

**[DAR MEMORANDUM CIRCULAR NO. 07, S. 2011,
July 19, 2011]**

**ADOPTING AND IMPLEMENTING THE RIGHT TO INFORMATION
WITH RESPECT TO THE QUASI-JUDICIAL AND DISCIPLINARY
FUNCTIONS OF THE DEPARTMENT OF AGRARIAN REFORM AND
PROVIDING THE GUIDELINES THEREFOR**

Section 1. Rationale.

Section 7 of Article 3 (or the Bill of Rights) of the 1987 Constitution declares that: "The right of the people to information on matters of public concern shall be recognized. Access to official records, and to documents, and papers pertaining to official acts, transactions, or decisions, as well as to government research data used as basis for policy development, shall be afforded the citizen, subject to limitations as may be provided by law" Moreover, Section 28 of Article 2 of the Constitution declares that the State adopts and implements a policy to full public disclosure of all its transactions involving public interest.

Conformably with the forgoing, Republic Act (R.A.) No, 6713 ('An Act Establishing a Code of Conduct and Ethical Standards for Public Officials and Employees, to Uphold the Time Honored Principle of Public Office Being a Public Trust xxx, Otherwise Known as the "Code of Conduct and Ethical Standards of Public Officers and Employees"') provides that all public officials and employees are obligated to, among others make documents accessible and readily available to the public [Section 5 (e)]. in addition, Section 4 (e) of the said law prescribes that in the discharge and execution of their official duties, said public officials and employees shall, among others, provide information of their policies and procedures.

The foregoing notwithstanding, there have been numerous instances where farmers and farmworkers were denied access to pertinent information and/or documents in the files of cases involving the lands they till and over which they have entitlements under the Constitution and agrarian reform laws. In not a few cases, such denial of information and/ or documents has somehow led to the undue dislocation of these farmers and farmworkers from their lands, or even to the actual loss of titles by holders of Certificates of Land Ownership Award (CLOAs) or Emancipation Patents (EPs), or the loss of pertinent land rights to their farms, especially in cases that proceeded without their participation or knowledge and where they were unable to intervene precisely on account of such lack of information/documents. As such, this problem urgently needs to be addressed.

The right to information and access to official documents to cases is integral to the land rights of farmers, farmworkers, and tenants perse. Thus, R.A. No. 9700 or the CARPER law affirmed their legal standing as real parties in interest with respect to cases involving the land they till. The effective exercise, of such recognized legal standing requires that they are properly informed of all matters relevant to these

cases and allowed access to all pertinent documents.

The implementation of the constitutional right to information, especially of actual and potential agrarian reform beneficiaries and leaseholders, will contribute to the effective and transparent disposition of cases by the Department of Agrarian Reform (DAR). This will contain corruption in the bureaucracy and allow the meaningful participation of stakeholders in the agrarian reform program.

In order to fully implement the right to information in the DAR, the "Confidentiality Rule" incorporated in Article 4 of Memorandum Circular No. 10, Series of 2007, in Memorandum Circular No. 25, Series of 1995, and in other related administrative guidelines, must be amended accordingly, to conform to the "open door and disclosure" policy of the DAR as mandated under the Constitution and R.A. No. 6657, as amended. Mindful also of the possible abuse of disclosing confidential information for private interests which is prohibited in Section 7 (c) of R.A. No. 6713, such right must be subject to reasonable limitations as provided hereunder.

Section 2. Coverage. These guidelines shall apply to all DAR offices, officials, and employees in acting on any and all request for information and/or documents by the public in general and parties in interest in particular, with respect to any cases pending with the Provincial or Regional Agrarian Reform Adjudicator (PARD or RARAD), the Regional Center for Land Use Policy, Planning, and Implementation (RCLUPPI), the Regional Offices, the Bureau of Agrarian Legal Assistance (BALA), the Center for Land Use Policy, Planning, and Implementation (CLUPPI), the Office of the Assistance Secretary for Legal Affairs, the Office of the Undersecretary for Legal Affairs, the DAR Adjudication Board (DARAB), or the Office of the Secretary.

Section 3. Information Defined. Information refers to any data or material in any form, including records, documents, memoranda, opinions, advisories, press releases, circulars, orders, logbooks, pleadings, and papers, as well as data material held in any electronic form.

Section 4. Open Door Policy. All DAR officials and employees are hereby enjoined to implement an open door policy allowing farmers, landowners, and other stakeholders of the agrarian reform program to freely enter the DAR premises for purposes of requesting or availing the services of the Department, subject to reasonable safeguards and conditions to be imposed by the DAR office concerned as may be warranted under the circumstances, but without exercising any form of discrimination or imposing undue requirements, and giving full support to their constitutional right to information.

Section 5. Right to Information in the DAR. Any person who is a party to an agrarian law implementation (ALI) case, a DARAB case, or a personnel discipline case, or who has an actual legal interest thereon, or who is a duly authorized representative thereof, shall have the right to obtain information and obtain or inspect documents, and take notes, extracts, or certified copies thereof held or controlled by, or in the custody or possession of, DAR offices and officials, subject to reasonable limitations provided in this Circular and in other pertinent administrative rules and guidelines. The term "ALI case" shall include those pertaining to conversion and exemption exclusion cases filed with the CLUPPI/ RCLUPPI.

Section 6. Mandatory Disclosure. As a general rule, the DAR shall allow all parties to

a case, and any person adversely affected by a decision therein, or their duly authorized representatives, to access, upon request, all official pleadings, applications, notices, position papers and briefs, investigation or ocular inspection reports, transcript of stenographic notes (TSNs), and other related papers pertaining to his, her, or its particular case, subject to such reasonable conditions and limitations as may be necessary to prevent undue pressure on concerned DAR employees, avoid possible abuses in the disclosing or securing of confidential information, and preclude pre-empting the course of action or decision to be undertaken or rendered.

Section 7. Exceptions. A request for information on or access to documents may be denied or mandatory disclosure thereof may be omitted, in case the request concerns the following:

A. Privileged information as protected by law or by the Rules of Court;

B. Personal information of any individual;

C. Drafts of decision, resolutions, or orders prepared by any DARAB Board Members, DAR Adjudicator, DAR lawyer, DAR legal officer, or CLUPPI Committee, in any DARAB, ALI, or personnel discipline case, including unsigned initial or subsequent execution copies thereof, recommendations contained in investigation or ocular inspection reports, routing or transmittal slips, case briefs, and memoranda containing preliminary or subsequent recommendations, as well as notes and comments on any of the foregoing, whether handwritten, typewritten or printed, and also the identity of the ponente/DARAB Board member assigned to a particular DARAB case which has yet been promulgated or the identity of the DAR lawyer or legal officer assigned to handle a particular ALI or personnel discipline case which has not yet been promulgated, especially when the revelation thereof would reasonably tend to impair the impartiality of judgments or obstruct the administration of justice or lead to possible or actual bribery, graft, and corruption.

D. The contents of an investigation or ocular inspection report and the name of the investigation of or DAR personnel preparing the Same prior to its submission to the proper

F. Internal inter-office memoranda/legal opinions and confidential reports, provided that they are clearly marked and identified by the DAR office generating the same or having custody thereon as privileged or confidential; and

G. Information which, in the determination of the DAR, will create clear and present danger to the person, liberty, or security of the leaseholders, agrarian reform beneficiaries, landowners, or DAR employees concerned, or to national sovereignty.

Section 8. Lifting of Exception. The exceptions listed in Section 7 of this Circular can