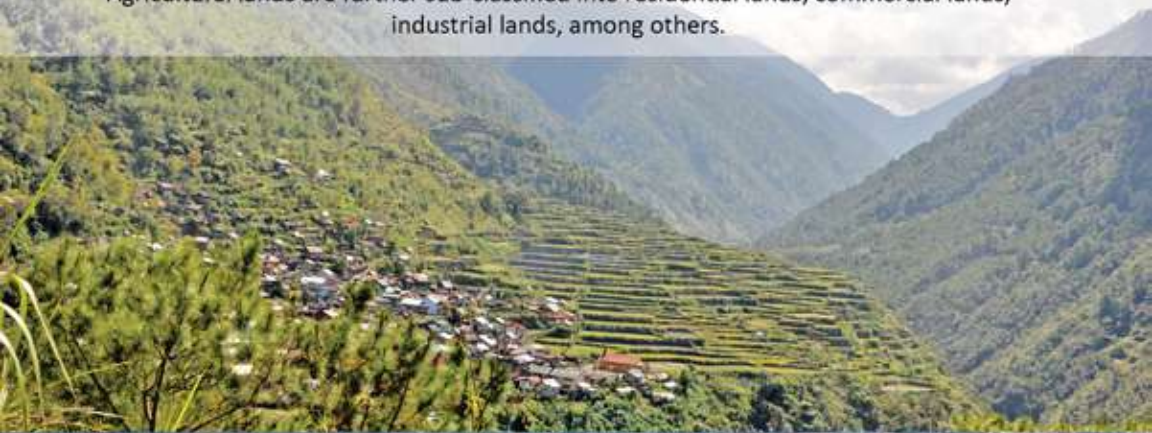
Sample of a reference marker where the point of beginning of the polygon of the land parcel is connected. The position of the lot is fixed in relation to this monument using bearing and distance. It is commonly called as the "tie point" of the lot.



These sample cadastral maps are generated by cadastral surveys executed by the DENR for purposes of land titling. It covers all parcels of an entire or large portion of municipality.



There are four (4) main land classification in the Philippines: 1) Agricultural Land; 2) Forest land; 3) Mineral Land and 4) National park. Only lands classified as agricultural land can be alienated and disposed to and acquired by citizens for private ownership. Agricultural lands are further sub-classified into residential lands, commercial lands, industrial lands, among others.

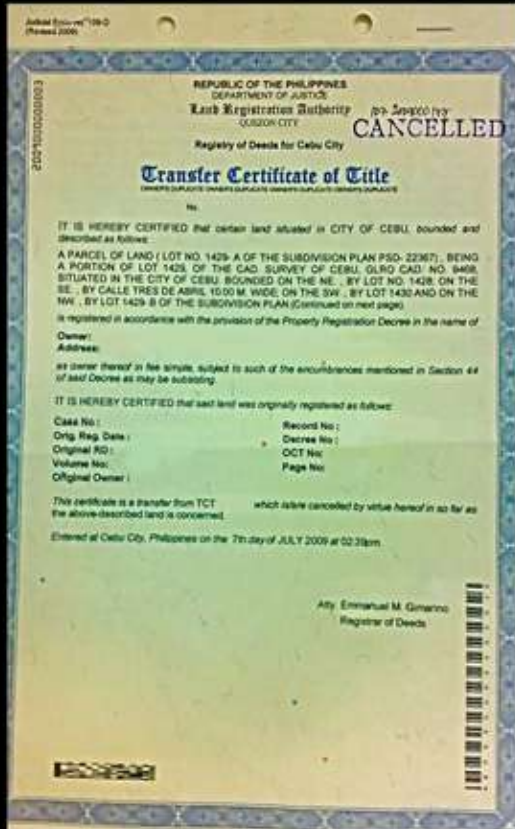




The approved and signed patents are transmitted by the DENR to the Register of Deeds of the province or city for registration. Titles are being issued by the Register of Deeds after payment of registration fees.

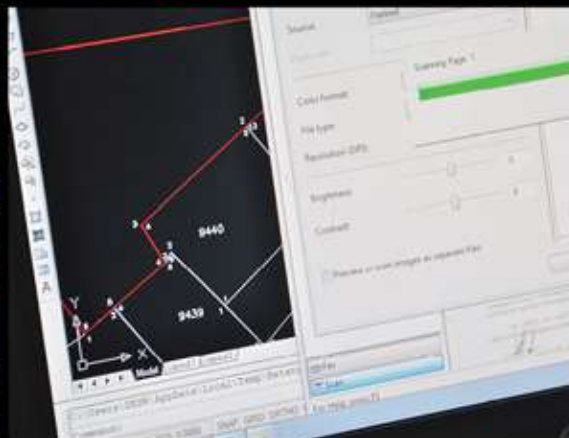


A title holder from Victoria, Laguna joyfully shows off her title after receiving it in a title distribution activity in 2012.



LRA recently launched the Voluntary Title Standardization Program which provides title owners the option to upgrade manually-issued titles to eTitles which are issued by LRA's new Computerized System.

Residential Free Patent under Republic Act No. 10023 is issued to Filipino citizens who are actual occupants of a residential land zoned as residential under a bona fide claim of ownership for 10 years.



The public land application folder also called "carpeta" contains all the records pertaining to public land applicants.

The DENR is now geared towards the computerization of its survey and public land application (PLA) records.

Signing of Partnership Agreements



Trainings Conducted for Rural/Thrift/Cooperative Banks,
LGUs and Cooperatives on Titling and Access to Credit



The resource speakers for the trainings/orientation workshops being conducted by COMPETE on the conversion of tax declarations into titles, land titling and access to credit



VII. Banks as Titling Agents

Not all lands in the Philippines are titled. It has been estimated that there are about twelve (12) million parcels that remain untitled. These untitled lands, however, are mostly occupied. Although there are no formal titles on the land, its occupants have acquired rights in the form of unconfirmed claim of ownership by operations of law.

This claim of ownership is usually supported by tax declarations issued by the local assessors. Tax declarations will show that the tax declarant has been paying real property taxes and has an ostensible title or claim of ownership on the land based on acquisitive possession. A chain of tax declarations may also show titles or chain of titles from the previous to the current taxpayers that may establish periods of possession or time holding and therefore ownership.

