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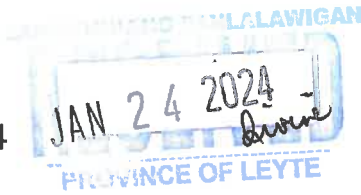
REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF AGRARIAN REFORM
Tunay na Pagbabago sa Repormang Agraryo

Item No.: 01

06 2024 FEB



Cert. No.: PHP QMS
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Misc. No. 0005-2024

08 January 2024

RELEASED

OFFICE OF THE SANGGUNIANG PANLALAWIGAN
Province of Leyte
Leyte Provincial Government Complex
Palo, Leyte

DEPARTMENT OF AGRARIAN REFORM
REGIONAL OFFICE NO. 5

DATE: 10 JAN 2024

TIME: 1:00 PM

NAME/SIG.: [Signature]

Attention: FLORINDA JILL S. UYVICO
Secretary to the Sanggunian

Subject: Resolution No. 2023-467, "A Resolution Referring to the Sangguniang Panlalawigan Committee on Housing, Land Use and Informal Settlers Municipal Ordinance Nos. 2023-185 and 2023-186 of Carigara, Leyte"

Dear SP Secretary Uyvico:

This refers to the Resolution No. 2023-467 of the Sangguniang Panlalawigan Province of Leyte seeking the opinion of the Department of Agrarian Reform (DAR) relative to the reclassification of landholdings from agricultural to residential use as stated in the following Municipal Ordinances from Carigara, Leyte:

1. Municipal Ordinance No. 2023-185 entitled: "AN ORDINANCE RECLASSIFYING THE TWO HUNDRED SEVENTY FIVE (275) SQUARE METERS OF LAND IDENTIFIED AS LOT NO. 673 REM. PORTION, COVERED UNDER TAX DECLARATION NO. 08-1104-00101, IN THE NAME OF EUSEBIO CANABE, LOCATED AT BRGY. BARUGOHAY CENTRAL, CARIGARA, LEYTE, WITH A TOTAL AREA OF 2,745 SQUARE METERS, FROM AGRICULTURAL TO RESIDENTIAL USE;"
2. Municipal Ordinance No. 2023-186 entitled: "AN ORDINACE RECLASSIFYING LOT NO. 7088 UNDER TAX DECLARATION NO. 08-110029-00390, IN THE NAME OF LUCIA I. TRAIN, LOCATED AT BRGY. LIBO, CARIGARA, LEYTE, WITH AN AREA OF 2,015 SQUARE METERS, FROM AGRICULTURAL TO RESIDENTIAL USE."

The department refrains from providing an opinion on issues that may be subject to its approval or proceeding. At most, we can only refer your good Office to the provisions of the DAR Administrative Order (A.O.) No. 1, Series of 2019, as amended by the DAR A.O. No. 03, Series of 2021, particularly:

"Section 7. Local Government Unit (LGU) Reclassification.

Reclassification is different from Conversion.

Reclassification is the act of specifying how agricultural land shall be utilized for non-agricultural uses as embodied in this land use plan of the

LGU based on Section 20 of R.A. No. 7160, E.O. No. 72, Series of 1993, and Office of the President (OP) Memorandum Circular (M.C.) No. 54, Series of 1993. Conversion is the act of changing the actual use of the agricultural land into uses as approved by the DAR in accordance with Section 65 of R.A. No. 6657, as amended by R.A. No. 9700.

Agricultural lands that are reclassified to non-agricultural uses do not ipso facto allow the landowner thereof to use the same for such purpose.¹

*The submission of a **Zoning Certification** by the Housing and Land Use Regulatory Board (HLURB), approving said Zoning Ordinance, in applications for conversion shall only be required if the landholding is situated in Highly-Urbanized or Independent Component Cities and the conversion is from an agricultural use to a non-agricultural use.*

In lieu of the HLURB Zoning Certification, the Sangguniang Bayan/Panlungsod Zoning Ordinance and the Sangguniang Panlalawigan Resolution approving said Zoning Ordinance shall be submitted in applications for conversion in case of landholdings situated in Component Cities and Municipalities and the conversion is from an agricultural use to a non-agricultural use.

