



# Landowners' Just Compensation

**Produced by:  
Bureau of Agrarian Reform Information and Education (BARIE)  
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However, the Chairman of the Adjudication Board in his discretion may designate the PARAD to conduct preliminary proceedings of land valuation even in excess of five (5) million pesos.

***Source:***

BATAS: The Paralegals' Guidebook on Agrarian Reform Laws (Volume 5)

RA 6657

Administrative Issuances and Pertinent Memorandum Circulars (Books 1-10)

determine the compensation for the land by requiring the landowner, the LBP, and other interested parties to submit evidence as to the just compensation for the land within 15 days from the receipt of the notice. After the expiration period, the matter is deemed submitted for decision. (Sec. 16(d), RA 6657, 1988)

**Who has the authority to determine cases involving initial valuation of lands?**

The Department of Agrarian Reform Adjudication Board (DARAB) has the authority in determining the initial valuation of lands involving agrarian reform, although such valuation may only be considered preliminary as the final determination of just compensation is vested on the courts.

**Who is in charge of the summary proceedings in the preliminary determination of just compensation?**

The venue for the summary administrative proceedings in the preliminary determination of just compensation is dependent upon the amount of compensation:

- Provincial Agrarian reform Adjudicator (PARAD) - is less than five (5) million pesos.
- Regional Agrarian Reform Adjudicator (RARAD) - is more than five (5) million pesos.

**Who are the landowners under CARP?**

A person, natural or juridical, who either as owner, lessee, usufructuary, or legal possessor, permits another to cultivate his land and in return expects some share in the produce under share tenancy system or some price under the leasehold tenancy system.

**Do landowners have rights under CARP ?**

Yes as provided in the 1987 Philippine Constitution and in the Bill of Rights, Landowners have:

**1987 Constitution**

- Right to retain the property until she/he has fully reimbursed all the necessary and useful expenses made by him/her on the property (*Art I, Sec. 4*)
- Right to be paid just compensation for their landholdings acquired by the government for distribution to Agrarian Reform Beneficiaries (*Art III, Sec. 9*)

**Bill of Rights**

- Right to due process of proceedings according to law of the land;
- Right to equality in the enjoyment of similar rights and privileges granted by law; and
- Prohibition against undue delegation of legislative powers.

**What are the roles of the State in the implementation of agrarian reform?**

**P**rovision of support to agriculture through appropriate technology and research, and adequate financial, production and marketing (*Art. XIII, Sec. 5, RA 6657*)

**P**rovision of incentives to landowners to invest the proceeds of agrarian reform to promote industrialization, employment creation and privatization of public sector enterprises (*Art. XIII, Sec. 8*); and

**A**pplication of agrarian reform principles or stewardship to the utilization of other natural resources and the rights of indigenous communities to their ancestral lands and resettlement of landless farmers and farmworkers in agricultural estates (*Art. XIII, Sec. 6*)

**What support services are provided to landowners under CARP?**

**I**nvestment information, financial and counseling assistance

**P**rograms, facilities, and schemes for the conversion or exchange and marketing of Land Bank of the Philippines bonds; and

**When can the landowner receive the payment for the land?**

Sec. 16 states that, if the landowner accepts the offer of DAR, the LBP shall pay the purchase price of the land within 30 days after he/she executes and delivers a deed of transfer in favor of the Government and surrenders the Certificate of Title and other muniments of title.

**What if the landowner rejects the offer?**

**Note:**

This increment formula is applicable only to landowners:

- Whose lands are actually tenanted as of October 21, 1972 or thereafter and are covered by OLT
- Who selected government financing thru LBP as the mode of compensation; and
- Who have not yet been paid for the value of the land

Rice	-	Php 300
Corn	-	Php 250

In case the landowners rejects the land valuation/compensation or fails to reply, the DAR shall conduct summary administrative proceedings to

- GSP is determined based on the following:
  - ◆ GSP as of October 21, 1972  
Rice—P 35 per cavan of 50kg. palay  
Corn—P 31 per cavan of 50kg. Corn
  - ◆ GSP as of December 29, 1999  
Rice—P 300  
Corn—P 250

**What measures were adopted to ensure that PD 27 lands are not undervalued?**

AO 13 s 1994 provided for an increment of 6% yearly interest compounded annually on lands covered by PD 27 and EO 228.