Banks usually allow clients to secure loans using these claims of informal ownership on land based on tax declarations because of lack of other acceptable collateral.

Loans secured by mortgages of untitled lands may be registered with the Register of Deeds but its registration does not carry with it the indefeasibility of titles guaranteed by the State under the Torrens system. Under Section 113 of P.D. No. 1529, the effect of the recordings of unregistered land is valid only as between the parties (between the bank and the mortgagor) and such recording made does not prejudice a third person with a better right.

Untitled Lands as Collateral

Loans may be granted by banks on the security of lands without a Torrens Title, where the owner can show five (5) years or more of peaceful, continuous and uninterrupted possession (Section 6 of the Rural Bank Act). This possession is usually evidenced by a tax declaration and a survey plan. Loans secured by tax declarations typically involve lower loanable amount and higher interest rate since it is considered as inferior collateral compared to a registered title. However, the lack of registered titles, especially in some rural areas, forces banks to accept tax declarations as collateral for loans. Also, present banking legislations require banks to mandatorily allocate 10% of its total loan portfolio to micro and small medium entrepreneurs (MSMEs). This sector, most of the time, is in the informal sector and does not possess adequate security like registered lands.

As a result, banks are exposed to greater risk when it accepts tax declarations as collateral due to the following reasons:

- Potential legal risk of third party claims;
- Potential boundary conflicts with adjacent owners;
- In case of default and eventual foreclosure, what the bank gets is only the ostensible ownership of the mortgagor and not the full title to the land; and
- Untitled lands in the bank's Real and Other Property Acquired are harder to dispose compared to registered lands.

Converting Tax Declarations to Residential Free Patents

The removal of restrictions on transfers and reconveyance makes it attractive for banks to convert tax declarations in its inventory to land patents using the simple administrative titling process. The mortgage executed prior to the titling by the now registered owner in favor of the bank can be annotated to the Certificate of Title once the RFP title is registered. Section 6 of the Rural Bank Act allows the annotation of previous mortgages on lands upon registration of newly issued patents. The bank will be better secured if a residential land covered only by tax declaration can be converted into RFP since a titled land is superior collateral compared to untitled land.

Also, this will be beneficial to the existing bank clients/borrowers because this will formalize their ownership on the land. In short, it is in the best interest of the banks to move untitled mortgaged land to titled mortgaged land. In the land administration paradigm (see Figure 4 below), banking institutions have the best incentive to move lands from Quadrant 3 to Quadrant 4.

Table No. 4. Credit–Title Quadrant

(1) Untitled Land Not mortgaged	(2) Titled Land Not mortgaged
(3) Untitled Land Mortgaged	(4) Titled Land Mortgaged

The registration of untitled lands used as collateral will help the banks by:

- Increasing the appraised value of the collateral and therefore possibly increasing the loanable amount that can be released to the borrower (the value of titled land is higher since the ownership and boundaries are certain);
- Development of new products/ programs that may attract borrowers who have no collateral other than untitled residential lands;
- Titled lands, when acquired by the banks as a result of foreclosure, are easier to dispose compared to untitled lands, thereby improving the banks liquidity and profitability;

- Providing facility/program for the bank to hasten the disposal of untitled lands from its inventory of acquired assets.

In order to achieve this, Banks may provide the following land titling services to its clients:

- Assist existing clients/borrowers, who use untitled residential lands (tax declarations) as collateral, in titling the land under R.A. No. 10023;
- Assist loan applicants in the registration of untitled residential lands under R.A. No. 10023 as part of the regular bank services; and
- Assist buyers of untitled lands acquired from the inventory of the bank's acquired assets.

Needs Assessment

Prior to engaging in the actual titling activities, a preliminary assessment may be conducted by the bank to assess if there is a real need for a titling program. This activity can be easily done by examining bank held collaterals and acquired assets. A good starting point may be an inventory to see if there are substantial mortgages or acquired assets that are covered only by tax declarations. The assessment will enable the bank to see if the lands in its area of operations are untitled/ untitled lands. Knowing the status of the land will make it easier for the bank to decide whether to engage in titling or not.

1. Indicators that the Lands in the Area of Operations of the Bank are Mostly Covered by Tax Declarations

The following are indicators that the land in a municipality/city are mostly untitled lands and covered only by tax declarations:

- No approved cadastral surveys or other large scale government surveys;
- No cadastral proceedings instituted by the government; and/or
- No large scale land titling programs instituted by the government.

A rapid inventory can be made, focusing on the location of the land mortgaged to the bank in relation to these indicators. (See Table No. 2) The bank's appraisers should know about the registration/survey status of the locality where the bank's mortgages are concentrated. However, to be more definite, a visit to the DENR's office may provide a bank with a list of these municipalities/cities where a cadastral survey project or a large scale title registration has been conducted.

Table No. 5 Sample Inventory

Municipality/ City	Number of Mortgages	With OCT/T CT	Cadastral Survey	Cadastral Proceedings
Santo Tomas	100	95	Cad No. 523-D	Yes
San Pascual	54	15	Cad. No. 987-D	No
San Isidro	21	3	Cad. No. 10012-D (Not Approved)	No
San Dionisio	5	0	Unsurveyed	No

Table No. 5 will show that the Municipality of Sto. Tomas has an approved cadastral survey and has undergone cadastral proceedings. This will mean that it is highly probable that most of the land parcels in that town are titled/registered lands and therefore the mortgages coming from the area are registered lands. The Municipality of San Pascual, on the other hand, has an approved Cadastral Survey but has no cadastral proceedings. This will mean that most of the mortgages in that area are probably untitled lands covered only by tax declaration. The two other municipalities have no approved survey. That may explain the low number of mortgages coming from this area since the banks may have rejected several mortgages as the client could not submit a survey plan that will identify their property with certainty.

If the profile of the area of operation of the bank is similar to the above table, it is very likely that most of the lands that its clients will present as collateral are untitled lands. Thus, it would be in the best interest of the bank to create a titling assistance service using residential free patents to its clients since its area of operation has substantial number of untitled lands.

