

[REPUBLIC ACT NO. 10752, March 07, 2016]

**AN ACT FACILITATING THE ACQUISITION OF RIGHT-OF-WAY
SITE OR LOCATION FOR NATIONAL GOVERNMENT
INFRASTRUCTURE PROJECTS**

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. *Short Title.* – This Act shall be known as “The Right-of-Way Act”.

SEC. 2. *Declaration of Policy.* – Article III, Section 9 of the Constitution states that private property shall not be taken for public use without just compensation. Towards this end, the State shall ensure that owners of real property acquired for national government infrastructure projects are promptly paid just compensation for the expeditious acquisition of the required right-of-way for the projects.

SEC. 3. *National Government Projects.* – As used in this Act, the term “national government projects” shall refer to all national government infrastructure projects and its public service facilities, engineering works and service contracts, including projects undertaken by government-owned and -controlled corporations, all projects covered by Republic Act No. 6957, as amended by Republic Act No. 7718, otherwise known as the “Build-Operate-and-Transfer Law”, and other related and necessary activities, such as site acquisition, supply or installation of equipment and materials, implementation, construction, completion, operation, maintenance, improvement, repair and rehabilitation, regardless of the source of funding. Subject to the provisions of Republic Act No. 7160, otherwise known as the “Local Government Code of 1991”, local government units (LGUs) may also adopt the provisions of this Act for use in the acquisition of right-of-way for local government infrastructure projects.

SEC. 4. *Modes of Acquiring Real Property.* – The government may acquire real property needed as right-of-way site or location for any national government infrastructure project through donation, negotiated sale, expropriation, or any other mode of acquisition as provided by law.

In case of lands granted through Commonwealth Act No. 141, as amended, otherwise known as “The Public Land Act”, the implementing agency shall:

(a) Follow the other modes of acquisition enumerated in this Act, if the landowner is not the original patent holder and any previous acquisition of said land is not through a gratuitous title; or

(b) Follow the provisions under Commonwealth Act No. 141, as amended, regarding acquisition of right-of-way on patent lands, if the landowner is the original patent holder or the acquisition of the land from the original patent holder is through a

gratuitous title.

The implementing agency may utilize donation or similar mode of acquisition if the landowner is a government-owned or government-controlled corporation.

When it is necessary to build, construct, or install on the subsurface or subterranean portion of private and government lands owned, occupied, or leased by other persons, such infrastructure as subways, tunnels, underpasses, waterways, floodways, or utility facilities as part of the government's infrastructure and development project, the government or any of its authorized representatives shall not be prevented from entry into and use of the subsurface or subterranean portions of such private and government lands by surface owners or occupants, if such entry and use are made more than fifty (50) meters from the surface.

SEC. 5. Rules on Negotiated Sale. – The implementing agency may offer to acquire, through negotiate sale, the right-of-way site or location for a national government infrastructure project, under the following rules.

(a) The implementing agency shall offer to the property owner concerned, as compensation price, the sum of:

- (1) The current market value of the land,
- (2) The replacement cost of structures and improvements therein; and
- (3) The current market value of crops and trees therein.

To determine the appropriate price offer, the implementing agency may engage the services of a government financial institution with adequate experience in property appraisal, or an independent property appraiser accredited by the Bangko Sentral ng Pilipinas (BSP) or a professional association of appraisers recognized by the BSP to be procured by the implementing under the provisions of Republic Act No. 9184, otherwise known as the "Government Procurement Reform Act" and its implementing rules and regulations pertaining to consulting services.

If the property owner does not accept the price offer, the implementing agency shall initiate expropriation proceedings pursuant to Section 6 hereof.

The property owner is given thirty (30) days to decide whether or not to accept the offer as payment for his property. Upon refusal or failure of the property owner to accept such offer or fails anchor refuses to submit the documents necessary for payments, the implementing agency shall immediately initiate expropriation proceedings as provided in Section 6 herein.

(b) Subparagraph (a)(2) of Section 5 hereof shall also apply to all owners of structures and improvements who do not have legally recognized rights to the land, and who meet all of the following criteria:

- (1) Must be a Filipino citizen;
- (2) Must not own any real property or any other housing facility, whether in an urban or rural area; and

(3) Must not be a professional squatter or a member of a squatting syndicate, as defined in Republic Act No. 7279, otherwise known as the "Urban Development and Housing Act of 1992".

