

**PHILIPPINES-AUSTRALIA LAND
ADMINISTRATION AND MANAGEMENT
PROJECT**

**DRAFT DENR ADMINISTRATIVE
ORDER NO. 2004**

December 2004


REPORT C58



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DENR ADMINISTRATIVE ORDER No. 2004 –

Steps:



1	Structure and content; circulate in PIO 1 for inputs	November 2004	Complete
2	Explanatory Notes	November 2004	Complete
3	Improve cross-reference to other laws, orders etc, including the SNS and CIM orders	November 2004	
4	Circulate in DENR for inputs and development. Possible revision by Attorney Casanova and review by DENR lawyers	December 2004	
5	Consolidate inputs. Issues: <ul style="list-style-type: none">• Compatible with CIM and SNS orders• Follow up with OSS Joint order providing for the records of the ROD to be a public register and accessible by LAMP without fee	January 2005	
6	Submit DAO for signature	February 2005	
7	General circulation and DENR education	March 2005	

Unresolved issues:

- Should we take the opportunity to merge the two forms (i) Public Land Application and (ii) Final Inspection Report
- Perhaps the provisions in the Processing section [what items should be endorsed on the free patent] should wait until the Free Patent amendment becomes law. This will clarify the relationship with tenants. Also the power to endorse mortgages may need a stronger legislative basis.

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TABLE OF CONTENTS

Chapter 1 – Concept of Systematic Adjudication

Chapter 2 – Establishment of Co-ordinating Structures and Mechanisms

Chapter 3 – Community Mobilization for Systematic Adjudication

Chapter 4 – Systematic Adjudication

Chapter 5 – Survey Support Activities

Chapter 6 – Filing and Processing Free Patent Applications by systematic adjudication

Chapter 7 – Approval of Patents, Registration and Distribution

Chapter 8 – Miscellaneous Provisions

SUBJECT: SYSTEMATIC ADJUDICATION PROCEDURES FOR FREE PATENT APPLICATIONS

In LAMP activities conducted in the period 2001 to 2004, DENR developed a new process of systematic adjudication for free patent titling. In systematic adjudication, the department actively seeks to title all untitled land in a municipality on a barangay by barangay basis. The aim of this regulation is to mainstream the systematic adjudication activities in order to facilitate mass land titling activities in designated Systematic Adjudication Areas. Pursuant to Executive Order 192 series of 1987 and consistent with the present thrust of the Department to accelerate land disposition in a coherent and uniform manner, to improve the present system of administrative land titling and preserve the integrity of public land records, and in order to promote effective implementation of systematic adjudication for free patent titling in designated areas, the following regulations are hereby promulgated:

CHAPTER I – Concept of Systematic Adjudication**General principles and concepts**

In order to speed the issue of land titles to qualified applicants in accordance with government policy, this regulation provides for mass land titling activities by permitting systematic adjudication in designated systematic adjudication areas.

Adjudication is the administrative process of evaluating the validity of claims of ownership of land and other rights and interests in land, and results in the issuance of patents to qualified applicants. There are two types of adjudication: systematic adjudication and sporadic adjudication.

Sporadic adjudication is a client-initiated application for adjudication of one parcel of land. Here potential applicants gather evidences in support of a claim of ownership of the parcel and presents it to the Department for assessment. The Department carries out office- and field-based reviews and either accepts or rejects the application. This is the process already undertaken in the Department.

Systematic adjudication is a government-initiated process of adjudicating land rights on a whole of municipality basis, progressing barangay by barangay and aiming to register all untitled land in the locality. Activities are undertaken by a Systematic Adjudication Team which works within the community from an office known as the base camp. The Systematic Adjudication Team undertakes the collection of evidence from applicants, cultivators, neighbors and barangay officials in order to determine the validity of a claim for the issue of a patent. This Order will permit systematic adjudication to be undertaken in some areas of the Philippines.

Comparison of systematic and sporadic adjudication

The two types of adjudication may be compared as follows:

- (i) In systematic adjudication, the application for a free patent is initiated by the Department, whereas in sporadic adjudication the applicant initiates the application.
- (ii) Systematic adjudication seeks to title all untitled land in a Systematic Adjudication Area, whereas sporadic adjudication will proceed parcel by parcel according to the location and demands of applicants.

- (iii) Systematic adjudication is undertaken from a base camp situated in the Systematic Adjudication Area so that field staff are accessible to members of the community and applications for public land may be filed at the base camp. In sporadic adjudication, applications are lodged in the office of the CENRO which has jurisdiction over the land subject of the application.
- (iv) Systematic adjudication is preceded by an extensive community mobilization process to ensure transparency and to identify disputes and counter-claims. Sporadic adjudication has no accompanying community mobilization program.
- (v) In systematic adjudication, members of the community assist in defining land parcels and identifying appropriate applicants by providing corroborative evidence in support of applications.
- (vi) In systematic adjudication, if the land is unsurveyed, a cadastral survey is organized by the Department. In sporadic adjudication the applicant arranges for and shoulders the expenses for the survey. Systematic adjudication results in a comprehensive survey of the whole barangay and the compilation of a Cadastral Index Map, which will be a foundational tool for managing land registration and searching activities.
- (vii) In systematic adjudication, the Systematic Adjudication Team helps the applicant to organize and compile evidence, whereas in sporadic adjudication this responsibility rests on the applicant.

Aims of systematic adjudication

Systematic adjudication seeks to undertake the following:

- (i) For unsurveyed land, to identify in a sketch the land parcel and the location of its boundaries, with agreement between the owner and adjoining owners signified by the placement of boundary markers and by joint signature of the sketch. The outputs of systematic adjudication are the Parcel identification sheet, the cadastral survey and the Cadastral Index Map and land titles.
- (ii) For surveyed but unregistered land, to identify the correct applicants for the land, assess the strength of the claim based on written and verbal evidence, and to issue the patent to appropriate applicants. Outputs are registered patents.