2. Substantial Number of Tax Declarations in the Bank Inventory of Mortgages and Assets that will Qualify for RFP Titling

Banks can also make an internal inventory of acquired assets and mortgages from tax declarations to see if there is a necessity to introduce a titling program or titling assistance as part of its regular service. A cursory examination and inventory of the tax declarations used by clients, the survey plans, and other supporting documents submitted to the bank is sufficient to determine the number of tax declarations that may qualify under RFP.

Table No. 6 provides for a sample inventory containing preliminary data that can be easily gathered in the banks records. These data are important to determine whether the tax declarations that was mortgaged or acquired by the bank by foreclosure can be processed as residential free patents.

Table No. 6 Sample Tax Declaration Inventory for RFP

Owner	Mun/ City	Tax Dec No.	PIN No.	Lot No. (If Surveyed)	Area in sqm	Use as per Tax Dec	With Structure	
Juan	San Carlos/ 3rd Class	TD No. 12321	PIN- 01-23-34-001	Cad. Lot No. 654	200	Residential	House	✓
Lucita	San Juaquin/ 5th Class	TD No. 97979	PIN- 04-05-34-898	GSS 1221, Lot 4	500	Residential	House	✓
Maria	San Simon/ 3rd Class	TD No. 5429	No PIN	PSU 1123	300	Residential	House	✓
Pedro	San Simon/ 3rd Class	TD No. 99889	PIN- 01-24-35-233	Cad. Lot No. 937	30,000	Agricultural	No/Fruit Trees	X

All of the data in Table No. 6 can be secured using in-house documents submitted to the bank or through cursory Internet research (class of the municipality). The data regarding the use of land is indicative only of the actual zoning as per LGU land use plan. What is required under RFP is the zoning of the land as residential and this information cannot be extracted from a tax declaration. Said information can only be secured from the LGU Planning and Development Office.

All of the data fields under Table No. 6 can be used to determine whether the lands mortgaged can be covered by RFP.

- Municipality/Class — will show if the area of the land is within the allowable limit of the law (See Table No. 1 on the area limit of RFP per municipal/city class)
- Lot No. — will show if the land is surveyed or unsurveyed
- Area — will show if the land is within the allowable limit
- Use — indicative of zoning/for validation with the LGU
- Structure — will show if the owner has a residential house on the land; covered by a separate TD

Table 7 below provides a detailed step by step plan that the bank may follow in its inventory of untitled lands in its portfolio.

Table No. 7. Breakdown of Activities on Inventory

Activity	Procedure	Output
Inventory of Tax Declarations	In-house inventory of existing collaterals	Inventory list of all tax declarations used as collateral
Securing Survey Information from Tax Declarations	Check location and survey information of the land covered by the tax declarations	Location of the land (Municipality/Barangay) and survey plan number or cadastral survey lot number of the land
Securing Information on the land area from the tax declarations	Check the land area (estimated area) to see if it qualifies for R.A. No. 10023	Land area of the land

Table No. 7. Breakdown of Activities on Inventory (Continuation)

Activity	Procedure	Output
Securing Land Use Information from Tax Declarations	Check actual use of the land covered by the tax declaration; cross check other tax declarations submitted by the borrower to determine if there are residential/commercial structures existing on the land	Use of the land (agricultural, commercial, industrial, residential)
Meeting with DENR	Discuss with DENR the intention of the bank to title under RFP existing inventory of untitled lands; Request information on survey, application forms, requirements, etc.	Application form and checklist of requirements secured from DENR; Possible arrangements between Bank/DENR for survey information and RFPA discussed
Meeting with LGU	Discuss with LGU requirement for zoning certification	Possible arrangement to secure zoning certification by the bank discussed

Designing a Product

Assistance in the titling of land under RFP can be designed as a product or service of banks. Such service may be developed by the bank under the following:

- As part of loan application — if the client intends to use a tax declaration, the bank may assist the client in the titling as part/condition of the loan; a service fee may be assess by the bank;
- Conversion of existing tax declaration mortgages — the bank may assist existing clients in converting untitled residential lands to RFP; a service fee may be assess by the bank; and
- Sale of Acquired Assets — the bank may assist buyers of acquired

assets in the titling of the land; it may hasten the disposition of untitled lands that were acquired by the bank in foreclosure sales.

The bank should link/engage with the DENR and other government offices that issue documents/requirements needed in the processing of RFP in order to facilitate seamless processing of bank RFP assisted applications.

Table No. 8. List of Agencies Involved in RFP Titling

Government Agency	Role/Documents Issued
DENR	<p>DENR CENRO receives application and conducts land investigation of RFP. Processing of a complete application should be within 120 days. Approval of the PENRO is five (5) days to approve or disapprove the patent. In case of approval, patent shall be issued; in case of conflicting claims among different claimants, the parties may seek the proper judicial remedies.</p> <p>The DENR has data that can be used in the processing of the application. These data are in the form of Public land Record Applications, Land Classification Maps, Survey Data Sets, Maps and Plans, Narrative Descriptions, and Cadastral Maps.</p>
LGU Planning and Development Office	Issues the certificate that the land is zoned as residential. The zoning ordinance/land use map of the City/Municipality from which this certification is derived is available from this office. It also issues the certificate that the land is not needed for public service or public use.
Local Assessor's Office	Tax declarations are issued by this office. Tax maps that can be used in the verification of the land are also available from the Assessor's Office.
Clerk of Court - RTC	Issues the clearance indicating that the land being applied for is not the subject of judicial titling or any judicial process that can affect administrative adjudication.

The bank may utilise existing personnel in this new service. The procedure and process in RFPA is simple and is not complicated. The documents that

are needed in RFPA are similar to what the bank requires in loan applications. The expertise in handling these types of documents are already with the bank. Below is a summary of the list of documents that must be prepared by applicants for RFP.

