REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF FINANCE
BUREAU OF INTERNAL REVENUE
Quezon City

Section 6 of RA No. 10752; RMO No. 31-2019
OT-0341-2020

JUN 23 2020

Department of Transportation
Apo Court corner Sergio Osmeña Street
Clark Freeport Zone,
Pampanga, Philippines 2009

Attention: **Atty. Reinier Paul R. Yebra**
Undersecretary for Legal Affairs

Gentlemen:

This refers to your letter dated June 5, 2020 requesting on behalf of Department of Transportation (DOTr), clarification of the proper valuation of real properties subject of expropriation proceedings.

It is represented that Century Communities Corporation ("Century") is the owner of two (2) parcels of land covered by Transfer Certificate of Title (TCT) Nos. [redacted] and TCT No. [redacted] issued by the Registry of Deeds for Quezon City, both located along Quirino Highway, Barangay Greater Lagro, Quezon City, consisting of [redacted] square meters and [redacted] square meters, respectively. The aforesaid properties are subject of the expropriation proceedings filed by the DOTr, through the Office of the Solicitor General (OSG), in a complaint dated November 13, 2019. The expropriation case, docketed as Civil Case No. [redacted] entitled "Republic of the Philippines, represented by the Department of Transportation, vs. Century Communities Corporation and Registry of Deeds of Quezon City", is now pending before the Quezon City Regional Trial Court, Branch 98. The filing of the foregoing expropriation case was prompted by Century's rejection of DOTr's offer to purchase the properties for Php [redacted] per square meter. Century maintains that the market value of the properties should be Php [redacted] per square meter.

The subject parcels of land were issued Tax Declaration Nos. [redacted] and [redacted] by the Office of the City Assessor of Quezon City, classifying them as residential. It is noted, however, that the Department of Finance Department Order No. 026-2019 ("DOF DO No. 026-2019") prescribes zonal values only for commercial properties along Quirino Highway, Barangay Greater Lagro, Quezon City. A certification was also issued by RDO 028-Novaliches stating that there is "no valuation for residential lands in Quirino Highway, Greater Lagro, Quezon City."

On November 20, 2019, the DOTr, pursuant to the provisions of the Office of the Court Administrator (OCA) Circular No. 113-2019, deposited the amount of Php [redacted] with the Office of the Clerk of Court of the Regional Trial Court (RTC) of Quezon City. On

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the basis of the deposit made by the DOTr, the court issued the Writ of Possession pursuant to Section 6(a) of Republic Act (RA) No. 10752 entitled "*An Act Facilitating the Acquisition of Right-of-Way Site or Location for National Government Infrastructure Projects.*" On November 25, 2019, the DOTr took actual possession of the subject properties and started the construction of the depot for the MRT-7 Project.

Subsequently, Century filed for the quashal of the Writ of Possession issued by RTC Branch 98, Quezon City, but the same was denied in an Omnibus Order dated January 3, 2020. Century sought for a reconsideration of the denial, which was again denied in another Omnibus Order dated March 4, 2020. Notwithstanding the issuance of the foregoing Omnibus Orders, Century filed an Omnibus Motion insisting its claim that the value of the expropriated properties is Php [redacted] per square meter using as a basis therefor the Bureau of Internal Revenue (BIR) Ruling No. OT-0196-2020 dated February 20, 2020. Hence, this query requesting for clarification on the proper zonal valuation of the properties subject of expropriation proceedings.

In reply, please be informed at the outset that the cited BIR Ruling No. OT-0196-2020 was issued for the purpose of determining the tax base in the computation of applicable national internal revenue taxes pursuant to Section 6[E] of the 1997 Tax Code, as amended. It was issued based on the facts then represented of properties along Quirino Highway, Barangay Greater Lagro, Quezon City, which are classified as <u>commercial</u>. It was not issued for the purpose of determining the proper valuation or just compensation of properties subject of expropriation proceedings, which, to us, is essentially a judicial prerogative.[1] Neither was it issued to resolve the actual location of the properties vis-à-vis their land classification.