Thus, the formula was revised as: the product of Average Gross Production (AGP), the Fixed Factor which is 2.5, the Government Support Price (GSP) for the crop planted on the land, and the 6% yearly interest compounded annually to be multiplied by the number of years (n) from the date of tenancy up to the effectivity date.

$$LV (\text{Rice Land}) = AGP \times 2.5 \times GSP (\text{Rice}) \times (1.06)^n$$

$$LV (\text{Corn Land}) = AGP \times 2.5 \times GSP (\text{Corn}) \times (1.06)^n$$



ther services intended to utilize productively the proceeds of the sale of the land for rural industrialization.

**What specific investment incentives are offered to landowners?**

Investment in rural-based industries entitles landowners to the incentives granted to registered enterprises engaged in pioneer or preferred area of investment as provided for in the Omnibus Investment Code of 1987, or to such other incentives as provided by the Presidential Agrarian Reform Council, (PARC) LBP or other government financial institutions.

**How can DAR facilitate assistance to landowners?**

A Landowners' Assistance Desk was created to facilitate quick response to landowners' concerns specifically with regards to the payment of compensation for their landholdings acquired by the government for CARP. (DAR *Special Order No. 296, s 2001*)

**What do we mean by just compensation?**

Just compensation is defined as the full and fair equivalent of the property taken away from its owner by *expropriation*. (Manila Railroad Co. v. Velasquez, 32 Phil.286)

In various Supreme Court rulings just compensation in general has been defined as "fair market value". Fair market value means the full and fair equivalent of the loss sustained by the landowner. All the facts as to the condition of the property and its surroundings, its improvements and capabilities should be considered. (*EXPORT PROCESSING ZONE AUTHORITY VS. JUDGE DULAY, 149 SCRA 305, 1987*)

### Why is there a need for just compensation?

The full payment of just compensation to landowners of private agricultural lands is a requirement imposed by the Constitution and by the democratic set up under which agrarian reform is being carried out. (*Rep. Act No. 6657 (1988) sec. 16*)

### Does full payment mean payment in cash directly to landowners?

No. Full payment need not all be in cash neither must it be paid directly to the landowner. Payments can be made partly in cash and partly in bonds.

The proportion of payment in cash to landowners depends on the total area of the land and on how this land was acquired by the government

In cases where the landowner disagrees with the valuation of the landholding, full payment of just compensation may be considered achieved, upon

### How is land value computed under PD 27?

The land value under PD 27 is computed as the product of Average Gross Production (AGP), the Fixed Factor which is 2.5 and the Government Support Price (GSP) for rice and corn respectively; or

Below illustrates how the formula is used for rice land and corn land under PD 27:

#### Givens

AGP=114cavans

Fixed Factor=2.5

GSP (rice)=P300/cavan of 50 kilos

GSP (corn)=P250/cavan of 50 kilos

#### Computation for Rice Land

LV (Rice land)

= AGP x 2.5 x GSP (Rice)

= 114 x 2.5 x P300

= Php 85,500.00

#### Computation for Corn Land

LV (Corn land)

= AGP x 2.5 x GSP (Rice)

**LV (Rice Land) = AGP x 2.5 x GSP (Rice)**

**LV (Rice Land) = AGP x 2.5 x GSP (Rice)**

#### Where:

- AGP is determined by the Barangay Committee for Land Production (*EO 228, s. 1988*)

If CNI factor is not available Land Value (LV) is equivalent to the sum of the Comparable Sales (CS) and the Market Value weighted at 90% and 10% respectively. The 60% weight originally assigned to CNI is added to the weight assigned to Comparable Sales (CS).

Formula 2:

$$LV = (CS \times 0.9) + (MV \times 0.1)$$

If comparable Sales factor is not available, Land Value is equivalent to the sum of Capitalized Net Income (CNI) and Market Value (MV) weighted at 90% and 10% respectively.

While the first formula in the computation of Land Value uses all the three factors; the second formula uses the Comparable Sales as a substitute for the Capitalized Net Income. This third formula now uses the Capitalized Net Income as a substitute for the Comparable Sales factor in the computation of Land Value.

Formula 3:

$$LV = (CNI \times 0.9) + (MV \times 0.1)$$

If only the market value factor is available, land value is equivalent to twice the market value.