- 1. Application form** — No request for RFP will be entertained if there is no application for land title. The form can be obtained from the DENR CENRO for free. It may also be downloaded from the DENR website. Banks may reproduce the forms.
- 2. Affidavit of two (2) disinterested persons** — this requirement is specifically mentioned in R.A. No. 10023. The affiants must be a resident in the barangay of the city or municipality where the land is located. They must attest to the truth of the facts contained in the application to the effect that the applicant, either by himself or through his predecessor-in-interest, actually resides on and continuously possesses and occupies, under a bona fide claim of acquisition of ownership, the land applied for at least ten (10) years and has complied with the requirements prescribed in Section 1 of the law i.e. The applicant is a Filipino citizen and an actual occupant of the residential land that is not needed for public service and/or public use for such maximum of areas described hereunder.
- 3. Survey plan (cadastral survey, subdivision plan)** — pertains to the survey and technical description of the land subject of the application. The technical description can be obtained in the cadastral survey from the records of the DENR's Land Management Services located in each region. It must be noted that the applicant need not personally go to the DENR to have a copy of the technical description of the land. The information on the technical description will be provided by the DENR's CENRO once the application for land titling has been accepted by CENRO.
- 4. Zoning Certificate** — the land use requirement of the law is based on the use of the land as classified by the City/Municipal Planning Officer. The classification described herein is not the classification made by the LGU's Assessor, which is dependent on actual use of the land for real property taxation purposes. In other words, the applicant must secure the certification not from the Assessor's Office but with the Planning Officer. The Certificate should state that the land being applied for is within a residential or a mixed-use zone.

5. **Latest Tax Declarations (proof of possession)** — the tax declaration is not mentioned either in the law or its implementing rules as one of the requirements in the application for residential land title. However, this is needed for land assessment purposes as described above and thus, put it in the same category as in the other mandatory requirements. As earlier discussed, the controlling factor to be entitled for residential free patent title is the classification made by the planning office of the LGU and not by the Assessor's office. Tax declaration will also be needed for BIR clearance upon registration of the title in the Register of Deeds.
 - Deed of conveyance — whenever applicable, any deed evidencing transfer of possession of the land must be presented as an attachment to the application if it appears that the person applying for land title is not the same person appearing in the latest tax declaration or list of claimants in the CENRO. It may happen that there were already transfers made, but, were not reflected in the tax declaration. Such deed may be in the form of sale, donation, extra-judicial settlement, will, assignment, etc.
 - Proof of filiation — if one claiming transfer is through extra-judicial settlement or last will and testament, the applicant must produce a birth certificate or marriage contract, as the case maybe, to establish his/her blood relationship with the declared claimant in the tax declaration.
6. **Court clearance** — the clearance will indicate that the land subject of the application is not subject of judicial titling. This is to avoid double titling over the same land. The clearance can be obtained from the Municipal Trial Court if the value of the land is not more than Php 100,000.00 or from the Regional Trial Court if exceeding this value.
7. **Certificate that the land is not needed for public service/public use**— the LGU Planning and Development Office shall issue a certificate indicating that the land parcel being applied for is not needed by the government for any public service or public use and therefore available for adjudication to private persons.

Land Titling Program of Lipa Bank, Inc.

Innovation, synergy and cooperation to promote property rights are the foundation of the business model developed by the Lipa Bank Inc., in partnership with the United States Agency for International Development (USAID), The Asia Foundation (TAF), Foundation for Economic Freedom (FEF), and the Department of Environment and Natural Resources (DENR). Lipa Bank Inc. is the first bank to imbibe and realize the value of residential free patents (RFP) in the banking business.

The program started when FEF conducted a training orientation on RFP with the Chamber of Thrift Banks in 2010. The training captured the interest of Mr. Johnson Melo, Vice President of the Lipa Bank, Inc. He saw the potential of RFP as one of the bank products they can explore to expand the business of rural banks.

Brief History of Lipa Bank, Inc.

Lipa Bank Inc. is a domestic – stock corporation located at T.M. Kalaw Street in Lipa City, Batangas. The bank's history is as rich as its innovative ideas to be at the forefront of development. Before the bank was converted into a rural bank in 2004, it was the country's first private development bank established in 1959.

Lipa Bank Inc. came from the Olaguivel and Morada clans, one of Lipa's pioneering business families, who also established Lipa Electric Company after the war. Using power generators, Lipa Electric lighted the city. Like the light that illuminated the dark post-war nights, the bank gave hope to the enterprising Lipeños to start their own business. The loans they took were translated into businesses which eventually grew and prospered (see Lipa Bank website, <http://www.lipabank.com/company>).

The bank is helmed by a very passionate and visionary president, Mr. Virgilio Morada and alongside his visionary leadership is Mr. Johnson Melo. Mr. Melo has been very instrumental in bringing the potential of RFP in the landscape of banking. Consistent with the vision of the FEF to empower citizens through secure and well- defined property rights, Lipa Bank Inc. executives also have the vision to boost the entrepreneurial spirit of local businessmen by expanding their business ventures that will create jobs for their communities.

Operational Requirements in Converting Banks into Titling Centers

In a very competitive industry such as banking, Lipa Bank's experience emphasized the need to adapt to various industry changes and trends. The challenge is to look for valuable opportunities to secure the future of its banking business—similar to how Lipa Bank saw the potential of including RFP into their line of bank products. The basic requirement that made the program successful was the innovativeness of Lipa Bank in seeing the potential of RFP titling. In sum, there are four (4) essential requirements that operationalized the RFP titling service in Lipa bank. These are: 1) partnership; 2) bank resource; 3) development of checklist and; 4) mobilization.

Establishing Strategic Partnerships

Following the Lipa Bank experience, it is important to note that a strong collaboration with important partners is essential in setting up the added service of RFP titling. What served as the springboard to add the titling services in Lipa Bank is through its established ties with DENR and relevant organizations like FEF. These organizations provided the necessary technical assistance to the bank.

Table No. 9. Lipa Bank's key partners in setting up the residential free patent titling service

IMPORTANT PARTNERS	COOPERATION REQUIREMENT
DENR LGU Assessors' Office LGU Planning Office Court-RTC/ MTC	Establish ties with DENR as it is the agency mandated to release land titles. Enter into a Memorandum of Understanding (MOU) with DENR and other important partners listed. Forge ties with local Bank Federations to facilitate a consolidated partnership with local DENR. Establish an express lane for bank clients in local DENR.

Resource Allocation

Aside from establishing strategic partnerships with concerned agencies and organizations, it is also important to ensure that internal resources are adequate

to support this additional service. The Lipa Bank experience was made cost-efficient because the bank utilized their existing resources to process RFP services. They came up with information materials such as brochures to ensure that information related to RFP are properly disseminated.

