

Republika ng Pilipinas  
PAMBANSANG PANGASIWAAN NG PATUBIG  
(National Irrigation Administration)  
Gusaling APC, Quezon Memorial Circle  
Diliman, Lungsod ng Quezon

MC # 25, s. 1971

MEMORANDUM CIRCULAR

TO : ALL REGIONAL, PROVINCIAL AND PROJECT IRRIGATION  
ENGINEERS; IRRIGATION SUPERINTENDENTS AND/OR  
OFFICERS-IN-CHARGE OF PROJECTS/SYSTEMS; PROJECT  
MANAGERS, UPRP, NIA-UNDP, MAGAT FEASIBILITY  
STUDY PROJECT; CHIEFS OF DEPARTMENTS AND STAFFS;  
CORPORATE AUDITING OFFICE AND STAFF; AND FIELD  
EXAMINERS; OTHERS CONCERNED  
This Agency

SUBJECT : Legal Requirement to Secure Right of Way Permission/  
Authorization From Landowners to Enter on Real Property

The legal requirement that a prior written permission or consent to enter for right of way purposes shall be secured from the landowner of any real property affected by any actual construction, repairs and improvement works is strongly emphasized. Several legal suits have been instituted before the courts initiated by landowners of lands traversed by our lines against the agency head and/or the field employees officially or in their private capacities, individually or collectively. In majority of these court cases this agency finds itself always at the losing end of the court battle or negotiations resulting in unexpected high prices for right of way compensation payments, consequential damages and interests included, if any, adverse to the agency.

What is more to be concerned very particularly is when NIA employees and/or personnel are sued in court in their private capacities for the simple absence or omission of a written consent or permission to enter on the lands. Court decisions favor the landowners, the respondent officials are adjudged personally liable for damages caused by virtue of this so-called tortious act committed. This agency finds it rather difficult to establish that this act is an agency responsibility.

Henceforth, you are hereby directed to first secure prior written consent and/or authorization from the landowner concerned, otherwise you shall be held personally liable for any consequences that may arise out of any unauthorized entry.

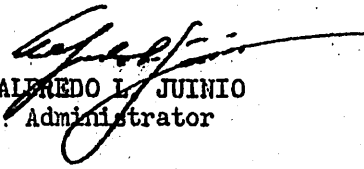
Please be also directed to disseminate this memorandum circular to your respective field and office personnel for their proper guidance and protection and to prevent recurrence of legal suits for damages for which they may be personally made accountable.

Your attention is further invited to the perfection of right of way agreements, deeds of sales, donations or any other legal requirements so that payments may be effected on assessed, appraised or negotiated prices/ rates applicable at the time we actually take possession of the properties. For it must be noted that if non-payment is effected early enough the prices in later years rise such that this agency will bear to pay over and above that of the estimated costs allocations for right of way for the constructed projects. It is suggested that sufficient and reasonable number of competent right of way agents/personnel shall be fielded to accomplish this undertaking. Moreover, Project Chiefs, officers in charge of projects/ systems shall follow up and keep themselves posted on the progress of these right of way matters.

Any legal problem encountered and cannot be locally resolved shall immediately be brought to the attention of this office for early legal assistance if demanded by the work situation for the early completion of the project but with minimal or without legal right of way troubles in the succeeding years of the system operations.

Further the chiefs of offices shall cause all right of way documents, papers and all legal requirements coming into your possession to be properly recorded and kept in steel filing cabinets for ready perusal and reference when called for all legal intents and purposes by this agency.

Immediate compliance is hereby enjoined for the best interest of the agency and all officials and employees concerned.

  
ALFREDO L. JUINIO  
Administrator

September 7, 1971

THR/fat