Formula 4:

$$LV = MV \times 2$$

the deposit of the value of the land in a Land Bank **trust account** in the name of the landowner.

**Bonds** are certificate of indebtedness fully guaranteed by the government.

Is there a length of time to pay just compensation?

The Constitution, laws and jurisprudence on expropriation have consistently required that just compensation must be paid promptly.

Without prompt payment, compensation cannot be considered as "just" for the property owners are made to suffer the consequence of being

immediately deprived of their land while being made to wait for a decade or more before actually receiving the amount necessary to cope with their loss.

**Trust account.** In the event the landowners do not accept payment of the compensation due them, compensation shall be held in trust for them by the Trust Department of the Land Bank of the Philippines. The cash portion and such portions that mature yearly shall be invested by the Trust Department only in the government securities fully guaranteed by the Republic of the Philippines. All the net earnings of the investment shall be for the benefit of the landowner. (Executive Order 228, sec. 5)

**Does the capacity of the tenant and the government to pay determine the amount of just compensation?**

No. The buying power of the farmer-beneficiary and the government is not considered as a factor in determining just compensation. (*Republic vs. Lichauco, 14 SCRA 682 (1965)*). It is the amount equivalent to the increase in the value of the land due in justice to the landowner so that if the farmer cannot pay for it the State must pay. (*Deliberations in the Constitutional Commission*)

**What factors are considered in the determination of just compensation?**

The following are enumerated in Sec. 7 as factors in the determination of just compensation :

- C**urrent value of like properties
- C**ost of acquisition
- C**urrent official assessment by government assessors
- N**ature of land
- N**on-payment of taxes or loans secured from government financing institutions

- MV per tax declaration is the latest tax declaration and schedule of unit market value issued prior to receipt of claimfolder by LBP.

To illustrate how the formula is used and given the following values Capitalized Net Income is computed as follows:

Givens:

Number of coconut trees:	95 trees/hectare
Selling Price	: Php 6.74/kg (12 month average prior to receipt of claimfolder by Land Bank if possible gathered from the area where the property is located)
Number of nuts/kg	: 4.5
Net income	: Assumed value in case Cost of operation could not be obtained. The value is established from joint studies on the Industry conducted by DAR and LBP (NIR for landholdings planted coconut during the time of the field investigation is 70%)

**Computation:**

$$\begin{aligned} \text{AGP} &= 95 \text{ trees/ha} \times 30 \text{ nuts/tree} \\ &= 633.33\text{kg} \\ \text{CNI} &= 633.33\text{kg} \times 6.74/\text{kg} \times 70\% \\ &12\% \\ &= \text{Php } 24,900.56/\text{hectare} \end{aligned}$$

- Capitalized Net Income (CNI) and,
- Market Value (MV) per tax declaration.

*(AOs 6 and 11 s 1992 and 1994 respectively superseded by AO 5 s 1998)*

### How is land value computed under CARP?

There are four different formulas in determining land value in a given situation.

The land value under CARP is computed as the sum of the Capitalized Net Income, Comparable Sales and the Market Value weighted at 60%, 30% and 10% respectively ; or

*Formula 1:*

$$LV = (CNI \times 0.6) + (CS \times 0.3) + (MV \times 0.1)$$

Where:

- CNI is the difference between the product of the Annual Gross Production and Selling Price (AGPxSP) less the Total Cost of Operations (CO) capitalized at 12%

$$CNI = \frac{(AGP \times SP) - CO}{.12}$$

- CS is any one or the average of all the applicable factors such as sales Transactions, Acquisition Cost, and Market Value based on Mortgage Price

**S** worn value by landowner  
**I** ncome  
**D** eclaration of taxes  
**E** conomic and social benefits contributed by farmers  
**R** eal/actual use

### Do these factors control what the final value will be?

These factors are considered as standards to guide officials in determining just compensation but these should not control or limit such determination. (*Association of Small Landowners in the Philippines, Inc. vs. Secretary of Agrarian Reform, 175 SCRA 343 (1989)*)

**Who has the primary responsibility to determine land valuation and just compensation?**

The Land Bank of the Philippines (LBP) is primarily responsible for the determination of land valuation and compensation for all private agricultural lands under Voluntary Offer to Sell (VOS) and Compulsory Acquisition (CA) as governed by EO 405, s. 1990.