The Bank trained their staff and helped them become familiarized with the requirements and processes of RFP land titling. Aside from this, the Bank also ensured utmost customer service from their staff especially in responding to queries regarding this new service. Currently, the bank has a pool of experts in its main branch.

Aside from gathering new clients interested in titling, the bank also made an inventory of its current portfolio. Upon its initial inventory, Lipa Bank discovered that there are more than 25 clients¹ who secured a loan using only tax declarations. This piece of information prompted Lipa Bank to encourage these clients to avail of its titling service. To get the buy-in of the client, the bank explained how titling will increase the value of their property. As an estimate, titling of property will increase loan value from 25% to 70%. Currently, Lipa Bank has successfully released ten (10) RFPs to its clients.

Table No. 10. Resource requirement of Lipa Bank and initial activities done to incorporate titling service in its banking process

BANK RESOURCE REQUIREMENT	ACTIVITIES DONE BY LIPA BANK
1. Loan Officer	Revisited clients that offered tax declarations as loan collateral.
2. Credit investigator	Secured the approval of existing clients to convert the tax declarations into a residential free patent.
3. Office supplies	Secured the authority of client for the bank to act as agent in processing the title.
4. Marketing officers	Developed information and education campaign (IEC) materials to attract new clients to secure titling through the bank.

¹Based on the survey conducted by Lipa Bank Inc.

Developing a Requirement Checklist

After knowing potential business opportunities and the required inventory to set up the bank as a titling center, it is important to capacitate bank personnel in the process. Lipa Bank ensured that the process and the requirements are followed and understandable, hence the need for a checklist.

In processing the RFP, several mandatory and optional requirements should be submitted to DENR. For easier reference, the checklist is as follows:

MANDATORY REQUIREMENTS

REQUIREMENTS	WHERE TO GET	CONTENTS
Affidavit of two (2) disinterested persons	From the area where the land applied for is situated. (Preferably barangay officials)	This affidavit should state among others that the person executing the affidavit swears under oath, that he knows the applicant to be the person in the possession of the land being applied for and that the applicant is in possession thereof for the last 10 years or that the applicant's predecessors in interest has been possessing the land for 10 years or more.
Certification that the land applied for is not needed for public use and that the land applied for is within the residential zone	Concerned LGU Planning and Development Office	The certification should state that the land applied for is not needed for public use and is within the residential zone. The LGU may provide for an individual certification or a mass certification over an entire area or zone.

MANDATORY REQUIREMENTS (Continuation)

REQUIREMENTS	WHERE TO GET	CONTENTS
Survey Plan (Cadastral survey, subdivision plan)	If the land being applied for has been the subject of a previous cadastral survey, then a copy of the approved survey may be requested from the LGU Environment and Natural Resources Office (ENRO) or the Regional Office of the DENR.	Survey data and technical description of the land
Latest tax declarations	LGU assessors officer	Description of the land and the name of the applicant. This will serve as proof of possession of the applicant.
Application form	Any LGU ENRO/ DENR office. You may also download this from the DENR website. (www.denr.gov.ph)	Accomplished data of the client that will apply for patent
Court clearance	Regional Trial Court, Metropolitan Trial Court	The certification should prove that the land applied for is not involved in any controversy or action in court on titling or ownership. However, if the land being applied for is part of a mass titling project or is in a systematic adjudication area, then this certification can be dispensed.

OPTIONAL
**(Not necessary requirements but can be asked for
 secondary or verification purposes)**

REQUIREMENTS	WHERE TO GET	CONTENTS
Deed of conveyance (sale, donation, extra-judicial settlement)	Client	Should indicate the manner how the land was transferred to the client
Proof of filiation (birth certificate or marriage contract)	Client	Should show that the applicant/client is a Filipino Citizen

Mobilizing the Titling Service

To obtain new clients, mobilization training was organized by the bank in partnership with DENR and FEF. This also served as a marketing tool to launch Lipa Bank's RFP titling service, "Lupa Mo, Isigurado Magpatitulo". Before launching the new service to the whole province of Batangas, the Bank ensured that their manpower are prepared and their IEC materials adequate.

The Bank has eight (8) branches in Batangas and one (1) in Quezon. Separate mobilization trainings were organized in municipalities in Batangas where branches of the bank are located. The mobilization training was organized in the municipalities of Ibaan, San Juan, San Jose, Rosario, Taysan and Cuenca in 2012-2014.

The mobilization was a success particularly in Ibaan as the number of clients inquiring for the titling services has significantly increased in the said branch.

Opportunities and challenges

A feasibility study was also conducted by the Bank to determine if the RFP service will be sustainable and profitable in the long run. One of the more important findings of the program shows that banks can earn in two (2) levels; first, as agents that processes the title of the land (by charging facilitation and administrative cost) and second, as a lender processing RFP.

Table No. 11. Sample cost breakdown of Lipa Bank, Inc.

DOCUMENTS/ SERVICE	DESCRIPTION	FEES (IN PESOS)
Application form	Application fee	50.00
Documentary stamp	4 pieces	80.00 (20.00 each)
Cadastral survey	Lot data computation	
Subdivision survey, if needed	Subdivision survey plan with technical description	3,000.00 - 4,000.00 per lot
Court clearance	No pending case involve over the subject land	50.00 - 100.00
Affidavit of disinterested persons	Notarial fee	100.00 (if DENR - Free)
Certificate of land use	Land use classification	50.00 - 500.00
Tax Declarations	Proof of possession	100.00 - 200.00 (certified copy)
Processing fee	Administrative Cost	5,000.00 - 10,000.00
Deed of conveyance		Charged to the client
Proof of filiation		Charged to the client
Loan interest/ charges	Loan exposure	–
Return of investment		–
Total	Total of maximum amount (not included the interest, ROI)	15,030.00

However, there are several emerging issues that the Bank has to consider. In particular, the Bank has to contend with ensuing competition from companies and/or individuals offering the same titling service. The willingness of clients in titling their properties is also a challenge. Currently, only clients who have the capacity to pay and those clients who have the intention to secure a loan or to sell their property are availing the titling service.

Given this, Lipa Bank is already gearing towards product development. The Bank is now positioning itself to create the demand for clients to have their properties titled and by using the same for their consumption needs that is in line with the economic development of the community.

