

GUIDELINES IN THE DETERMINATION OF LEASE RATES

I. OBJECTIVE

To secure Board approval for the implementation of the proposed guidelines in the determination of lease rates

II. PURPOSE and COVERAGE

- The Board deferred action on the proposal during its October 18, 2012 meeting and instead directed management to further evaluate the proposed guidelines in the determination of lease.
- The aim of these guidelines is to achieve uniformity and consistency in the determination of applicable lease rates for the properties of NDC and its subsidiaries.

III. DEFINITION OF TERMS

- a) Appraisal – is an art of estimating the value of an adequately described property. It is not an exact science but the opinion of value expressed must be educated, which means that the estimate should be supported by pertinent data as basis.
- b) Market Value – is the estimated amount for which a property should exchange on the date of valuation between a willing buyer and a willing seller in an arm's-length transaction after proper marketing wherein the parties had each acted knowledgeably, prudently, and without compulsion. (Philippine Valuation Standards 1st Edition, 2009, Concepts Fundamental to GAVP, Paragraph 5.2)
- c) Fair Rental Value – is the reasonable economic rent expectancy if the property were available for lease and/or the base rental justifiably payable for the right of occupancy of the property.
- d) Assessed Value - is the fair market value of the property as determined by the provincial, city, or municipal assessors, as the case may be, and adopted through an ordinance of the sanggunian concerned, multiplied by the assessment level. It is synonymous to taxable value.

- **Determination of Lease Rates**

Two methods may be used in the determination of the most advantageous lease rate to the company as presented below:

METHOD	FORMULA
DENR AO No. 98-20 and Lands AO No. 47, as amended¹	<p>A. For Residential and Agricultural Lands $MV = \frac{\text{Assessed Value} + \text{Zonal Value}}{2}$</p> <p>B. For Commercial and Industrial Lands $MV = > \text{either of Zonal Value or Market Value}$</p> <p>Lease Rate minimum of 3% applies to (A) & (B)</p>
Fair Rental Value²	<p>I = V x R Where: I = Income derived from Property V = Market Value of Property R = Fair Rate of Return R varies from 3% to 6% for the Land</p>

- **Factors to Consider**

Before recommending the lease rate to be used for the property offered for lease, NDC has to determine whether the property hurdles the test for the highest and best use (HABU) principle as follows:

Determinants	Test	Positive/Negative Influence
Physically possible	<i>Is the property physically suited to the use or can it be adapted to the use?</i>	<ul style="list-style-type: none"> ○ Location, size, shape, topography & elevation ○ Available amenities, power & water utilities, transportation & telecommunications facilities ○ Infrastructures ○ Presence of squatters, hazardous elements, pollution, etc. ○ Traffic volume ○ No right-of-way ○ Flood prone
Legally permissible	<i>Are there legal restrictions regarding the use of the land?</i>	<ul style="list-style-type: none"> ○ Zoning, restrictions on use ○ Government issuances, ordinance, policy (e.g. rent control), etc.
Financially viable	<i>Is the suggested use financially feasible?</i>	<ul style="list-style-type: none"> ○ Interest Rates, Inflation Rates, CPI ○ Vacancy rate
Maximally productive	<i>Is the selected HABU the most productive use of the land?</i>	<ul style="list-style-type: none"> ○ Development trend in the vicinity

¹ Based on Department of Justice (DOJ) Opinion dated January 3, 2008 issued to DOF

² Based on Third Party Appraisal

- **Property Value, Appraisal Validity and Lease Ranges**

PROPERTY VALUE	NDC Properties For Lease*	No. of APPRAISAL	VALIDITY (Yr)	LEASE RATE (Range)	JUSTIFICATION
a. 100M & above	4	2	1	3% – 4%	<ul style="list-style-type: none"> ○ The number and validity of appraisal and lease rate are consistent with the Privatization Council Policy. ○ Lands Administrative Order No. 47 provides the use of 3% minimum rate for lease of public lands. ○ Commercial Banks and Private Appraisal Companies use 3% to 6% lease rates.
b. 50M – 99M	4	1	2	3% – 4%	
c. Below 50M	17	1	2	4% - 6%	

*Please refer to Annex “A” for NDC Properties Available for Lease

- **Other Terms and Conditions of the Lease* ***

PROVISIONS		JUSTIFICATION
Lease Period	Initial 10-year lease with option to renew	Low rent turnover for the lessor and tenure security for the lessee
Lease Rate	Comparison of the rate to be derived from the use of the FRV and the DENR issuance. Use resultant higher value + RPT	DOJ Opinion issued to DOF on Jan. 3, 2008; Consistent with Privatization Council Policy
Transaction Costs	VAT, documentary stamp tax for lessee's account	Government –imposed legal fees/ Industry practice
Manner of Payment	Private – two (2) months cash deposit and advance rental thru issuance of 12 post dated checks	Industry practice
	Government – two (2) months cash deposit and one (1) month advance rental	COA rules and regulations
Escalation	Six percent (6%) per annum	Inflation rate over the past years; Average % only
Penalty	12% per annum	Legal interest rate (forbearance of money)
Lease-Free Period (optional)	2 - 3 months	Allowance for renovations and/or retrofitting
	3 - 6 months	For building constructions to cover the period of securing the necessary permit wherein the lessee is not yet productive.