That the properties mentioned in BIR Ruling No. OT-0196-2020 are subject of a pending expropriation case before the court is an entirely new fact. This was not part of the facts as represented by the requesting party in that Ruling. Be that as it may, we confirm that in expropriation proceedings filed by the government to acquire real property for the right-of-way site or location for any national government infrastructure, the provisions of Section 6 of Republic Act (RA) No. 10752 providing for the guidelines in determining the proper zonal valuation of real properties upon which the required deposit shall be made, are controlling. Pertinent portion of Section 6 reads:

> *"**SECTION 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 deputized 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:*

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1 Evergreen Manufacturing Corp., vs. Republic, G.R. No. 218628, Sept. 6, 2017

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(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;

xxx xxx xxx

(c) xxx xxx xxx. ***In provinces, cities, municipalities, and other areas where there is no zonal valuation****, or where the current zonal valuation has been in force for more than three (3) years,* ***the BIR is mandated, within the period of sixty (60) days from the date of filing of the expropriation case, to conduct a zonal valuation of the area, based on the land classification done by the city or municipal assessor.***

(d) With reference to subparagraph (a)(1) of this section, ***in case the completion of a government infrastructure project is of utmost urgency and importance****, and there is no land classification or* ***no existing zonal valuation of the area*** *concerned or the zonal valuation has been in force for more than three (3) years,* ***the implementing agency shall use the BIR zonal value and land classification of similar lands within the adjacent vicinity as the basis for the valuation.***

xxx xxx xxx." (Emphasis supplied)

It is clear, based on the foregoing provisions, that in expropriation proceedings involving real property located in areas where there is yet no zonal valuation, the BIR is mandated to conduct a zonal valuation of such areas based on the land classification done by the city or municipal assessor.

As you represented, the City Assessor of Quezon City has classified the subject properties located along Quirino Highway, Barangay Greater Lagro, Quezon City as residential and that the owner has consistently and expressly declared such properties as residential. You likewise represented that the completion of the MRT-7 Project is of utmost urgency and importance and that there it yet no zonal valuation for residential purposes in the area since DOF DO No. 026-2019 prescribes zonal values only for commercial properties along Quirino Highway, Barangay Greater Lagro, Quezon City.

With such representations that the properties are in the area along Quirino Highway, Barangay Greater Lagro, Quezon City classified as residential, that there is yet no zonal valuation for residential purposes in the area as DOF DO No. 026-2019 prescribes zonal values only for commercial properties, and that the completion of the MRT-7 Project is of utmost urgency and importance, we agree that the DOTr is authorized, pursuant to RA No. 10752, to use the BIR zonal value and land classification of similar lands within the adjacent vicinity as the basis for the valuation of such residential properties, for the purpose of determining the amount to be deposited as a requirement in the expropriation proceedings. As you stated, the current BIR Zonal value for residential lands in Barangay 183, Caloocan City, which are adjacent to the subject properties, is at PhP per square meter.

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Based thereon, we, thus, clarify that BIR Ruling No. OT-0196-2020 was issued for the purpose of determining the tax base in the computation of applicable national internal revenue taxes on properties along Quirino Highway, Barangay Greater Lagro, Quezon City classified as commercial. It was not intended to modify the residential classification thus issued by the City Assessor. Pursuant to Section 6[E] of the 1997 Tax Code, as amended, the Ruling upheld, for purposes of computing any internal revenue tax, the value of the properties as prescribed in DOF DO No. 026-2019 as it is higher than those prescribed by the City Assessor. Such a Ruling was not issued for the purpose of determining the proper valuation or just compensation of properties classified as residential along Quirino Highway, Barangay Greater Lagro, Quezon City, subject of expropriation proceedings. To reiterate, such a determination, including that of the actual location of the properties based on their land classification, is essentially a judicial prerogative, to be governed by the pertinent provisions of RA No. 10752.

This ruling is being issued on the basis of the foregoing facts as represented. However, if upon investigation, it will be disclosed that the facts are different, then this ruling shall be considered null and void.

CAESAR R. DULAY
Commissioner of Internal Revenue

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