Lessons Learned and Way Forward

The added service of Lipa Bank, Inc. provided a mechanism to move the dead capital by helping land owners legitimize their ownership. It is important to note that the experience of Lipa Bank Inc. is replicable in a sense that it has a small capital requirement coupled with a wider impact. In addition, it will help banks meet the challenges in improving its loan portfolio and profitability. This service will also allow them to recover bad debts which apparently decrease the capitalization of banks today.

By embracing the titling service of RFPs, Lipa Bank realized its bigger role in helping its clients and the community through developing products that will be beneficial in enhancing local economic activity.

The Bank's openness to innovation helped empower the people through property rights. Their position as a rural bank helped them develop more flexible policies supportive of RFP than larger commercial banks.

The whole experience does not limit Lipa Bank to only developing schemes and by-products. For them, there is a constant need to continuously conduct environmental scanning. They will also have to continue studying the market and keeping abreast with the trends in their locality. These are the key elements in order to provide a more comprehensive, up-to-date, and effective services to their growing clientele.

APPENDICES

APPENDIX A

Republic of the Philippines
Congress of the Philippines
Metro Manila
Fourteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-seventh day of July, two thousand nine.

REPUBLIC ACT NO. 10023

AN ACT AUTHORIZING THE ISSUANCE OF FREE PATENTS TO RESIDENTIAL LANDS

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Qualifications.*—Any Filipino citizen who is an actual occupant of a residential land may apply for a Free Patent Title under this Act: *Provided*, That in highly urbanized cities, the land should not exceed two hundred (200) square meters; in other cities, it should not exceed five hundred (500) square meters; in first class and second class municipalities, it should not exceed seven hundred fifty (750) square meters; and in all other municipalities, it should not exceed one thousand (1,000) square meters: *Provided, further*, That the land applied for is not needed for public service and/or public use.

SEC. 2. *Coverage.*—This Act shall cover all lands that are zoned as residential areas, including townsites as defined under the Public Land Act: *Provided*, That none of the provisions of Presidential Decree No. 705 shall be violated.

Zoned residential areas located inside delisted military reservation or abandoned military camp, and those of local government units (LGUs) or townsites which preceded Republic Act No. 7586 or the National Integrated Protected Areas System (NIPAS) law, shall also be covered by this Act.

SEC. 3. *Application.*—The application on the land applied for shall be supported by a map based on an actual survey conducted by a licensed geodetic engineer and approved by the Department of Environment and Natural Resources (DENR) and a technical description of the land applied for together with supporting affidavit of two (2) disinterested persons who are 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 land applied for at least ten (10) years and has complied with the requirements prescribed in Section 1 hereof.

SEC. 4. *Special Patents.*—Notwithstanding any provision of law to the contrary and subject to private rights, if any, public land actually occupied and used for public schools, municipal halls, public plazas or parks and other government institutions for public use or purpose may be issued special patents under the name

of the national agency or LGU concerned: *Provided*, That all lands titled under this section shall not be disposed of unless sanctioned by Congress if owned by the national agency, or sanctioned by the sanggunian concerned through an approved ordinance if owned by the LGU.

SEC. 5. *Removal of Restrictions.*—The restrictions regarding encumbrances, conveyances, transfers or dispositions imposed in Sections 118, 119, 121, 122 and 123 of Chapter XIII, Title VI of Commonwealth Act No. 141, as amended, shall not apply to patents issued under this Act.

SEC. 6. *Period for Application.*—All applications shall be filed immediately after the effectivity of this Act before the Community Environment and Natural Resources Office (CENRO) of the DENR. The CENRO is mandated to process the application within one hundred and twenty (120) days to include compliance with the required notices and other legal requirements, and forward his recommendation to the Provincial Environment and Natural Resources Office (PENRO), who shall have five (5) days to approve or disapprove the patent. In case of approval, patent shall be issued; in case of conflicting claims among different claimants, the parties may seek the proper judicial remedies.

SEC. 7. *Implementing Rules and Regulations.*—The Director of the Land Management Bureau of the Department of Environment and Natural Resources (DENR) shall promulgate rules and regulations to carry out the provisions of this Act, and shall see to it that such are gender responsive.

SEC. 8. *Repealing Clause.*—All laws, decrees, executive orders, executive issuances or letters of instruction, rules and regulations or any part thereof inconsistent with or contrary to the provisions of this Act are hereby deemed repealed, amended or modified accordingly.

SEC. 9. *Separability Clause.*—If, for any reason or reasons, any part or parts of this Act shall be declared unconstitutional or invalid by any competent court, other parts or provisions thereof not affected thereby shall continue to be in full force and effect.

SEC. 10. *Effectivity Clause.*—This Act shall take effect fifteen (15) days after its publication in two (2) national newspapers of general circulation.

APPENDIX B



Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City
Tel. Nos. 929-6626 to 29; 929-6633 to 35
926-7041 to 43; 929-6252; 929-1669
Website: <http://www.denr.gov.ph> /
E-mail: web@denrgov.ph

MAY 31, 2010

DENR Memorandum Circular
No. 2010-11

**SUBJECT : PRESCRIBING THE FORMS FOR THE
PROCESSING OF RESIDENTIAL FREE
PATENT APPLICATIONS UNDER R.A.
10023 AS IMPLEMENTED BY DENR
ADMINISTRATIVE ORDER NO. 2010-
12 DATED 5 MAY 2010**

In the interest of the service and pursuant to the provisions of Republic Act No. 10023, otherwise known as "An Act Authorizing the Issuance of Free Patents to Residential Lands," as implemented by DENR Administrative Order No. 2010-12 dated 05 May 2010, the following forms are hereby adopted and shall be used in the processing of residential free patent applications.

- A. For Residential Free Patent Applicants:
1. Application Form

2. Checklist of Requirements for Applicants
 3. Affidavit of Disinterested Person
- B. For DENR-CENRO
1. Checklist of Documents
 2. Notice of Application
 3. Certificate of Posting of Notice of Application
 4. Investigation and Ocular Inspection Report Form
 5. Order of Issuance of Free Patent

These forms are strictly not for sale and may be photocopied or reproduced.

This Circular takes effect immediately.

