



Republic of the Philippines
Department of Environment and Natural Resources
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MEMORANDUM

TO : ALL REGIONAL EXECUTIVE DIRECTORS (EXCEPT CAR)

FROM : THE UNDERSECRETARY
Field Operations – Luzon, Visayas and Environment

SUBJECT : CLARIFICATION ON THE COLLECTION OF OCCUPATION FEES ON THE FORESHORE AREAS EVEN WITHOUT PERMIT AND APPROVED APPRAISAL

DATE : DEC 12 2022

This refers to the Memorandum of this Office dated January 6, 2021, relative to the collection of occupation fees over foreshore lands that are being utilized for commercial or industrial purposes even without a permit or an approved appraisal (copy attached).

In the said Memorandum, it was clarified that the Regional Offices/CENR Offices may collect occupation fees even without a permit or an approved appraisal pursuant to Section 14 (g) of the Land Administrative Order (LAO) No. 8-3 and Lands General Circular (LGC) No. 58. However, this Office was informed that there were inquiries from the Regional Offices on the collection of occupation fees over foreshore lands that are being utilized for residential purposes.

It is to be emphasized that a foreshore lease application as defined in the DENR Administrative Order (DAO) No. 2004-24 entitled "*Revised Rules and Regulations Governing the Administration and Management of Foreshore Lands*", refers to an application covering foreshore lands for commercial, industrial or other productive purposes other than agriculture.

Thus, based on the above definition of foreshore lease application, it is clear that foreshore lands cannot be leased for residential purposes. Also, considering that our country is vulnerable to the effects of climate change and climate change-related disasters allowing such use would result to negative impact to the coastal environment, and exposure of the inhabitants/ settlers to the tidal force of seawater such as tsunamis, tidal waves, storm surges, flooding, etc. Hence, the foreshore areas should be protected for the benefit of the public because it serves as a buffer zone, place for recreational activities, and ecological zone.

Further, in order to address the issues on the settlements over foreshore lands, you are hereby instructed to revisit your approved Provincial Foreshore Development and Management Plan (PFDMP) for the implementation of the proposed initiatives as identified in your proposed programs, projects and activities.

For your information, guidance and strict compliance.


ATTY. JUAN MIGUEL T. CUNA, CESQ I



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MEMORANDUM

FOR : **All Regional Executive Directors (except CAR)**

FROM : **The Undersecretary**
Field Operations and Environment

SUBJECT : **PROPOSED ISSUANCE OF DIRECTIVE TO THE FIELD OFFICES ON THE COLLECTION OF OCCUPATION FEES IN THE FORESHORE AREAS EVEN WITHOUT PERMIT AND AN APPROVED APPRAISAL**

DATE : **JAN 06 2021**

This Office has noted that in COA's Audit findings the low revenue generated from the utilization of foreshore areas has been consistently part of their Audit Observations Memorandum. Accordingly, some Regional Offices were reluctant in collecting occupation/rental fees over foreshore lands that are being utilized for commercial or industrial purposes on the basis that they do not have permit and/or an approved appraisal from the Secretary.

Please be informed that the Regional Offices/CENR Offices may collect occupation fee even without a permit or an approved appraisal subject to existing laws, rules and regulations as per Section 14 (g) of the Land Administrative Order No. 8-3, which states that:

- g. If in the opinion of the Secretary of Agriculture and Commerce (now Department of Environment and Natural Resources), the Undersecretary or the Director of Lands, the **circumstances surrounding the case do not warrant the issuance of a revocable or provisional permit for the occupation and use of lands** mentioned in Lands Administrative Order No. 8-3, the **fees for such occupation and use shall be collected** in accordance with the rates provided for in Lands Administrative Order No. 8-3, as amended by LAO No. 8-4.

Likewise, the abovementioned provision was further reiterated in 2 (a) of Lands General Circular No. 58, entitled "*Directing District Land Officers to Collect Occupation Fees on Foreshore, Marshy, Reclaimed and other Government Lands Occupied by any Person or Entity without Authority or Permit*", to wit:

2. In pursuance of government policy to tap all sources that can generate income necessary to carry out the social and economic reform programs of the New Society and in order to rationalize and regulate the use and occupancy of government lands, particularly foreshore areas, all District Land Officers and other officials concerned are hereby directed:

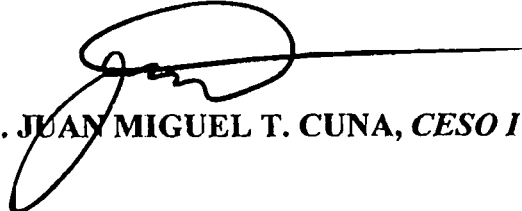
- (a) to collect occupation fees from any person or entity using and occupying government lands, particularly foreshore areas, **without any authority** from the Minister of Natural Resources or the Director of Lands.

As can be gleaned in the abovementioned provisions, the collection of occupational fees is authorized even if the appraisal is still pending for approval.

The proposed appraisal value by the concerned Appraisal Committee and as recommended by your Office may be adopted pending approval by the Secretary subject to adjustment upon approval thereof. It is to be emphasized however, that even if we collect fees on the land pursuant to the above-quoted provisions, the same should not, in any manner, be construed as to obligate the Regional Offices to recommend, much less give due course to, applications that have been, or may be, filed therefor, it being understood that such payment and/or filing of the applications does not vest in the occupants any preferential treatment in the acquisition of the land and that the acceptance and processing of applications are still subject to the laws, rules and regulations.

As of this date, the Land Management Bureau (LMB) is in the process of drafting a clarificatory policy that would serve as a guideline on the collection of occupational fees and conduct of appraisal and re-appraisal based on DAO No. 98-20 as amended by DAO No. 2010-26 and Section 116 of C.A. 141.

For information, guidance, and strict compliance.


ATTY. JUAN MIGUEL T. CUNA, *CESO I*

Copy furnished:

The Undersecretary and Chief of Staff

The Undersecretary
Legal, Administration, Human Resources and Legislative Affairs

The Acting Director
Land Management Bureau