Principles of adjudication

The following general principles apply to systematic adjudication:

- (i) The Systematic Adjudication Team will undertake activities in consultation or partnership with the LGU, with the intention that municipal and barangay officials provide support in the community mobilization and systematic adjudication activities.
- (ii) The process will involve community consultation, to ensure transparency of the adjudication process.
- (iii) The free patent shall not be issued if the claim is subject to unresolved disputes or to an ongoing objection.
- (iv) The Systematic Adjudication Team shall also work in co-operation with the Department at all levels, the Department of Land Reform in the administration of its comprehensive agrarian reform activities and formalization of leasehold contracts, the National Commission of

Indigenous People in the implementation of the IPRA, and the Registry of Deeds in its land and transaction of registration activities

Policy of gender equity

The policy of the Department in pursuing gender equality in the implementation of its programs is a foundational principle for all community mobilization activities, systematic adjudication activities and support activities carried out under this Order. Managers are required to actively monitor the implementation of this policy.

Terms used in this Administrative Order

- (i) "Adjudicator" means the officer appointed through the Project Manager to be a member of the Systematic Adjudication Team to undertake the functions of interviewing land claimants, conduct of ocular inspection of the lands and assist land claimants prepare and organize their evidences for their titling application.
- (ii) "Applicant" means a person applying for a free patent and in clauses may also include a person claiming a lesser interest in the land to be recorded on the patent issuing to the applicant;
- (iii) "Application" means a Public Land Application for the issuance of a free patent;
- (iv) "Approved list of survey claimants" means the official list maintained by the Department of the persons claiming ownership of the land at the time of the cadastral survey;
- (v) "Lot boundary monument" means the object placed by owners and adjoining owners at the corners of adjoining land parcels to define the physical extent of land parcels;
- (vi) "Cadastral Index Map" means the index map compiled as required in DAO ???;
- (vii) "CENRO" means the Community Environment and Natural Resources Officer within the Department;
- (viii) "Community development staff" means the staff appointed by the Project Manager to participate in the Systematic Adjudication Team to carry out the community mobilisation activities in this Order;
- (ix) "Encumbrance" means any mortgage, lease, lien, easement or covenant affecting the land at the time of issue of the free patent;
- (x) "Exit report" means the report prepared by the Adjudicator at the conclusion of adjudication activities in the barangay, summarizing the achievements in the barangay and the status of lots at the completion of adjudication activities;
- (xi) "Base camp" means the office established by the Systematic Adjudication Team Leader in the municipality where systematic adjudication activities are to be undertaken, and which will be used as a base for all field activities required by this Order;
- (xii) "Field operations" includes community mobilization activities, adjudication activities, survey support activities and processing activities;
- (xiii) "LGU: means the Local Government Unit in the locality;

- (xiv) "Protest" means an objection filed in the base camp by a person objecting to or disputing an Application for Public Land posted or published in accordance with this Order;
- (xv) "Project Manager" means the officer appointed by the Regional Executive Director of the Department in the region of the Systematic Adjudication Area, charged with responsibility for implementing systematic adjudication;
- (xvi) "Survey contractor" means a private geodetic engineer contracted to conduct cadastral surveys in support of systematic adjudication;
- (xvii) "Parcel identification sheet" – means the sketch of unsurveyed land conducted during systematic adjudication as part of the survey support activities and as defined in a **separate DAO known as ???**
- (xviii) "Tax declarant" means the person whose name appears in the tax declaration as the owner of the land;
- (xix) "The Department" means the Department of Environment and Natural Resources;

For any term used in this Order, the singular shall be understood as including the plural form of the term.

CHAPTER II – Establishment of Co-ordinating Structures and Mechanisms

Systematic Adjudication Area

The Secretary may by notice in writing designate a Province, municipality, barangay or locality as a Systematic Adjudication Area.

Project Manager

- (i) When a Systematic Adjudication Area is designated, the Regional Executive Director of the Department shall appoint a Project Manager who shall be responsible for implementing systematic adjudication in accordance with the provisions of this Order.
- (ii) The Project Manager shall have the following functions: (a) to select and prioritize for systematic adjudication the municipalities and barangays in the Systematic Adjudication Area; (b) to supervise the activities of the Systematic Adjudication Team Leader in the Systematic Adjudication Area in accordance with the requirements and objectives of this Order, to ensure the effective implementation of this Order; (c) to liaise with officials from LGU, the Department of Land Reform, the Registry of Deeds, the Department and other stakeholders in order to promote the objectives of this order; (d) to manage the procurement and training of and satisfaction of contractual requirements by survey contractors.
- (iii) The Project Manager shall have the following powers: (a) to make the appointments required by this Order; (b) to sign free patents within limits of his/her authority as provided in this Order; (c) to procure survey records from relevant agencies, including the regional surveys division; (d) to requisition copies of tax declarations from the LGU without fee; (e) to obtain records, indexes and copies of records from the Registry of Deeds without fee; (f) approve cadastral surveys prepared during survey support activities.
- (iv) Before systematic adjudication commences, the Project Manager shall require the following to be procured for the Systematic Adjudication Team:

(a) an inventory in the Systematic Adjudication Area, to obtain information relevant to the land from government agencies. The purpose of this activity is to provide the Systematic Adjudication Team all available land information relevant to the decisions of the validity of applications. The inventory shall include but need not be limited to current or pending cadastral surveys, applications for patents, judicially confirmed titles, grants of indigenous land pursuant to, and land registration activities of the Registry of Deeds, including deeds for unregistered land.

(b) Cadastral Index Maps to be prepared in accordance with the requirements of DAO ??? The purpose of this activity is to make index maps available to the Systematic Adjudication Team that summarize available cadastral information about the land and facilitate the identification of all land in the Systematic Adjudication Area where adjudication activities are to be carried out.

(c) a copy of the approved list of survey claimants;

(d) Equipment, furniture, supplies, materials and consumables required for the effective operation of the base camp.