Further, in view of the revocation of Department of Agriculture (DA) A.O. No. 1, Series 2017 which provided for the issuance of the certificate of eligibility for reclassification by the DA, and the revocation of DA A.O. No. 18, Series of 2020 which provided for the issuance of the certificate of eligibility for conversion by the DA, such certificates of eligibility will no longer be required by the DAR in the application for conversion.

The DAR shall ensure that irrigated and irrigable lands shall not be subject to conversion. Pursuant to Sec. 65 of R.A. No. 6657, as amended, it shall make the determination of irrigated and irrigable lands based on the consolidated report on the location of such lands as prepared by the National Irrigation Administration, (NIA), subject to validation by the DAR. Pending the submission by the NIA of the said consolidated report on irrigated and irrigable lands to the DAR, the applicant shall be required by the DAR to submit such other verifiable data or certification on irrigated and irrigable lands issued the by proper regional or provincial office of NIA.

Pursuant to NIA M. C. No. 24, Series of 2019, irrigable land/area is defined as land suitable for the conduct of agricultural activities which require irrigation and display physical features justifying the operations of an irrigation system.

The elements of an irrigable land are the following:

- 1. The land must have physical features, which show an inherent potential for the development of an irrigation system, such as: soil depth, soil texture, field terrain, slope, and other relevant characteristics.*
- 2. The land must have potential for a quality water supply which can be sourced through a distribution system;*

¹ CREBA vs. DAR [G.R. 183409, 18 June 2010].

3. *The land must be part of a serviceable area which is within an actual and funded irrigation system or which can be service with existing and operating irrigation activities;*
4. *The land must be within an area where the approved or adopted Comprehensive Land Use Plan (CLUP) by the concerned LGU for surrounding or contiguous landholdings which encourages or agrees to the conduct of agricultural activities; and*
5. *The land must have affected qualified farmer beneficiaries or tenants/lessees willing to till the land and raise crops therein*

Landholdings which possess all the aforesaid elements are considered irrigable.”

We hope that we were able to be of assistance.

Very truly yours,

ATTY. ROBERT ANTHONY P. YU, CESE
Regional Director

DAR Regional Office VIII
Sto. Niño Extn, Tacloban City





Republic of the Philippines
PROVINCE OF LEYTE
Palo, Leyte
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OFFICE OF THE SANGGUNIANG PANLALAWIGAN

EXCERPTS FROM THE MINUTES OF THE 61st REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN OF LEYTE CONDUCTED AT THE SESSION HALL, LEYTE PROVINCIAL GOVERNMENT COMPLEX, PALO, LEYTE ON OCTOBER 03, 2023.

RESOLUTION NO. 2023-467

A RESOLUTION REFERRING TO THE SANGGUNIANG PANLALAWIGAN COMMITTEE ON HOUSING, LAND USE AND INFORMAL SETTLERS MUNICIPAL ORDINANCE NOS. 2023-185 AND 2023-186 OF CARIGARA, LEYTE.

WHEREAS, pursuant to Section 468 (a)(1)(i) of Republic Act 7160 otherwise known as The Local Government Code of 1991, among the powers and duties of the Sangguniang Panlalawigan is "to review all ordinances approved by the Sanggunian of component cities and municipalities;"

WHEREAS, submitted to the Sangguniang Panlalawigan are Municipal Ordinances from Carigara, Leyte, to wit:

- 1. Municipal Ordinance No. 2023-185** entitled: "AN ORDINANCE RECLASSIFYING THE TWO HUNDRED SEVENTY-FIVE (275) SQUARE METERS OF LAND IDENTIFIED AS LOT NO. 673 REM. PORTION, COVERED UNDER TAX DECLARATION NO. 08-1104-00101, IN THE NAME OF EUSEBIO CANABE, LOCATED AT BRGY. BARUGOHAY CENTRAL, CARIGARA, LEYTE, WITH A TOTAL AREA OF 2,745 SQUARE METERS, FROM AGRICULTURAL TO RESIDENTIAL USE";
- 2. Municipal Ordinance 2023-186** entitled: "AN ORDINANCE RECLASSIFYING LOT NO. 7088 UNDER TAX DECLARATION NO. 08-110029-00390, IN THE NAME OF LUCIA I. TRANI, LOCATED AT BRGY. LIBO, CARIGARA, LEYTE, WITH AN AREA OF 2,015 SQUARE METERS, FROM AGRICULTURAL TO RESIDENTIAL USE";

WHEREAS, the Provincial Legal Office was requested to review and submit recommendation on the subject Ordinances pursuant to Section 481 (3) (vii) of R.A. 7160;

WHEREAS, the Provincial Legal Office through Atty. Jose Raymund A. Acol, Assistant Provincial Legal Officer, per attached Indorsements, rendered the following recommendations/comments, on Ordinance Nos. 2023-185 and 2023-186:

-over-

1. That the SB of Carigara seeks to reclassify Lot No. 673 under Tax Declaration No. 08-11004-00101 in the name of Eusebio Canabe from agricultural to residential and Lot No. 673 under Tax Declaration No. 08-110029-00390 in the name of Lucia Trani from agricultural to residential;
2. That pursuant to DILG Opinion No. 22, S. 2020 dated January 31, 2020 and citing the Supreme Court Decision in the case of "Chamber of Real Estate and Builders Associations, Inc. (CREBA) vs. The Secretary of Agrarian Reform (G.R. No. 183409)", reclassification alone will not suffice to use the agricultural lands for other purposes. Conversion is needed to change the current use of the reclassified lands;
3. That the Provincial Legal Office (PLO) recommends that considering the foregoing, the local council follow and adhere to the restrictions and guidelines set forth by DILG Opinion NO. 22 regarding the reclassification of the lands in question;

WHEREAS, the August Body, deemed it proper to refer the said Ordinances to the SP Committee on Housing, Land Use and Informal Settlers;

NOW, THEREFORE, on motion presented by Honorable Trinidad G. Apostol, duly seconded by Atty. Carlo P. Loreto, be it

RESOLVED, as it is hereby resolved, to **TO REFER TO THE SANGGUNIANG PANLALAWIGAN COMMITTEE ON HOUSING, LAND USE AND INFORMAL SETTLERS MUNICIPAL ORDINANCE NOS. 2023-185 AND 2023-186 OF CARIGARA, LEYTE.**

RESOLVED FURTHER, TO SEEK THE OPINION OF THE DEPARTMENT OF AGRARIAN REFORM, BEING THE GOVERNMENT BODY AUTHORIZING AND REGULATING CONVERSION OF AGRICULTURAL LAND TO NON-AGRICULTURAL USES.

RESOLVED FINALLY, TO REQUEST FROM THE OFFICE OF THE MUNICIPAL AGRICULTURIST OF CARIGARA, LEYTE, CERTIFICATIONS THAT BOTH LANDS CEASED TO BE ECONOMICALLY FEASIBLE AND SOUND FOR AGRICULTURAL PURPOSES.

Approved unanimously.

I **HEREBY CERTIFY** to the correctness of the foregoing resolution.


FLORINDA JILL S. UYVICO
Secretary to the Sanggunian

ATTESTED:


HON. MICHAEL L. CARI
5th District Board Member
Temporary Presiding Officer

Page 3/3 – Res. No. 2023-467 dated October 3, 2023
referring to the SP Com. on Housing, Land Use and
Informal Settlers

Copy furnished:

Atty. Ronnan Christian M. Reposar
Chairperson
Committee on Housing, Land Use and
Informal Settlers
Sangguniang Pantalawigan
Province of Leyte

LCE and the Sangguniang Bayan
Carigara, Leyte

Department of Agrarian Reform
Regional Office VIII
Tacloban City

Municipal Agriculturist Office
Carigara, Leyte

x
FJSU: ASS
Naam04October2023