

EXPROPRIATION; JUST COMPENSATION, INDESPENSABLE

- This Office is of the view that just compensation must still be paid even if the ARBs have not yet fully paid the amortization with the proper agency because of the principle under the Constitution that "*private property shall not be taken for public use without payment of just compensation.*" Thus, just compensation is indispensable in an expropriation of the property for public purpose.

DAR Opinion No. 32, s. 2006
November 03, 2006

EXPROPRIATION; PROCEDURES AND GUIDELINES

- Executive Order No. 1035 provides the procedure and guidelines for the expedition acquisition by the government of private real properties or right thereon for infrastructure and other government development project. Section 6 thereof states:

"Section 6. Acquisition Through Negotiated Sale- As an initial step, the government agency instrumentality concerned shall negotiate with the owner of the land that is needed for the project for the purchase of said land, including improvements thereon. In the determination of the purchase price to be paid, the Ministry of Finance and Provincial City Municipal Assessors shall extend full assistance and coordinate with personnel of the government implementing agency concerned in the valuation of lands and improvements thereon taking into consideration the current and fair market value declared by the owner or administrator of the land, or such current market value as determined by the assessor, whichever is lower, prior to the negotiation."

DAR Opinion No. 32, s. 2006
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EXPROPRIATION; PROPERTY COVERED BY OPERATION LAND TRANSFER

- Section 14 thereof provides that in case the land acquired is covered by the Operation Land Transfer of the Ministry of Agrarian Reform under P.D. No. 26, payment of the purchase price shall be made by the implementing agency/instrumentality concerned to the farmer-beneficiary owning such land by virtue of an emancipation patent issued by the Ministry of Agrarian Reform, free from all liens and encumbrances. If the land is not covered by an emancipation patent, or even if covered by an emancipation patent by the farmer-beneficiary is still amortizing the same with the Land Bank, payment shall be made by the government implementing agency/instrumentality to the landowner, or the Land Bank, as the case may be: Provided, That any amortization payments made by the farmer-beneficiary to the landowner, or the Land Bank, as the case may be, shall be deducted by the government implementing agency/instrumentality from the purchase price and shall be paid to the farmer-beneficiary: Provided, further, That the farmer-beneficiary shall be entitled to the financial assistance provided for under Section 18 hereof.

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