Systematic Adjudication Team Leader

- (i) The Project Manager shall appoint a Systematic Adjudication Team Leader to manage the base camp and field operations undertaken from the base camp.
- (ii) The Systematic Adjudication Team Leader shall have the following functions: (a) to carry out systematic adjudication in order to achieve the objectives of the mass land titling program permitted by this Order; (b) to manage the base camp and all integrated field operations; (c) to liaise with the LGU officials in order to promote the community mobilization activities required by this Order; (d) to liaise with and supervise the activities of the survey contractors (e) to monitor the quality of field operations and provide training as required; (f) to sign free patents and to transmit them to the Registry of Deeds.
- (iii) The Systematic Adjudication Team Leader shall have the following powers: (a) to sign patents within limits of authority as provided in this Order; (b) recommend the approval of cadastral surveys carried out as part of the systematic adjudication; (c) undertake isolated and correction surveys as part of the survey validation procedures.

Systematic Adjudication Team

- (i) The Project Manager may appoint skilled and competent staff to form a Systematic Adjudication Team to work from the base camps in the Systematic Adjudication Area. Contracts for short-term employment shall be signed by the Regional Executive Director of the Department pursuant to DAO 98-24 series of 1998
- (ii) The Systematic Adjudication Team shall include community development staff, adjudicators, survey support staff, processing staff and base camp support staff.
- (iii) The following field activities shall be carried out by the Systematic Adjudication Team: (a) community mobilization activities; (b) survey support activities; (c) adjudication activities; (d) processing activities.
- (iv) In general terms, community development staff shall carry out community mobilization activities, Adjudicators shall carry out adjudication activities and processing staff shall carry

out processing activities as specified in the Field Operations Manual. The Systematic Adjudication Team Leader shall promote the multi-skilling of staff.

Base camp operations

- (i) The Project Manager and the Systematic Adjudication Team Leader may establish a temporary base camp in the Systematic Adjudication Area in order to carry out systematic adjudication in the target communities, and as a base for all field operations.
- (ii) The Systematic Adjudication Team Leader shall select the base camp in a location that is easily accessible by members of the community.
- (iii) The day to day operations of the base camp, including office hours and work days shall be established by the Systematic Adjudication Team Leader.

CHAPTER III – Community Mobilization for Systematic Adjudication

Community mobilisation activities

- (i) Community Development staff of the Systematic Adjudication Team shall undertake community mobilization activities in the Systematic Adjudication Area.
- (ii) Community mobilisation activities may include the display of posters and distribution of educational material, the conduct of barangay assemblies, barangay council meetings, focus group discussions and small group meetings, media campaigns, public address methods and other means of providing notice of systematic adjudication activities.
- (iii) Community mobilisation activities shall be undertaken a sufficient time before the start of adjudication activities to permit adequate notice to be circulated, to allow applicants to prepare evidence required to support their applications and to enable those not living in the Systematic Adjudication Area or not able to personally attend interviews to arrange representation.
- (iv) The purposes of community mobilisation activities are as follows: (a) to liaise with LGU officials to ensure that the community members in the Systematic Adjudication Area are consulted in relation to the planning and conduct of systematic adjudication; (b) to ensure that community members have the opportunity to participate in systematic adjudication and to mobilise them to attend meetings and interviews; (c) to compile an up-to-date list of applicants in consultation with the community; (d) to attempt to contact persons who may have an interest in land in the Systematic Adjudication Area but who are not residents of the community, to encourage their participation; (e) to ensure that persons who may wish to dispute or object to an application understand how to do so; (f) ensure that applicants, barangay residents and cultivators, neighbours and adjoining owners are given the opportunity to corroborate claims; (g) ensure that systematic adjudication processes are conducted openly and transparently in the community.
- (v) During the conduct of community mobilisation activities, the following shall be communicated: (a) the purpose of systematic adjudication; (b) the sequence of steps to be followed during field activities; (c) a description of who may participate in systematic adjudication and who may be a qualified applicant; (d) details of what to do if a applicant is not able to personally participate in adjudication or attend the interview; (e) details of what documents must be produced by a applicant; (f) details of what documents may be

presented by a applicant in support of an application; (g) procedures where a applicant has no documents to support the claim; (h) procedures in the event of a dispute; (i) how to lodge an objection to an application; (j) fees that must be paid by a applicant before registration of a patent and fees that may be deferred by the applicant; (k) potential costs to be paid by a applicant who decides to participate in systematic adjudication; and (l) the location of the base camp.

- (vi) In relation to fees, the following shall be communicated during community mobilisation activities: (a) no fee shall be collected by the Systematic Adjudication Team during community mobilization activities, adjudication activities and survey support activities; (b) the fee shall only be paid at the time of registration of the patent; (c) prior to collection of the fee, the full amount to be paid shall be publicly displayed in the barangay to ensure transparency; (d) an official receipt shall be issued for the full amount of the fee paid by the applicant.

Schedule of Interview

- (i) A schedule of interview notifying the sequence, timing, location of and participants for interviews shall be prepared by the Adjudicator in consultation with barangay officials and community development staff.
- (ii) The schedule of interview shall be displayed on the barangay notice board before the commencement of systematic adjudication. Copies shall also be provided to the barangay captain and to members of the barangay council assisting in adjudication activities.

Notice of Interview

- (i) A notice of interview shall be prepared by the community development staff and delivered by the Systematic Adjudication Team or barangay officials to the applicants before the interviews.
- (ii) The notice of interview shall also be forwarded to the barangay captain and to members of the barangay council assisting in adjudication activities.

CHAPTER IV – Systematic Adjudication

Adjudication activities

- (i) The Adjudicator and the member of the barangay council assisting the Adjudicator shall carry out adjudication activities in the Systematic Adjudication Area.
- (ii) Adjudication activities in general terms involve assessing evidence in support of the issue of a free patent or for ownership of some lesser interest in the land, and shall include but need not be limited to the following: (a) interviewing potential applicants, completing an Application for Public Land form and ensuring that the applicant is a qualified applicant; (b) conducting an ocular inspection of the land to ensure that the land is qualified land and preparing the Final Inspection Report; (c) evaluating the claim and supporting evidence and requesting further supporting evidence as required; (d) assisting the applicant in the preparation and subscription of supporting documents such as affidavits; (e) assisting disputing or objecting parties to resolve issues; (f) organize and compile the file record containing the application and supporting information; (g) when complete evidence is available, forwarding the application form to the processing staff; (h) liaising with the barangay council on a regular basis during the interview period to keep the council fully involved in continuing the mobilisation process; (i) *following up after interviews on documents required to complete an application but not presented during the interview*; (j) *conducting related exit activities*

including preparing exit reports and conducting exit meetings upon completion of adjudication activities in the barangay.