(c) With regard to the taxes and fees relative to the transfer of title of the property to the Republic of the Philippines through negotiated sale, the implementing agency shall pay, for the account of the seller, the capital gains tax, as well as the documentary stamp tax, transfer tax and registration fees, while the owner shall pay any unpaid real property tax.

(d) If requested by the property owner, the implementing agency shall remit to the LGU concerned the amount corresponding to any unpaid real property tax, subject to the deduction of this amount from the total negotiated price. *Provided, however,* That the said amount is not more than the negotiated price.

(e) The property owner and the implementing agency shall execute a deed of absolute sale: *Provided,* That the property owner has submitted to the implementing agency the Transfer Certificate of Title, Tax Declaration, Real Property Tax Certificate, and other documents necessary to transfer the title to the Republic of the Philippines. The implementing agency shall cause the annotation of the deed of absolute sale on the Transfer Certificate of Title.

(f) Upon the execution of a deed of sale, the implementing agency shall pay the property owner:

(1) Fifty percent (50%) of the negotiated price of the affected land, exclusive of taxes remitted to the LGU concerned under subparagraph (d) herein; and

(2) Seventy percent (70%) of the negotiated price of the affected structures, improvements, crops and trees, exclusive of unpaid taxes remitted to the LGU concerned under subparagraph (d) herein.

(g) The implementing agency shall, at the times stated hereunder, pay the property owner the remaining fifty percent (50%) of the negotiated price of the affected land, and thirty percent (30%) of the affected structures, improvements, crops and trees, exclusive of unpaid taxes remitted to the LGU concerned under subparagraph (d) herein: *Provided,* That the land is already completely cleared of structures, improvements, crops and trees.

(1) At the time of the transfer of title in the name of the Republic of the Philippines, in cases where the land is wholly affected; or

(2) At the time of the annotation of a deed of sale on the title, in cases where the land is partially affected.

The provisions of subparagraph (a) herein shall also apply to outstanding claims for right-of-way payments, except that the amount to be offered shall be the price at the time of taking of the property, including legal interest until fully paid.

SEC. 6. *Guidelines for Expropriation Proceedings.* – Whenever it is necessary to acquire real property for the right-of-way site or location for any national

government infrastructure through expropriation, the appropriate implementing agency, through the Office of the Solicitor General, the Office of the Government Corporate Counsel, or their deputize government or private legal counsel, shall immediately initiate the expropriation proceedings before the proper court under the following guidelines:

(a) Upon the filing of the complaint or at any time thereafter, and after due notice to the defendant, the implementing agency shall immediately deposit to the court in favor of the owner the amount equivalent to the sum of:

(1) One hundred percent (100%) of the value of the land based on the current relevant zonal valuation of the Bureau of Internal Revenue (BIR) issued not more than three (3) years prior to the filing of the expropriation complaint subject to subparagraph (c) of this section;

(2) The replacement cost at current market value of the improvements and structures as determined by:

(i) The implementing agency;

(ii) A government financial institution with adequate experience in property appraisal; and

(iii) An independent property appraiser accredited by the BSP.

(3) The current market value of crops and trees located within the property as determined by a government financial institution or an independent property appraiser to be selected as indicated in subparagraph (a) of Section 5 hereof.

Upon compliance with the guidelines abovementioned, the court shall immediately issue to the implementing agency an order to take possession of the property and start the implementation of the project. If, within seven (7) working days after the deposit to the court of the amount equivalent to the sum under subparagraphs (a) (1) to (a)(3) of this section, the court has not issued to the implementing agency a writ of possession for the affected property, the counsel of the implementing agency shall immediately seek from the court the issuance of the writ of possession. The court shall issue the writ of possession *ex parte*; no hearing shall be required.

The court shall release the amount to the owner upon presentation of sufficient proofs of ownership.

(b) In case the owner of the property cannot be found, if unknown, or deceased in cases where the estate has not been settled, after exerting due diligence, or there are conflicting claims over the ownership of the property and improvements and structures thereon, the implementing agency shall deposit the amount equivalent to the sum under subparagraphs (a)(1) to (a)(3) of this section to the court for the benefit of the person to be adjudged in the same proceeding as entitled thereto.

Upon compliance with the guidelines abovementioned, the court shall immediately issue to the implementing agency an order to take possession of the property and start the implementation of the project.