



Senate
Office of the Secretary

SIXTEENTH CONGRESS OF THE REPUBLIC)
OF THE PHILIPPINES)
First Regular Session)

'14 MAR 31 P4 :04

SENATE

S.B. No. 2180

RECEIVED BY: *ji*

Introduced by Senator Manuel "Lito" M. Lapid

AN ACT
REVITALIZING THE PROCEDURE FOR ACQUISITION OF RIGHT OF WAY, SITE
OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE
PROJECTS, THEREBY REPEALING FOR SUCH PURPOSE REPUBLIC ACT NO.
8974, OTHERWISE KNOWN AS "AN ACT TO FACILITATE THE ACQUISITION
OF RIGHT-OF-WAY, SITE OR LOCATION FOR NATIONAL GOVERNMENT
INFRASTRUCTURE PROJECTS" AND APPROPRIATING FUNDS THEREFOR

EXPLANATORY NOTE

The delivery of basic services, the mobility of our communities and the day-to-day operations of business on all levels depend on the existence of reliable infrastructure, such as roads, bridges, classrooms and public markets among others. The acquisition of property needed for these projects, however, often entails a long and tedious process.

There is a need to revamp Republic Act No 8974, otherwise known as "An Act to Facilitate the Acquisition of Right-of-Way, Site or Location for National Government Infrastructure Projects" to facilitate the acquisition of properties necessary for the completion of infrastructure projects. Provisions are also needed to ensure the protection and just compensation of property owners. Likewise, the protection and humane relocation of informal settlers that may be present in properties identified for infrastructure projects should be provided for.

The immediate passage of this bill is earnestly sought.

MANUEL "LITO" M. LAPID
Senator

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

1 **SECTION 1. Declaration of Policy** - While eminent domain is an inherent
2 power of the State, Article III, Section 9 of the Constitution places parameters for the
3 exercise of said power by providing that private property shall not be taken for public
4 use without just compensation. Towards this end, the State shall ensure that owners of
5 real property acquired for national government infrastructure projects are promptly
6 paid just compensation without compromising the expeditious acquisition of right-of-
7 way.

8
9 **SEC. 2. National Government Projects.** - The term "national government
10 projects" shall refer to all national government infrastructure projects, engineering
11 works and service contracts, including projects undertaken by government-owned and
12 -controlled corporations, projects covered by Republic Act No. 6957, as amended by
13 Republic Act No. 7718, otherwise known as the "Build-Operate-and-Transfer Law," and
14 such other related and necessary activities, such as but not limited to site acquisition,
15 construction, completion, operation, maintenance, improvement, repair and
16 rehabilitation, regardless of the source of funding.

17
18 **SEC. 3. Modes of Acquiring Real Property.** - The government may acquire
19 real property needed as right-of-way, site or location for any national government

1 infrastructure project through donation, negotiated sale, expropriation or any other
2 mode of acquisition provided by law.

3 Financial assistance may also be given to owners of lands acquired under
4 Commonwealth Act No. 141, as amended, for the area or portion subject to the
5 reservation under Section 112 thereof in such amounts as may be determined by the
6 implementing agency (IA) or instrumentality concerned, in consultation with the
7 Commission on Audit and the assessor's office concerned pursuant to Section 18 of
8 Executive Order No. 1035.

9

10 **SEC. 4. Guidelines on Negotiated Sale.** - The implementing agency may
11 offer to acquire property through a negotiated sale under the following guidelines:

12 (a) The negotiated offer price, net of taxes relative to the transfer, for the land
13 shall be equivalent to the average market value by Government Financial Institutions
14 (GFI).

15 The implementing agency shall offer the replacement cost, net of taxes relative to
16 the transfer, for structures, trees, crops and other improvements guided by the Rules to
17 be prepared pursuant to Section 6 hereof.

18 With regard to the taxes relative to the transfer of title, the implementing agency
19 will pay the documentary stamp tax, transfer tax and registration fees while the
20 property owner shall pay the capital gains tax and any unpaid real property tax.

21 The property owner may request the implementing agency to process remittance
22 of taxes to the Bureau of Internal Revenue, particularly for such amounts corresponding
23 to the capital gains tax or any unpaid real property tax, subject to deduction from the
24 amount of negotiated offer price, provided however, that the said amount is not more
25 than the negotiated offer price.

26 (b) The property owner and the implementing agency shall execute a Deed of
27 Absolute Sale to cover the transfer of ownership of the subject property. Upon the
28 execution of the Deed of Absolute Sale, the property owner shall submit to the
29 implementing agency the transfer certificate of title, tax declaration, real property tax
30 certificate, and such other documents necessary to transfer title. The implementing
31 agency shall tender payment of at least fifty percent (50%) of the negotiated offer price,
32 net of taxes relative to the transfer, upon the execution of the Deed of Absolute Sale:
33 *Provided*, That there is complete submission by the property owner of all documents as
34 enumerated above.

1 (c) The implementing agency shall pay the remaining fifty percent (50%) of
2 the negotiated offer price, net of taxes, to the property owner after the transfer of title in
3 the name of the Republic of the Philippines.

4 (d) In case the owner rejects either or both of the above offers of the
5 government for a negotiated purchase, the implementing agency may initiate
6 expropriation proceedings pursuant to Section 5 hereof.

7
8 **SEC. 5. Guidelines for Expropriation Proceedings.** - Whenever it is
9 necessary to acquire real property for the right-of-way, site or location for any national
10 government infrastructure project through expropriation, the appropriate
11 implementing agency, through the Office of the Solicitor General, the Office of the
12 Government Corporate Counsel or their deputized legal counsel, shall initiate the
13 expropriation proceedings before the proper court under the following guidelines:

14 (a) Upon the filing of the complaint or at any time thereafter, and after due
15 notice to the defendant, the implementing agency shall immediately pay the owner of
16 the property by depositing with the court the amount equivalent to the sum of (1) one
17 hundred percent (100%) of the value of the property based on the current appropriate
18 zonal valuation of the Bureau of Internal Revenue, issued not more than three years
19 prior to the filing of the expropriation complaint; and (2) the value of the improvements
20 or structures located within the property.