- (iii) Prior to the interview the Adjudicator shall review all information already available about the land. This shall include but need not be restricted to: (a) information supplied to the Systematic Adjudication Team by the Project Manager; (b) the up-to-date list of applicants prepared as part of the community mobilization activities; and (c) information acquired by Systematic Adjudication Team before adjudication, such as the tax declaration, information from the Department of Land Reform, clearances from the Regional Trial Court and the CENRO declaration that the land is classified as Alienable and Disposable public land within the meaning of section 6 of Commonwealth Act 141.
- (iv) Prior to the interview the Adjudicator shall conduct the following preparatory activities: (a) preparing a schedule of interviews notifying the sequence, timing and location of interviews; (b) liaising with LGU officials to ensure that community mobilisation activities have been completed and that all preparations for the interviews have been made.

Qualified applicant

- (i) The requirements for the issue of a free patent and specifying who may be granted a free patent are contained in Commonwealth Act 141 as amended. The adjudicator shall apply those provisions in determining if the applicant is a qualified applicant.
- (ii) In general terms, an applicant is a qualified applicant if the applicant (a) is a natural-born Filipino citizen; (b) has an aggregate land holding not exceeding 12 hectares, taking into consideration the land in the application; (c) can establish at least thirty (30) years continuous possession of the land, either by himself or herself or through predecessors-in-interest; (d) if a CARP beneficiary, will own land with an aggregate area not exceeding 5 hectares taking into consideration the land in the application; and (e) can provide some evidence of payment of real estate tax for the land in the application.
- (iii) Evidence of payment of tax may be any tax receipt and need not be the receipt for the latest tax year.
- (iv) If an applicant is in arrears in the payment of real estate taxes, this shall not be an impediment to the approval of the application and the issue of a patent.

Qualified land

Qualified land is land that (a) is classified as Alienable and Disposable public land within the meaning of section 6 of Commonwealth Act 141.; (b) is used predominantly for agriculture.

Interview of applicants

- (i) The Adjudicator and member of the barangay council assisting the Adjudicator shall interview the applicant and shall where possible conduct the interview on the land parcel subject of the claim.
- (ii) The purposes of the interview are to ensure that the applicant is a qualified applicant and is the best applicant for the patent, to assess the evidence supporting the claim, to identify other evidence required to support the claim and to complete the Public Land Application.

- (iii) Where sketching and monumenting activities are required and are conducted at the same time as adjudication, additional purposes are to physically define the land parcel by the placement of boundary monuments, to obtain the endorsement of the adjoining owners and to identify n address any boundary disputes.

Public Land Application form

- (i) As part of the interview, an applicant shall apply for a free patent by completing a Public Land Application Form.
- (ii) The application may be filed personally by the applicant, or by his/ her representative authorized in writing, at the base camp or with a member of the Systematic Adjudication Team.
- (iii) The completed Public Land Application form shall contain the information required in section 90 of Commonwealth Act 141 and more generally the following information: (a) the description of the land such as lot number and survey number; (b) the name of the applicant; (c) details of any predecessor in title.
- (iv) The application must be supported by the following: (a) current community tax certificate of the applicant; (b) affidavit by the applicant or representative stating the citizenship and residency of the applicant (c) affidavit of two disinterested persons who know the applicant, generally supporting the application and stating how long the applicant and predecessors have occupied the land; (d) the Final Inspection Report by the Adjudicator; (e) where the land is unsurveyed land, a Parcel identification sheet prepared by the survey support staff;
- (v) The application may be supported by deeds and other documents to establish the qualification of the applicant.
- (vi) The Public Land Application form shall be signed by the applicant or representative attested by the Adjudicator, who shall administer the oath.
- (vii) When the Adjudicator considers the Public Land Application to be complete, the Adjudicator shall refer it to the processing staff.

Ocular Inspection

- (i) The adjudicator shall conduct an ocular inspection of the land in the application and may do so at the time of the interview.
- (ii) The ocular inspection is conducted to assist the Adjudicator to: (a) determine whether the land is used predominantly for agriculture; (b) determine whether the applicant is the actual occupant or cultivator of the land and to provide the opportunity to identify any competing claims over the land; (c) enable the Adjudicator to prepare a sketch of the land; (d) enable the adjudicator to identify what improvements are on the land and to determine who owns them; (e) provide the opportunity to seek supporting information from adjoining owners where required; (f) enable the adjudicator to complete the Final Inspection Report.
- (iii) The Adjudicator shall prepare a Final Inspection Report on prescribed form and shall record on the Report the findings of the ocular inspection. The report may contain the following: (a) the location of the land and the description such as lot number and survey number; (b) the starting date of occupation and cultivation by the applicant and details of predecessors in title sufficient to establish that the applicant is a qualified applicant; (c) the approximate area

of the land and the approximate area under cultivation; (d) description of improvements on the land; (e) statement that the applicant does not own more than 12 hectares; (f) a sketch of the land; (g) general comments, evaluation and recommendation of the Adjudicator.

- (iv) In relation to the general comments and evaluation of the Adjudicator: (a) where the applicant is not the survey claimant, the report shall clearly describe how the ownership of the land has been transferred from the survey claimant or otherwise devolved to the applicant; (b) where the applicant is not the person stated as owner in the tax declaration, the report shall describe how the land has been transferred from the tax declarant or otherwise devolved to the applicant.
- (v) The Final Inspection Report shall be signed by the Adjudicator and subscribed by the SAT Leader.