Republic of the Philippines
Department of Environment and Natural Resources
Community Environment and Natural Resources Office

APPLICATION FOR RESIDENTIAL FREE PATENT

Application No: ___ Entry No.: ___

Name _____ of Applicant: _____

_____ Address: _____

_____ Citizenship: _____ Civil

Status: ___ Age: _____ If minor, name of

legal guardian _____ Date of Birth: _____

_____ Place of Birth: _____

Location of residential land applied for ___

Lot No.: _____ Pls: _____

Land Area: _____ Cad.: _____

Applicant's predecessor-in-interest (if any): _____

Date of entry by applicant or predecessor-in-interest upon the residential land applied for: (on or about) _____

I declare, under the penalties of perjury, that my total land holdings are not more than 12 hectares and that this application has been made in good faith and to the best of my knowledge all information contained herein are true and correct.

Applicant's Name and Signature

SUBSCRIBED AND SWORN TO before me this _____ day of _____ at _____.

Officer Authorized to Administer Oath

This form is not for sale

This form must be accomplished in five (5) copies.

Republic of the Philippines
Department of Environment and Natural Resources
Community Environment and Natural Resources Office

**CHECKLIST OF DOCUMENTS FOR THE
APPLICATION FOR RESIDENTIAL FREE
PATENT
FOR APPLICANTS**

- Application Form
- Copy of DENR approved plan
- Copy of Technical Description
- Simplified Sketch
- Two (2) affidavits of disinterested persons
- Certification of no pending land registration proceedings covering the land applied for from the Regional Trial Court (for isolated applications)

REPUBLIC OF THE PHILIPPINES)
PROVINCE OF) S.S.
MUNICIPALITY/CITY OF)

**AFFIDAVIT
(IN SUPPORT OF RESIDENTIAL FREE
PATENT APPLICATION)**

I, _____ Filipino, single/married, of legal age and a resident of _____ after having been duly sworn to, do hereby depose and state:

1. That I personally know _____ who has filed an application for residential free patent over a piece of land located at _____;
2. That I am an actual resident of Barangay _____ of the City/Municipality of _____ and that I know the land applied for very well;
3. That I personally know that the said applicant or his/her predecessors-in-interest has 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 by himself or through his predecessors-in-interest.
4. That I am not related to the applicant either by consanguinity or affinity and not, in any way, interested in the residential land applied for or in the granting of a residential free patent; and

5. That to the best of my knowledge, belief and information, he has the qualifications to apply for a residential free patent under R.A. 10023.

IN WITNESS WHEREOF, I have hereunto set my hand this _____ day of _____ in the place above first written.

Affiant

CTC NO. _____

Issued on _____ at _____

SUBSCRIBED AND SWORN TO before me on the date and place stated above.

Officer Authorized to
Administer Oath

Republic of the Philippines
Department of Environment and Natural Resources
Community Environment and Natural Resources Office

**CHECKLIST OF DOCUMENTS AND
CERTIFICATIONS
FOR THE APPLICATION FOR RESIDENTIAL FREE
PATENT**

FOR CENRO PERSONNEL FOR APPROVAL OF
APPLICATION and TRANSMITTAL TO PENRO

- Application Form with complete attachments
- Certification that the land applied for is classified as agricultural (alienable and disposable)
- Certification that the land applied for is not needed for public use or purpose from the LGU Planning and Development Office
- LGU zoning ordinance showing that the land subject of the application is zoned as residential area
- Certificate of posting of Notice of Application
- Investigation and Ocular Inspection Report
- Order of issuance of residential free patent
- Accomplished Judicial Form
- Transmittal letter to PENRO

Republic of the Philippines
Department of Environment and Natural Resources
Community Environment and Natural Resources Office

**NOTICE OF APPLICATION FOR
RESIDENTIAL FREE PATENT**

Notice is hereby given that _____
has filed with the office of the CENR Officer an
application under the provisions of Republic Act No.
10023 or "An Act Authorizing the Issuance of Free
Patents to Residential Lands" for a Residential Free
Patent over a parcel of land situated in _____
_____ and
more particularly described as follows:

Containing an area of _____.

Community Environment and
Natural Resources Officer

Republic of the Philippines
Department of Environment and Natural Resources
Community Environment and Natural Resources Office

**CERTIFICATE OF POSTING OF NOTICE OF
APPLICATION FOR RESIDENTIAL FREE
PATENT**

This is to certify that the 15-day posting requirement for the application for residential free patent under R.A 10023 of _____ covering a parcel of land identified as _____, located in, _____ has been completed on _____.

Posting date: _____ to _____
Posted at: _____ and _____

Community Environment and
Natural Resources Officer

Republic of the Philippines
Department of Environment and Natural Resources
Community Environment and Natural Resources Office

INVESTIGATION AND OCULAR INSPECTION REPORT

_____ Date

This is to certify that on _____ I was
on and examined the residential land applied for
by
_____ under Residential Free Patent
Application No. ___, situated at _____.

Findings:

1. The applicant is a Filipino Citizen/Dual Citizen
_____.
2. The land applied for is within an agricultural
area as per LC Map _____
3. The land applied for is not needed for public
use or purpose.
4. The land applied for is within a residential
zone as approved by Zoning Ordinance No.
_____ by the Sangguniang
_____ of _____.
5. The applicant or his/her predecessor in
interest has 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 prior to the filing of the application, by himself or through his predecessors-in-interest.

6. The applicant or his/her predecessor-in-interest entered upon the residential land applied for on or about _____
_____.
7. The applicant is not the owner of more than twelve (12) hectares of land.
8. The sketch of the land applied for is produced at the back hereof showing the boundaries.
9. The applicant possesses all the qualifications and none of the disqualifications provided for under the provisions of R.A. 10023.
10. REMARKS: _____

In view of the following findings, it has been satisfactorily proven by the applicant that he/she is qualified for the grant of residential free patent under R.A. 10023. It is my recommendation that the applicant be granted a residential free patent.

SI/LMI/DPLI

Republic of the Philippines
Department of Environment and Natural Resources
Community Environment and Natural Resources Office

**ORDER: ISSUANCE OF
RESIDENTIAL FREE PATENT**

It appearing that in an investigation conducted by the Land Investigator/Inspector whose report was duly submitted, and the records of the application duly endorsed by the CENRO, it has been ascertained that the applicant, Mr/Ms _____ over a parcel of residential land situated at _____ under _____ Residential Free Patent Application No. _____ has all the necessary qualifications as required by R.A. 10023 for a grant of a residential free patent and that the necessary notices has been posted, and that no other person has proved a better right to the land subject of the application. It is **HEREBY ORDERED** that the patent be prepared and issued to the applicant.

