



Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

19-11855
097.13 DPWH
10-15-2019

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DEPARTMENT ORDER)
NO. **110**)
Series of 2019)

SUBJECT: Clarifying and Amending Department Order No. 65, Series of 2017, and Amending Department Order No. 56, Series of 2019, on Infrastructure Right-of-Way (ROW) Matters

In line with the continuing efforts of the Department of Public Works and Highways (DPWH) to streamline its operations, and in the interest of efficient and expedient public service, contained herein are the guidelines clarifying D.O. 65 (s. 2017), insofar as compromise agreements, verifications and/or certifications of non-forum shopping, communications and endorsements to the Office of the Solicitor General (OSG) and payment of claims essential in expropriation proceedings are concerned, and amending for the purpose, certain provisions of D.O. 65 (s. 2017) and D.O. 56 (s. 2019) inconsistent herewith.

Compromise Agreement and Appeal

Consistent with Section 7(8), Chapter 2, Book IV and Sections 39(1)(a) and 40, Chapter 8, Book IV of the Administrative Code of 1987, the Heads of the PPP Service, Regional Offices, and Unified Project Management Office – Right of Way (collectively, the Implementing Offices) have been delegated the authority to approve right-of-way (ROW) claims and transactions. Among the transactions conducive for the acquisition of ROW are compromise agreements, which are practical and beneficial for the government since it shortens the time needed to acquire ROW and helps decongest court dockets.

Item 15, page 5, Annex B of D.O. 65 (s. 2017) states that the signatory for compromise agreements is the ROW Task Force Head or the Heads of the Implementing Offices. Hence, Implementing Offices may enter into compromise agreements for expropriation cases pending in court, on behalf of DPWH with respect to ROW claims, provided that the following are present:

1. All papers and documents in support of the ROW are complete as required under D.O. 65 (s. 2017);
2. The amount involved therein shall not exceed the following:
 - a. For expropriation cases instituted by the DPWH:
 - i. Lots – based on the appraisal value of the property (GFI/IPA) or BIR zonal value at the time of taking, whichever is higher
 - ii. Structures/Improvements and Crops/Trees – based on the replacement cost as appraised by the DPWH
 - b. For determination of just compensation initiated by the claimant-owner – value based on the BIR zonal value of the property at the time of taking.
3. There exists no issue or dispute regarding ownership or title to the property;
4. The agreement to be entered into is not prejudicial to the interest of the government as reviewed, recommended, and approved by the OSG, as the Implementing Office's counsel;

5. The amount subject of compromise agreement shall not include payment of accrued interest;
6. Capital gains tax, expanded withholding tax, estate tax, and other taxes and fees as required by Republic Act No. 10752 to be paid by the property owner, shall be paid by the property owner;
7. The property owner shall waive any right or interest to file any action in relation to the expropriation case. The compromise agreement shall be submitted to the court for approval as not being contrary to law, morals, good customs, public order, or public policy; and
8. Other matters or concerns to be introduced in the compromise agreement which are not specifically mentioned or enumerated above shall not be covered by compromise agreement.

In all cases, the Implementing Offices shall ensure that compromise agreements entered into by them is neither prejudicial nor grossly disadvantageous to the interest of the government.

The aforementioned conditions shall also serve as guidelines for the ROW Task Force Head or the Heads of the Implementing Offices in reviewing court decisions and resolutions, including advising the OSG on appropriate courses of action for ROW-related cases, viz: NOT TO APPEAL, or to FILE A MOTION FOR RECONSIDERATION, PETITION FOR CERTIORARI, or any other remedy provided under the Rules of Court in assailing a judgment or court decision.

Amendments to D.O. 65 (s. 2017) and D.O. 56 (s. 2019) in Relation to Proper Signatories of Verification and/or Certification of Non-Forum Shopping, Court-Bound Documents, and Communications and Endorsements to the OSG

For purposes of initiating original expropriation complaints or other original ROW-related cases, Verifications and/or Certifications of Non-Forum Shopping and all related pleadings and court-bound papers shall be signed and executed by the ROW Task Force Head or Heads of the Implementing Offices, pursuant to Item 8.2 of D.O. 65 (s. 2017).

For purposes of appeal with respect to all ROW-related cases, authority to sign and execute all court-bound papers, including Verifications and/or Certifications of Non-Forum Shopping, shall be granted to the ROW Task Force Head or the Heads of the Implementing Offices, amending for the purpose Item 8.1 of D.O. 65 (s. 2017) and D.O. 48 (s. 2017). The tasks of reviewing court decisions and resolutions, including advising the OSG on appropriate courses of action for ROW-related cases shall also be lodged on the ROW Task Force Head or the Heads of the Implementing Offices.

Necessary communications with the OSG for case management purposes which do not involve policy direction and other day-to-day, ordinary transactions involving the said cases shall be lodged with the Implementing Offices/ROW Task Force. The signature and approval for the same shall remain with the ROW Task Force Head or the Heads of the Implementing Offices, pursuant to D.O. No. 65 (s. 2017). Examples of these standard transactions are the routinary

filing of expropriation cases at first instance, which includes the signing of Verification and Certification of Non-Forum Shopping and Special Power of Attorney, pursuant to Item 8.2 of D.O. No. 65 (s. 2017), and the operations transmittal and endorsement of documents for filing of complaints for expropriation to the OSG, pursuant to Item 8.3 and Item 11, page 4, Annex B of D.O. No. 65 (s. 2017). The authority to sign is already vested with the Implementing Offices/ROW Task Force under D.O. No. 65 (s. 2017).

**Requests for Release of Funds for
Payment of ROW Claims**

Requests for release of payment for ROW claims in order to facilitate the processing of fund release allotment by the Department of Budget and Management (DBM) shall be accomplished by the Implementing Offices for the purpose of submitting accurate, complete, and informed budget requests. The requests shall include all supporting documents and shall be duly reviewed/validated by the Implementing Offices, in accordance with pertinent laws, rules and regulations, prior to submission to the Office of the Undersecretary for Planning and PPP Services. Said requests shall thereafter be endorsed by the Undersecretary for Planning and PPP to the Undersecretary for Operations or UPMO concerned. The Undersecretary for Operations or UPMO concerned shall then directly request the DBM for the release of funds for payment.

This Order supplements D.O. 19 (s. 2017), D.O. 65 (s. 2017), and D.O. 101 (s. 2019) and amends the provisions of D.O. 48 (s. 2017), D.O. 65 (s. 2017), and D.O. 56 (s. 2019) which are inconsistent herewith. This Order shall take effect immediately.

For information and guidance.



MARK A. VILLAR
Secretary

Department of Public Works and Highways
Office of the Secretary



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