Evidence to be taken into account in preparing recommendation

- (i) In completing the Final Inspection Report and preparing a recommendation, the Adjudicator may take into account information provided during the interview and ocular inspection, including information from (a) the applicant, the actual occupant or cultivator of the land; (b) adjoining owners; (c) the barangay chairman and other members of the barangay council; (d) other knowledgeable members of the community.
- (ii) The adjudicator may take notice of any or all of the following: (a) the statements in the Public Land Application form and affidavit signed by the applicant; (b) deeds and documents evidencing the sale, mortgage, lease or other disposal of an interest in land; (c) the Parcel identification sheet; (d) the tax declaration for the land; (e) the community tax certificate of the applicant; (f) an affidavit from a person having some knowledge of the land or the applicant; (g) physical evidence from an inspection of the land; (h) any document from a LGU or other government agency concerning the land; and (i) such other evidence considered by the adjudicator as relevant.
- (iii) Any deed, whether registered or unregistered, notarized or unnotarized can be considered as evidence to support the application.

Dispute or Objection

- (i) Where an application is disputed or an objection has been lodged with the Systematic Adjudication Team, the Adjudicator may attempt to resolve the dispute or address the objection.
- (ii) If the dispute remains unresolved or the objection is not withdrawn, the application shall be endorsed to the appropriate CENR Office for further investigation and resolution.
- (iii) Nothing in this Order shall prevent a disputing party or objector from referring any dispute or claim to the barangay officials, the Lupon Tagapamayapa, the Department or the court.

Chapter V – Survey Support Activities

Survey support activities

- (i) Survey support staff shall undertake survey activities as maybe required in the Systematic Adjudication activities.

- (ii) Survey support activities shall include but need not be limited to: (a) reviewing disputes and objections relating to land boundaries and attempting to bring the disputing parties to a resolution of the issues; (b) where a survey contractor is contracted to undertake a cadastral survey under this Order, survey support activities shall also include the preparation of a parcel identification sheet pursuant to DAO ???, the cadastral survey, monitoring field activities of survey contractors and the field verification and approval of the cadastral survey.
- (iii) Survey support staff and survey contractor shall be authorized to enter land for the purposes of consulting the land owner and occupant in relation to the preparation of a parcel identification sheet and conducting the cadastral survey.

Chapter VI - Review and Processing Free Patent Applications by Systematic Adjudication

Processing activities

- (i) Processing staff of the Systematic Adjudication Team shall carry out processing activities in the base camp in relation to completed applications submitted by the Adjudicator.
- (ii) Processing activities shall include but need not be limited to the following: (a) numbering applications; (b) public posting of the applications; (c) processing applications and recommending for or against approval; (d) receiving and processing objections; (e) prepare the Patent in the prescribed Judicial Form with the technical descriptions; (g) facilitate the approval of the patent; (h) collecting the fees; and (i) transmitting the patent to the Registry of Deeds.

Numbering the Application

- (i) Applications shall be numbered by the Records Officer.
- (ii) Numbering will use the Department's prescribed numbering system utilizing the NEDA RURBAN codes.
- (iii) An application may be accepted and numbered even if the cadastral survey is not yet approved

Public Notice of application

- (i) Following numbering of an application, notice of application shall be posted publicly in designated areas in the locality where the land is situated, for a period of 14 days.
- (ii) When posting occurs before approval of the cadastral survey carried out as part of the survey support activities, the land shall be identified by attaching a copy of the Parcel identification sheet.
- (iii) One notice can relate to two or more land parcels and applications, provided the notice clearly identifies each parcel by reference to a Cadastral Index Map or Parcel identification sheet and clearly names each applicant.
- (iv) At the completion of the notice period, the barangay chairman or the Systematic Adjudication Team Leader shall sign a certification confirming that the notice period requirement has been complied with.

Objection to an application

- (i) Any person who disputes or objects to the application may file a written objection with the base camp before the expiry of the 14-day notice period.
- (ii) Where an objection is received, the Systematic Adjudication Team Leader shall cause the claim in the objection to be investigated and an attempt to resolve the objection to be undertaken.
- (iii) If the dispute remains unresolved or the objection is not withdrawn, the application shall be endorsed to the appropriate CENR Office for further investigation and resolution.
- (iv) The application shall not be processed until the objection is resolved or withdrawn.

Processing the Application

- (i) The base camp shall process the application to ensure that: (a) the land is qualified; (b) the applicant is qualified; (c) the Public Land Application has been duly completed; (d) evidence that must be attached has been provided; (e) the Final Inspection Report has been completed; (f) there is no outstanding dispute; (g) the public notice requirements have been satisfied and there is no outstanding objection; (h) the land is not covered by any pending Public Land Application; (i) leases, mortgages, encumbrances and liens, if any, to be recorded on the Free Patent have been established.
- (ii) The survey must first be approved and signed before the Public Land Application can be approved.
- (iii) Once the processing is complete and all procedural and evidentiary requirements have been satisfied, the processing staff shall prepare the Free Patent and shall endorse it to the Systematic Adjudication Team Leader for approval.

Drafting the judicial form of the free patent

- (i) The Free Patent shall include: (a) the technical description; (b) the names of the owners; and (c) encumbrances and restrictions affecting the title.
- (ii) Where the land is conjugal property the husband and wife shall be recorded as joint owners.
- (iii) Where the land is subject to a leasehold contract registered by the Department of Land Reform, the leasehold contract may be endorsed on the free patent.

Technical description

- (i) The form of the technical description may at the discretion of the Systematic Adjudication Team Leader be a sketch/ diagram illustrating the land parcel in relation to adjoining land parcels and features such as roads.
- (ii) Where the land is affected by a public reserve or easement such as public access this may be recorded on the diagram.
- (iii) The numerical technical description may be filed in the Department and may be accessed by a geodetic engineer or other interested searcher.

Chapter VI - Approval of Patents, Registration and Distribution

Approval

- (i) The Free Patent may be signed: (a) by the Systematic Adjudication Team Leader where the area of the land in the patent is 5 hectares or less (b) by the Project Manager where the area of land in the free patent exceeds five hectares but is less than 12 hectares.
- (ii) Following signature of the free patent the Systematic Adjudication Team shall transmit the patent to the Registry of Deeds for registration.