Provincial Environment and
Natural Resources Officer

APPENDIX C



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 5, 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:

Filipino Citizen — as enumerated in Article IV Section I of the 1987 Constitution, the following are citizens of the Philippines:

Those who are citizens of the Philippines at the time of the adoption of the 1987 Constitution;

Those whose fathers or mothers are citizens of the Philippines;

Those born before January 17, 1973, of Filipino mothers, who elect Philippine citizenship upon reaching the age of majority; and

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.

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.

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.

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.

Alienable and Disposable lands — Lands of the public domain classified as agricultural that may be acquired through grant or confirmation of title.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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 provided in the form, together with all other requirements enumerated under Section 5 of the IRR.

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.

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:

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.

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.

For highly urbanized cities, the area shall not exceed two hundred (200) square meters.

For other cities, the area shall not exceed five hundred (500) square meters.

For first class and second class municipalities, the area shall not exceed seven hundred fifty (750) square meters.

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.

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.

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.

Simplified sketch of the land parcel showing the adjacent lots, corners and natural or manmade features that define the boundaries of the land.

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.

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 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.

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.

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.

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.

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.

Should the CENRO determine that the application is incomplete in requirements, she or he shall reject the application without prejudice to re filing.

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.

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.

The CENRO shall fast track the resolution of all claims and conflicts arising from residential free patent applications within 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.

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 nonqualification 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.

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 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.

APPENDIX D



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

OCT 4, 2010

DENR Administrative Order
No. 2010-25

SUBJECT: AMENDMENT TO SECTION 3 OF DAO 2010-12 OTHERWISE KNOWN AS "RULES AND REGULATIONS FOR THE ISSUANCE OF FREE PATENTS TO RESIDENTIAL LANDS UNDER REPUBLIC ACT NO. 10023"

In the interest of the service and in order to further improve the implementation of RA 10023, Section 3 of DENR Administrative Order No. 12 Series of 2010 shall be read as follows:

"Sec. 3. Qualifications.—Applicants for the issuance of a residential free patent shall possess the following qualifications, namely:

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.

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. *Only one application shall be allowed per applicant.*"

This order shall take effect immediately.

REFERENCES:

Related Publications, Studies and Manuals

1. Agcaoili, O.D. (2007). Property Registration Decree and Related Laws. Manila: Rex Book Store.
2. Bilog G. (2007). Land Titles and Deeds. Manila: Rex Book Store.
3. Dale, P. (Rev. Ed.) (1995). Cadastral Surveys and Records of Rights in Land (Land Tenure Studies). Food and Agriculture Organization. Rome. Italy.
4. DENR (2010). Land Sector Development Framework. Quezon City, Philippines.
5. Land Boundaries and Surveying. Inter- governmental Agency on Surveying and Mapping, Intergovernmental Committee on Surveying and Mapping.
6. Foundation for Economic Freedom (2012). DENR-Local Government Partnerships Handbook: Land Management Offices and LGU-Assisted Public Land Titling. Quezon City.
7. Joint Land Titles Committees Canada (1990). Renovating the Foundation: Proposals for a Model Land Recording and Registration Act for the Provinces and Territories of Canada. Edmonton, Alberta.
8. Land Registration Authority (undated). Manual of Registration. Quezon City.
9. McLaughlin, J.D. and Williamson, I.P. (1985). Trends in Land Registration, The Canadian Surveyor, Vol. 39, No. 2:95-108.
10. Noblejas A.H. and Noblehas E.H. (2007). Registration of Land Titles and Deeds. Manila: Rex Bookstore.
11. Simpson, S.R. (1976). Land Law and Land Registration. Cambridge: Cambridge University Press.

12. The Asia Foundation (2011). *Built on Dreams Grounded in Reality: Economic Policy Reform in the Philippines*. Makati, Philippines: The Asia Foundation.
13. UNECE (1996). *Land Administration Guidelines With Special Reference to Countries in Transition*. New York and Geneva.

DENR Administrative Orders on Land Survey and Titling

DENR Administrative Order No. 09, Series of 2007. Revised Regulations on Land Surveys.

1. DENR Administrative Order No. 12, Series of 2010. Rules and Regulations for the Issuance of Free Patents on Residential Lands under Republic Act No. 10023.
2. DENR Administrative Order No. 19, Series of 2010. Revise Guidelines in the Indexing, Reconciliation and Reconstruction of Survey Records.
3. DENR Administrative Order No. 25, Series of 2010. Amendment to Section 3 of DAO No. 12, Series of 2010 Otherwise Known as Rules and Regulations for the Issuance of Free Patents on Residential Lands under Republic Act No. 1002.
4. DENR Administrative Order No. 06, Series of 2011. Prescribing Guidelines for the Implementation of Public Land Tilting in Partnership with Local Government Units.

Laws

1. Commonwealth Act No. 141 (Public Land Act, 1936)
2. Republic Act No. 730 (An Act to Permit the Sale without Public Auction of Public Lands of the Republic of the Philippines for Residential Purposes to Qualified Applicants under Certain Conditions, 1952)
3. Presidential Decree No. 705 (Revised Forestry Code, 1975)
4. Presidential Decree No. 1529 (Property Registration Decree, 1978)
5. Executive Order No. 192, Series of 1987 (Reorganization Act of the Department of Environment and Natural Resources)

6. Republic Act No. 6940 (An Act Granting a Period ending on December 31, 2000 for Filing Applications for Free Patent and Judicial Confirmation of Imperfect Title to Alienable and Disposable Lands of the Public Domain under Chapters VII and VIII of the Public Land Act, 1990)
7. Republic Act No. 9176 (An Act Extending the Period until December 31, 2020 for the filing of Applications for Administrative Legalization (Free Patent) and Judicial Confirmation of Imperfect and Incomplete Titles to Alienable and Disposable Lands of the Public Domain, 2002)
8. Republic Act No. 10023 (Residential Free Patent Law, 2010)