**Please refer to Annex “B” for Comparative Table among Financial Institutions, Banks & GOCCs.

IV. RECOMMENDATION

For the Board to approve the implementation of the proposed guidelines in the determination of lease rates for all NDC properties.

Annex "A"

NDC PROPERTIES AVAILABLE FOR LEASE

	Property	Existing Land Use	Market Value	Area (m ²)	Distance from Urban Center	Potential Land Use
1	Beata, Pandacan, Manila	Commercial	726,340,000.00	50,138.00	2 kms	Commercial or Industrial
2	Dad Cleland cor P. Rodriguez, Lapulapu City	Commercial	703,860,000.00	50,276.00	3 kms	Commercial or Industrial
3	Central Business Park, Macapagal Ave., Pasay City	Commercial	621,660,000.00	12,687.00	0 km.	Mix use development
4	Dasmariñas, Cavite (Humayao)	Industrial	345,190,000.00	191,773.00	7 kms.	Industrial development
5	San Juan St., Bacolod City	Commercial	98,980,000.00	13,197.00	3 kms	Commercial
6	Toril, Davao City	Industrial/Agricultural	74,900,000.00	249,595.00	14 kms.	Agro-Industrial
7	Dasmariñas, Cavite (Dualtech)	Industrial	70,180,000.00	96,498.30	7 kms.	Industrial
8	Bo. Sto. Domingo, Angeles City	Commercial	51,380,000.00	3,952.00	2 kms.	Commercial
9	Malhacan, Meycauayan, Bulacan	Commercial	23,540,000.00	5,231.00	1 km.	Commercial
10	Poblacion, Iligan City	Commercial	15,960,000.00	798.00	0 km	Commercial
11	Campo Islam, Zamboanga City	Commercial	13,250,000.00	6,594.00	4 kms.	Commercial
12	San Juan, San Fernando, Pampanga	Commercial	11,570,000.00	1,526.00	1 km.	Commercial
13	Sta. Fe., Bantayan Cebu	Commercial	10,590,000.00	5,297.00	136 kms.	Commercial/Resort
14	Bo. Batangas II, Mariveles, Bataan	Residential	8,850,000.00	7,674.00	20 kms.	Residential
15	Bo. San Pedro, Hermosa, Bataan	Agricultural	7,500,000.00	54,892.00	12 kms.	Residential
16	Parang, Cotabato	Commercial	6,990,000.00	9,982.00	1 km.	Commercial
17	Bo. Dao, Tagbilaran City	Residential	5,580,000.00	3,850.00	2 kms.	Residential
18	National Highway, Tagapo, Sta. Rosa, Laguna	Commercial	4,640,000.00	243.95	1 km.	Commercial
19	Bongabon, Nueva Ecija	Agricultural	3,581,000.00	8,952.00	13 kms.	Residential
20	Brgy. Soyung, Echague, Isabela	Residential	2,880,000.00	6,277.00	4 km.	Residential
21	Fernandino Subd., San Nicolas, San Fernando	Residential	1,920,000.00	1,200.00	1.5 kms.	Residential
22	Bonot, Legazpi City	Residential	1,080,000.00	400.00	2.5 kms.	Residential
23	Aurea Subd., San Nicolas, San Fernando	Residential	540,000.00	340.00	1 km.	Residential
24	Iponan, Cagayan de Oro	Residential	400,000.00	502.00	8 kms.	Residential
25	Joyous Heights Village, San Jose, Antipolo	Residential	380,000.00	250.00	2 kms.	Residential

Annex "B"

COMPARATIVE TABLE ON LEASE TERMS & CONDITIONS AMONG FINANCIAL INSTITUTIONS, BANKS AND GOCCS

	BSP - AMG	PNB - AMG	PNOC	LBP – Sp. Asset Dept.	PDIC - AMG
LEASE RENTAL	Account Officer conducts rental survey; engages third party appraisal; AO's recommendation to the Managing Director	In-house appraisal	Third party appraisal	AO conducts rental survey which is validated by their in-house appraisers	Third Party Appraisal
LEASE PERIOD	Month to month; 1 year renewable (until property is sold)	1 year, renewable	5 yrs to 25 yrs. (depends on the negotiation)	1 year, renewable	For Closed Banks, 3 yrs; For Corporate Accts; 5 yrs.
TRANSACTION COST	VAT, doc stamps for Lessee's account	EWT, applicable taxes for Lessee's account	VAT, doc stamps for Lessee's account	VAT, doc stamps for Lessee's account	VAT, doc stamps for Lessee's account
MANNER OF PAYMENT	2 months security deposit; PDC's are encouraged but not required	2 months security, 2 months advance	2 months security deposit	2 months security, 1 month advance	2 months security, 2 months advance
ESCALATION	5% annually	5% - 10% annually	3% - 5% annually	5% annually	10% annually
PENALTY	2% per month (24% per year)	2% per month (24% per year)	1% - 5% per month	24% per year	3% per month
LEASE-FREE PERIOD	3 months (maximum)	1 month	1 – 2 months	2 months maximum	2 months maximum
Source	ADM Geraldine Tarlenco AO Rowena Villamin	AM Eugene Tamayo	Mr. Danilo Aunario	Mr. Adrian Peralta, Asst. Team Head	VP Chit Peralta

Note: BSP, LBP and PNB leases its foreclosed properties on short-term basis as the thrust are more on asset disposal.