Fees and deferment of fees

- (i) Prior to registration of a free patent the required fees may be collected by the Base Camp and remitted to the concerned agencies.
- (ii) Patents issued from the systematic adjudication process shall not be subject to payment of cadastral cost and application fee.

CHAPTER VIII - Miscellaneous Provisions

Role of CENRO in Systematic Adjudication Area

The office of CENRO shall be responsible for conducting a review of the quality of a sample of applications processed in the base camp. The review shall ensure that the procedures in Commonwealth Actc141 as amended are complied with during field operations. The results of the reviews and remedial action shall be reported by CENRO to the Project Manager on a regular basis.

Deputising Adjudicators as Deputy Public Land Inspectors

Any Adjudicator appointed by the Project Manager pursuant to this Order shall for the duration of the contract of employment or of any renewal thereof be designated as Deputy Public Land Inspector and is hereby authorized to: (a) prepare Public Land Applications and to administer the required oaths; (b) accomplish final proof and administer the required oath; (c) prepare affidavits related to applications and to administer the oaths; (d) to conduct preliminary and final inspection and miscellaneous investigations; and (d) to carry out such other duties required or permitted by the Project Manager in relation to adjudication and the acquisition and disposition of public land.

Repealing Clause

Effectivity - This order shall take effect ...

EXPLANATORY NOTE

Objectives of regulation

This Order is drafted to achieve the following:

- Introduce and facilitate systematic adjudication, by taking the efficiencies and streamlined processes developed during LAMP pilot projects in Leyte and setting out the processes in a logical sequence
- To provide sustainability for Phase II LAMP by having clear field procedures in place before LAMP moves to new provinces
- Provide a framework for systematic adjudication but not to rigidly define the processes. It is important that the process is sufficiently flexible to meet the situation encountered in a new location.
- To recognise that detailed procedures are contained in the approved version of the Field Operations Manual

The intention is that after this order becomes operational, the following will apply in the Philippines:

- Sporadic adjudication may be conducted according to existing DENR procedures;
- Systematic adjudication may be undertaken in areas declared by the Secretary to be Systematic Adjudication Areas. Generally this will occur in LAMP areas until training in the new procedures can be provided more widely.

Operative provisions

The Order not only sets out an administrative framework for systematic adjudication. It also includes the following provisions:

- The Secretary of DENR delegates the power of signing patents to the SAT Leader [patents 5 ha and less] and the Project Manager [patents exceeding 5 ha and less than 12 hectares]
- The Secretary of DENR delegates the power to sign cadastral survey in Systematic Adjudication Area to the Project Manager
- The Secretary deputizes adjudicators as Deputy Public Land Inspectors with power to conduct ocular inspections and to sign the Final Inspection Report
- This Order authorizes free patents in Systematic Adjudication Area to contain a technical description in the form of a sketch. However the numerical technical description shall also be prepared and where it is not set out in the free patent it shall be filed in the Department and shall be made available to geodetic engineers and other searchers.
- This order abolishes the collection of the cadastral fee for free patents in Systematic adjudication areas

Sustainability of systematic adjudication

To ensure sustainability, the introduction of systematic adjudication is supported by the following:

- Startup Guidebook Volumes I and II, setting out support activities to be undertaken in the first months of LAMP operations in a new location;

- The Field Operations Manual Volumes I and II, setting out field procedures for systematic adjudication;
- Training guidebooks for both office and field operations

Items not covered by this Order

This Order does not seek to regulate the following:

- The setup, structure and operating procedures of the LAMP regional office
- Office and field activities that should be undertaken during the Start-up period. These activities, carried out in advance of systematic adjudication, are to be undertaken according to the guidelines in the Start-up Guidebook. These activities include the densification of the survey control network, the validation of existing approved surveys and conducting correction surveys where required, establishing/ extending the political boundary network, preparation of an inventory of land information and the compilation of a database, etc
- The preparation of Cadastral Index Maps – this is already the subject of a draft DAO
- Procedures for Parcel identification sheets – this is already the subject of a draft DAO
- Integration of the CIM sheets into ROD – this may be the subject of a subsequent DAO
- The operation of the One Stop Shop – this may be the subject of a Joint Circular by participating agencies
- The operation of the ROD – this is expected to be the subject of a subsequent Joint Circular, addressing the following:
 - The records of the Registry of Deeds shall be a public Register
 - Records shall be made available to LAMP, the SAT and the OSS without fee
 - In relation to the first registration of land, the role of the Registrar is an administrative action of registering patents approved by DENR. The Registrar is not authorized or required to examine any intrinsic or extrinsic evidence to assess the suitability of the patent for registration
 - The issue of official receipts for registration fees by the SAT on behalf of the Registry of Deeds
 - The establishment of a flat fee for patents in systematic adjudication areas.
- The training to be given to field staff and survey contractors before undertaking field activities

Limitations on free patent titling that are not addressed by this Order

It is important to note that this Administrative Order cannot address all the limitations in free patents. However, a draft Bill has been prepared for tabling in Parliament, seeking to introduce the following:

- Reduce the proof period to 10 years

- Apply free patent processes to residential land – in 1982 Batas Pambansa Blg 223 introduced free patent provisions to some residential land [5th class municipalities etc]. Applications had to be lodged by 31 December 1987.
- Remove the five-year restrictions on transfers and mortgages after the issue of the patent – see section 118 Commonwealth Act 141
- Remove the right of the patentee to re-purchase land in the patent if sold to another person – see section 119 Commonwealth Act 141
- Clarify the right to issue titles to non-resident applicants who have entered into a leasehold relationship with another cultivator
- Remove the need for the applicant to prove the payment of real estate taxes.
- Apply a flat fee for all titles issued under LAMP.

When this law is passed it will be necessary to re-visit this Order and update it.

Chapter 1 – Concept of Systematic Adjudication

The new procedure for systematic adjudication includes the following -

- Systematic adjudication takes place in the community, not in DENR
- The project forms a partnership with the LGU to mobilise the community
- The project actively seeks to help applicants compile evidence in support of applications
- The process also seeks out potential objectors and disputants, to ensure that patents are issued to the correct person
- The process seeks to maximize the number of parcels patented.