**Does mode and mix compensation differ per mode of land acquisition?**

Yes. The proportion of cash payment for the value of the landholding varies with the mode of land acquisition.

The LBP shall compensate the landowner in cash, the amount of which shall vary according to the land size of either Compulsory Acquisition (CA) and Voluntary Offer to Sell (VOS) mode of acquisition.

**What are the factors that determine the compensation mix?**

The larger the landholding, the smaller the cash portion. This is based on the underlying principle that small landowners are presumed to have greater need for cash to aid them in their bid to shift their capital from agriculture to industry.

For Compulsory Acquisition, the percentage of cash payment is based on the size of the landholding:

- Deed of Assignment, Warranty and Undertaking has been executed by the landowner on or before the issuance of the joint DAR-LBP AO 3-94 which defines the Policy Guidelines Governing the Acquisition and Distribution of Agricultural Lands Affected by Mt. Pinatubo Eruption.
- Transfer Certificate of Title was already registered in the name of RP on or before the issuance of the same AO;
- Partial payment was already effected
- Emancipation Patents/Certificates of land Ownership Awards have been registered on or before June 12, 1991 regardless of whether or not the claimfolder is with the LBP

**What is land valuation?**

Land Valuation is the total cost of the land agreed upon by the parties whether payable in kind or in money.

**What are direct factors which are used in the land valuation?**

Specifically for lands acquired under VOS, CA, or EO 407, Land Value (LV) is computed using the factors such as:

- Comparable Sales (CS),

**compensated for their landholdings?**

Yes. Landowners in lahar-affected areas will receive compensation for their landholdings provided their landholdings have been subjected to the process of acquisition and distribution. (Joint DAR-LBP Administrative Order No. 3 series of 1994)

**How are lands affected by Mt. Pinatubo be classified?**

Lands affected by the Mt Pinatubo eruption are classified as follows:

- Category I - actually affected
- Category II - affected but remain *productive*
- Category III - actually covered by ash fall but remain *productive*

**Will compensation for the different classification be the same?**

No. Only the landholdings classified under Category III shall be acquired and landowners will be compensated.

**What conditions should be met before lands under Categories I and II can be compensated?**

Claims should have been approved by the Land Bank in addition to the following conditions:

- 25% - above 50 has.
- 30% - 24 to below 50has.
- 35% - below 24has.

Under *Voluntary Offer to Sell (VOS)* the landowner will be paid under the same mode as CA except that the cash portion is higher by 5%:

- 30% - above 50 has.
- 35% - 24 to below 50has.
- 40% - below 24has.

**How about payments to landowners for landholdings acquired under PD 27?**

Payments to landowners under PD 27 is 10% in cash and 90% in LBP Bonds.

**LBP bonds.** Have 10 years maturity and 1/10 of face value matures every year from date of issue until the 10<sup>th</sup> year

- ◆ bear market rates of interest as those of the 91-day treasury bills
- ◆ have alternative uses

**What are the forms of payment in kind?**

Landowners may be paid in kind through the following:

**S**hares of stocks in government owned and controlled corporations, Land Bank of the Philippines preferred shares, assets or qualified investment

**T**ax credits

**L**and Bank bonds

**What are the uses of LBP bonds?**

**P**ayment for various taxes and fees to government;

**A**cquisition of land or other real properties of the government:

**S**ubstitution for surety or bail bonds for the provisional release of accused persons or for performance bonds

**S**ecurity for loans with any government financial institution, provided the proceeds of the loan shall be invested in an economic enterprise, preferably in a small

and medium scale industry, in the same province or region as the land for which the bonds were paid

**S**uch other uses as the PARC may allow from time to time

**Are government financial institutions obliged to accept LBP bonds?**

Yes. Government-owned or controlled corporation like the GSIS is obliged to accept Land Bank bonds as payment for the purchase of its assets. They are considered as certificates of indebtedness, approved by the Monetary Board of the Central Bank. They are fully negotiable and unconditionally guaranteed by the government of the Republic of the Philippines. As a matter of fact, the bidder who offers to pay in bonds of the Land Bank is entitled to preference. (*Maddumba v. GSIS, 182, SCRA 281 (1990)*)

**What will landowners do if government agency refuses to accept Land Bank bonds at face value?**

The landowner can file a case for *mandamus* to compel said government agency to accept the LBP bonds at face value.

**Will landowners in Lahar-affected areas be**