



REPUBLIC OF THE PHILIPPINES
MINISTRY OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE MINISTER
MANILA

097-13 DPWH
12-26-88

REC'D. DEC. 26, 1988

3:05 p.m.

December 13, 1988

DEPARTMENT ORDER)

NO. **120**⁷² 12/26
SERIES OF 1988)

SUBJECT: DETERMINATION OF JUST COMPENSATION
FOR PRIVATE PROPERTY TO BE AFFECTED/
ACQUIRED FOR DPWH PROJECTS

In a decision promulgated by the Supreme Court in Case G.R. No. 59602, entitled "Export Processing Zone Authority vs. Hon. Ceferino E. Dulay, in his capacity as Presiding Judge, Court of First Instance of Cebu, Branch XVI, Lapu-Lapu City, and San Antonio Development Corporation" the provisions of Presidential Decree Nos. 76, 464, 794 and 1533 on the determination of just compensation for private property taken or to be taken for public use or purpose based on the whichever is lower rule as provided therein, were declared unconstitutional, and therefore null and void. It follows, therefore, that the government, as well as the private owner, is no longer bound by the provisions of the said decrees.

Based on existing jurisprudence, the just compensation of property taken for public use should be based on the price of the property at the time of taking or at the time of the filing of the expropriation proceedings, whichever comes first.

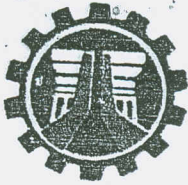
In the determination of the just compensation of property taken for public use, the following factors among others, should be taken into consideration: the condition of the property and its surroundings, the improvements thereon, the use for which it is devoted which will provide reasonable basis to determine the fair and full equivalent of the loss sustained by the owner. The determination of this price should be undertaken by the Appraisal Committee of the municipality/province/city where it is located.

For purposes therefore, of attaining uniformity in the determination of just compensation to be paid to property owners, the price of the property not to exceed the assessed value thereof prior to the investigation and survey of the project, shall be offered and if the owner refuses to accept it, the matter shall be submitted to the corresponding Appraisal Committee for determination of just compensation. The just compensation determined by the Appraisal Committee shall be the basis of negotiation with the property owners for the purchase of the property involved. For property located within the Metro-Manila area, the just compensation shall be determined by the Appraisal Committee created under Executive Order No. 329 dated July 11, 1988.

Should the owner refuse to accept the price fixed by the Appraisal Committee, then the government shall exercise its right of eminent domain and file corresponding expropriation cases against the owners concerned.

For strict compliance.

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FIORINO R. ESTUAR
Secretary



REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
MANILA

097-13 DPW

10-31-90

SER#2387

Pg. 180

12 September 1990

DEPARTMENT ORDER
NO. **234** *72*
Series of 1990 *10/31*

SUBJECT: AMENDMENT TO DEPARTMENT
ORDER NO. 120, SERIES OF
1988, RE: DETERMINATION
OF JUST COMPENSATION FOR
PRIVATE PROPERTY TO BE
AFFECTED/ACQUIRED FOR
DPWH PROJECTS.

Department Order No. 120, series of 1988 in so far as paragraph 4 thereof is concerned is hereby amended to read as follows:

For purposes therefore, of attaining uniformity in the determination of just compensation to be paid to property owners, the price of the property not to exceed the market value appearing in the Tax Declaration thereof prior to the investigation, survey and construction of the project, shall be offered and if the owner refuses to accept it, the matter shall be submitted to the corresponding Appraisal Committee for determination of just compensation. The just compensation determined by the Appraisal Committee shall be the basis of negotiation with the property owners for the purchase of the property involved. For property located within the Metro-Manila Area, the just compensation shall be determined by the Appraisal Committee created under Executive Order No. 329 dated July 11, 1988, as amended by Executive Order No. 369 dated September 14, 1989.

This Order takes effect immediately.


FIORELLO R. ESTUAR
Secretary