Systematic adjudication is attractive to applicants because: (i) the cost of surveying is principally borne by the government; (ii) systematic adjudication costs less because some documentation is collected by LAMP. For example, the project obtains tax declarations direct from the Assessor and copies of registered documents direct from the Registry of Deeds. (iii) the process is much faster. Whereas sporadic processes may take 6-12 months to issue a title, systematic adjudication can generate a patent in 2-3 months.

Main differences between systematic adjudication and existing processes

- Systematic adjudication establishes a base camp in the community from which staff will undertake interviews and ocular inspections
- New positions are created, based in the base camp. These include an adjudication role that precedes the processing role of the LMO3s. It also includes staff for community mobilising activities
- All records and processing functions take place in the base camp by LAMP contract staff, not in DENR by detailed staff
- Staff help the applicant to compile the evidence. Thus the aim is inclusive – seeking to generate as many successful applications as possible.
- Where the land is already surveyed, the quality of the survey will first be validated to ensure quality. This is based on experience in LAMP 1, confirming that many approved surveys contain inaccuracies
- Ocular inspections can be undertaken by contract staff who will be deputized as deputy public land inspectors
- The format of the free patent will be different to previously issued patents, as it will contain a sketch. The existing prose technical description will be contained in a support document and can be accessed as a public search service by those requiring it. A sample of the title format is attached.
- Different signature processes – the Systematic Adjudication Team Leader may sign patents 5 ha or less and the Project Manager may sign patents exceeding 5 ha but less than 12 ha

- A Cadastral Index Map is compiled. This is a major output in systematic adjudication and is a valuable tool in the Registry of Deeds for indexing subsequent action with the land and for avoiding the issue of more than one title for any lot.
- Conjugal property is recorded in both names
- Fees – no cadastral fee will be collected.

In the early days of LAMP, community participation rates were low. Studies indicated that two major barriers to participation were the perception of high cost to applicants and secondly the fear that an application not supported by registered deeds would not be approved. This Order therefore clarifies the following concepts:

- a free patent application need not depend on the production of notarized and registered deeds. If these are not available, the application need not stall. The applicant can furnish corroborative evidence from knowledgeable community members and set these out in an affidavit. This approach in LAMP 1 has been found to permit higher participation rates
- Cadastral fees will not be collected as part of the fee for free patents, thus removing approximately 500 pesos from the cost of an application
- The Order also confirms that systematic adjudication is not a tool for collecting arrears of real estate taxes. It achieves this by providing that the existence of arrears is not an impediment to the approval of an application for public land

Gender equity is a foundational principle in DENR and this is reflected in the systematic adjudication processes in the Order.

To ensure that the quality of free patents is maintained, CENRO will have a quality assurance role. It will fulfil this by reviewing a sample of applications and assessing the quality. The likely interventions will be improved training and a clarification of processes.

Chapter 2 – Establishment of Co-ordinating Structures and Mechanisms

The concept of a Systematic Adjudication Area is introduced. Systematic adjudication can be undertaken in an area declared for that purpose by the Secretary. This provides an element of control to the Department. Initially systematic adjudication will be undertaken in LAMP areas but as the procedures are further refined and training and resources can be applied more extensively, the procedures can be mainstreamed.

The Order requires the appointment of new officers who will undertake key roles in implementing and managing systematic adjudication. The Project Manager will be the principal manager of the office activities and has the power to appoint staff including short-term contract staff to undertake the temporary field processes. The Order also provides for the appointment of a Systematic Adjudication Team Leader. This person is the manager of all field operations in the base camp.

The positions of Project Manager and Systematic Adjudication Team Leader are important and they have great responsibility. In order to maintain the high quality of DENR outputs, in the initial operations of systematic adjudication in a new location, it is expected that DENR detailed staff will be seconded to these positions and will be involved in recruiting and training contract staff.

The Order reflects the lessons in LAMP 1 that greater flexibility can be provided by the use of mobile base camps utilising contract staff. The staff will be moved from one location to another according to the needs of the project. When the temporary field activities are completed the staff can be absorbed by other government agencies requiring the skills acquired by the staff. If necessary the contracts need not be renewed at the completion of activities.

Chapter 3 – Community Mobilization for Systematic Adjudication

The Order includes a new activity for community mobilization. This is a key innovation in systematic adjudication.

The community mobilization activities are defined but in a way that is permissive rather than prescriptive. This provides an operational framework but does not require rigid compliance with forms and procedures.

The sequencing and length of time required to carry out mobilization activities will vary from locality to locality depending on the size of the barangay, accessibility of transport, whether the barangay has already been surveyed, the experience of field staff, the level of commitment and involvement of LGU/barangay officials, the willingness of community members to participate in the organization of activities, the percentage of applicants residing in the barangay /the number of tenants etc

The methodology for community mobilising is a combination of Community Organising principles and project-directed activities, and so exact requirements can't be prescribed.

A fundamental mobilising activity is the conduct of barangay assemblies. It was found during LAMP 1 that it is difficult to impart a lot of technical detail at a single meeting. So at least two barangay assemblies and up to three meetings of the barangay council are envisaged in the Field Operations Manual. However, this degree of detail is not required in the Order, which provides a framework for activities.

Chapter 4 – Systematic Adjudication

The law for the issue of free patents originates in CA 141 and subsequent amendments. This Order must reflect rather than vary the legal framework.

The Order again provides a framework for adjudication activities rather than defining a rigid sequencing of activities. In the opening remarks in this explanatory note, a summary of the differences between sporadic and systematic adjudication is set out. Systematic arises from the desire of the government to speed the process of titling all A & D land.

The Field Operations Manual provides more detail of specific activities. Activities include:

- The preparation for interview – a range of information will already be accessible in the base camp and this should be studied by adjudicators prior to the interview. This includes (i) the CIM database, Cadastral index maps, (ii) details from MARO of CLOA areas and owners who may own in excess of 12 hectares, details of A & D areas from CENRO, (iii) copies of the tax declaration etc. (iv) the approved list of survey claimants (v) the list of applicants as validated during the community mobilization processes (vi) clearances from the Regional Trial Court.