21 In case the property owner cannot be found or remains unknown despite the
22 exertion of due diligence; in case the property owner is deceased or where the estate has
23 not yet been settled; or in case there are conflicting claims over the ownership of the
24 property or improvements or structures thereon, the amount equivalent to one hundred
25 percent (100%) of the zonal valuation of the property and such improvements or
26 structures thereon as determined by the Bureau of Internal Revenue, shall be deposited
27 with the court for release to the person adjudged in the same proceedings as entitled
28 thereto.

29 The court shall issue a writ of possession not later than seven (7) working days
30 from the time of deposit of the full amount, subject to relevant provisions of the Rules of
31 Court. The court shall release the deposited amount along with any interest that may
32 have accrued thereon to the owner upon presentation of sufficient proof of ownership.

33
34 (b) In provinces, cities, municipalities and other areas where there is no land
35 classification or zonal valuation, or where the zonal valuation is more than three (3)

1 years old, the City or Municipal Assessor or the Bureau of Internal Revenue, as the case
2 may be, shall produce a Declaration of Real Property and Improvement as well as a
3 zonal valuation for the property not more than thirty (30) days from the date of the
4 implementing agency's written request therefor;

5
6 (c) In case the completion of a government infrastructure project is of utmost
7 urgency and importance, and where there are no land classification, no zonal valuation
8 or where zonal valuation is more than three years, the IA shall use the BIR zonal value
9 and land classification of similar lands within the immediate vicinity.

10
11 **SEC. 6. Valuation of Improvements or Structures.** - The Department of
12 Public Works and Highways and other concerned implementing agencies, in
13 coordination with local government units concerned with the acquisition of right-of-
14 way, site or location for any national government infrastructure project, are hereby
15 mandated to enact the necessary implementing rules and regulations for equitable
16 valuation of improvements or structures on land to be expropriated not later than sixty
17 (60) days upon approval of this Act.

18
19 **SEC. 7. Ecological and Environmental Concerns.** - In all cases involving the
20 acquisition of right-of-way, site or location for any national government infrastructure
21 project, the implementing agency shall take into account the ecological and
22 environmental impact of the project and shall ascertain compliance with environmental
23 laws, land use ordinances and all pertinent provisions of Republic Act No. 7160, as
24 amended, otherwise known as the Local Government Code of 1991.

25
26 **SEC. 8. Informal Settler Families Relocation.** - The National Housing
27 Authority, in coordination with other related agencies as well as concerned local
28 government units, shall establish and develop relocation sites in anticipation of
29 informal settlers that have to be relocated from areas covered by right-of-way, site or
30 location government infrastructure projects: *Provided*, That where there are no
31 relocation sites available for the purpose and where the completion of a government
32 infrastructure project is of utmost urgency and importance, the implementing agency
33 may choose to offer financial assistance in lieu of a relocation site, pursuant to Section
34 28 of Republic Act No. 7279, otherwise known as the Urban Development and Housing
35 Act of 1992: *Provided further*, That if the informal settlers refuse said offer of financial

1 assistance, their continued occupation of the property shall not be a bar for the court to
2 issue the necessary "Writ of Demolition" to dismantle or remove structures within the
3 subject property: *Provided finally*, That the implementing agency shall take into account
4 and observe diligently the procedure provided for in Section 28 of R.A. 7279.

5 Funds for the relocation of informal settlers shall come from appropriations
6 therefor included in the General Appropriations Act or from appropriate funds for
7 infrastructure projects of the implementing agency concerned.

8

9 **SEC. 9. *Project Proponent Financing.*** - In case of Public Private
10 Partnership or Build-Operate-and-Transfer projects, the project proponent may finance
11 the costs, administrative or actual, necessary for the acquisition of right-of-way, site or
12 location of government infrastructure projects.

13

14 **SEC. 10. *Sanctions.*** -A violation of any provision of this Act shall subject the
15 government official or employee concerned to appropriate administrative, civil or
16 criminal sanctions, including suspension or dismissal from government service and
17 forfeiture benefits.

18

19 **SEC.11. *Rules and Regulations.***- A committee composed of the Secretary of
20 Department of Public Works and Highways as chairperson and the Secretaries of the
21 Department of Transportation and Communications, Department of Justice and
22 Department of Budget and Management; the Solicitor General; the Commissioner of the
23 Bureau of Internal Revenue; the Administrator of the Land Registration Authority; the
24 Head of the Bureau of Local Government Finance; and such other concerned agencies as
25 members shall prepare the necessary rules and regulations for the proper
26 implementation of this Act within sixty (60) days from its effectivity.

27

28 **SEC. 12. *Appropriations Clause.*** - Such amounts necessary for the effective
29 implementation of this Act shall be included in the General Appropriations Act of the
30 year following its enactment.

31

32 **SEC. 13. *Separability Clause.*** - If any part or provision of this Act shall be
33 declared unconstitutional or invalid, the remaining parts or provisions not affected
34 thereby shall remain in full force and effect.

35

1 **SEC. 14. *Repealing Clause.*** - Any laws, decrees, instructions,
2 promulgations, rules and regulations, or parts thereof not consistent with or contrary to
3 the provisions of this Act are hereby deemed modified, amended or repealed
4 accordingly.

5
6 **SEC. 15. *Effectivity Clause.*** - This Act shall take effect upon its publication
7 in at least two (2) national newspapers of general circulation.

Approved,