Other organizational and procedural steps need to be reviewed by the Adjudicator before the interview, including verifying that the Schedule of Interview and notices of interview have been appropriately displayed and circulated and that adequate organizing of interviews has been undertaken.

- The interview – this will be undertaken in surveyed areas by the Adjudicator and one barangay council representative. The purposes of the interview are to define the land parcel and then to identify the correct applicant and acquire the appropriate supporting evidence.
- Evaluation of the evidence – the role of the adjudicator is more than simply gathering documents and issuing a receipt. A process of evaluation must be undertaken. Generally this has three steps (i) ensuring that the land is qualified for the issue of a free patent (ii) confirming

that the applicant is qualified for the issue of a patent (iii) reviewing the evidence and where possible helping the applicant to provide lacking material.

- Ensuring the land is 'qualified land' involves undertaking an ocular inspection and preparing the Final Inspection Report. The Order describes the process. CENRO will certify the land as A&D.
- Ensuring that the applicant is qualified involves
 - (i) reviewing the citizenship of the applicant [the adjudicator reviews the Community Tax Certificate and the affidavit of the applicant];
 - (ii) consulting MARO to identify major land holders who may own more than 12 hectares;
 - (iii) assessing the length of possession of the claimant and predecessors in title. The Order reflects the need of the claimant to establish continuous possession since 15 April 1960, currently a 44-year occupation period. In the amendments to the free patent law this will be reduced to 10 years to reflect the original intention of CA 141 and the current Civil Code.
 - (iv) Obtaining a recent tax certificate – the Order appears to be consistent with the current Public Land Act. However, in the original CA 141, the proof of payment of real estate tax was not an essential requirement. This order must respect the current law and the department will have the opportunity to remove this inconsistency in the Free Patent Amendment Bill.
- Reviewing the evidence is a substantial adjudication activity and this is the reason for the term "adjudication", reflecting that a process of evaluation is now conducted in the field during the interview. The Order sets out the evidence that the adjudicator and the processing staff can take into account in deciding to issue a patent. In the present processes for sporadic adjudication, the LMO 3 relies simply on the documents presented with the application form. However the adjudicator has ready access to a wider range of inputs and the process in this Order reflects this. In particular the adjoining owners and the barangay representative can give specific evidence.

The DENR process is already flexible, permitting the deputy public land inspector to conduct verbal enquiries and to annotate the Final Inspection Report with evidence influencing the decision to support the application. The Order confirms this flexibility and states that the lack of notarized and registered deeds is not a barrier to the issue of a patent.

Chapter 5 – Survey Support Activities

A Systematic Adjudication Area may either be surveyed or unsurveyed. Where the survey was carried out years before systematic adjudication starts, the project manager may require the survey to be evaluated for titling as part of the start-up activities in a new location. This process is covered in the Start-up Guidebook and is not regulated by this Order.

Where the land is unsurveyed the project will secure the services of a private sector survey contractor to undertake a ground survey. The project is also seeking institutional and professional support for the use of more flexible parcel definition processes including Ortho Photomap and GPS. These processes when approve will be set out in another supporting order.

However, regardless of the mapping process selected, in each case unsurveyed land will be subjected to the Survey Notification process. Procedures are described more fully in a separate DAO.

Chapter 6 – Filing and Processing Free Patent Applications by systematic adjudication

There are some differences between systematic adjudication and traditional DENR processing activities:

- The processes are carried out in the base camp rather than in CENRO
- The process of accepting and numbering an application is not rigidly prescribed. It can be carried out even if the cadastral survey has not yet been approved
- The base camp arranges the posting of notice and receives objections. The process of objecting to an application is strengthened, as systematic adjudication seeks to ensure that there are no disputing claims before issuing a patent
- The Order recognises that mortgages and leases existing at the time the patent issues may be endorsed on the patent at the time of issue
- The technical description may be in a different format. The numerical description currently used may be filed with the patent file maintained in CENRO but need not be endorsed on the patent. In its place a diagram of the land parcel compiled from the cadastral survey may be used
- The patent for conjugal property shall be issued in the names of both the husband and wife.

The current confusion concerning the relationship between CA 141 [requiring the applicant to personally cultivate], PD 152 [prohibiting the use of tenants etc in seeking to fulfil the occupation period in the Public Land Act, effective from 13 March 1973] and DAO 27-73 [stating that PD 152 does not apply to free patents] cannot be resolved by this DAO but will be clarified in the coming amendments to the free patent law.

However, the order seeks to reflect the findings in LAMP, that a free patent prepared in DENR should contain endorsements of existing mortgages and tenancies. It also attempts to reflect the finding in recent studies that an attempt by the mortgagee, to claim ownership as a result of default in a mortgage contract entered into before the application, must be rejected. Upon review by DENR lawyers, it may be felt that endorsing these should await the passage of the amending bill.

Chapter 7 – Approval of Patents, Registration and Distribution

The Order decentralizes the signing function. This is in recognition that a substantial number of patents may be issued in a Systematic Adjudication Area and the burden on the PENRO may be too great. Thus patents of 5 ha and less may be signed by the Systematic Adjudication Team Leader and patents exceeding 5 ha but not exceeding 12 ha may be signed by the Project Manager.

The Order dispenses with collection of the cadastral fee. This is in recognition that there may be no legislative basis for such a fee.

Chapter 8 – Miscellaneous Provisions

CENRO has an important role in a Systematic Adjudication Area. The role is one of quality assurance. It will from time to time review a sample of the applications processed in the base camp and the output will be a report to the project manager of remedial action such as further training

All contract Adjudicators appointed by the Project Manager are empowered to carry out the functions of deputy public land inspectors as if duly appointed to that position in CENRO. This is an important provision that contributes to efficiency in the field. The interview and ocular inspection may be undertaken at the same time.

Note that TA Report A14 "Free Patent Amendment Bill Report" dated September 2004 should be used as a resource as it contains detailed background information and supporting legal advice. See also Report A9 "Key Documents Prepared by Land Law Adviser March 2003."