

July 7 2021

To: The Examiners for the Guidelines
Japan International Cooperation Agency (JICA)

Names and Contact Information of the Requesters:



Address: 

We desire that our names should be kept confidential from the Project Proponents.

Yes · No

1. Project with respect to which the objections are submitted

Country name: Philippines
Project name: Metro Manila Subway Project Phase 1
Project site: Depot at Ugong Valenzuela City
Project outline: Resettlement Action Plan

2. Substantial damage actually incurred or likely to be incurred by the Requesters as a result of JICA's non-compliance with the Guidelines:

Their compensation price for land is far too low compared to the market value where the property is situated.

The replacement land is required to have industrial zoning and three-phase electrical utilities. Assistance for these will not be provided.

Resettlement Action Plan is only a Draft Report so the entitlements are subject to change to the favor of the Project Proponents (DOTR) anytime. We were not given access to the Final Resettlement Action Plan report, nor was it available to the public, as required by the JICA Guidelines.

The Requesters were trying to negotiate the price that the Project Proponents (DOTR) offered as it is encouraged in RA 10752 but the DOTR proposed to expropriate the property instead.

The Project Proponent (DOTR) is not open for negotiation or revision of their offer. They insisted that we, the property owners, were the ones who are not amenable to the offer, whereas it was their offer price being unamenable.

3. Relevant provisions of the Guidelines considered violated by JICA and facts constituting JICA's non-compliance, as alleged by the Requesters:

Key Principles of JICA Policies considered violated by the Requesters:

II. When population displacement is unavoidable, effective measures to minimize the impact and to compensate for losses should be taken.

III. People who must be resettled involuntarily and people whose means of livelihood will be hindered or lost must be sufficiently compensated and supported, so that they can improve or at least restore their standard of living, income opportunities and production levels to pre-project levels.

IV. Compensation must be based on the full replacement cost as much as possible.

V. Compensation and other kinds of assistance must be provided prior to displacement.

VI. For projects that entail large-scale involuntary resettlement, resettlement action plans must be prepared and made available to the public. It is desirable that the resettlement action plan include elements laid out in the World Bank Safeguard Policy, OP 4.12, Annex A.

Facts constituting JICA's non-compliance:

a. Effective measures to minimize the impact for the population is not taken because the chosen depot location has become highly commercial due to the development of Mindanao Avenue, which is another project of the Philippine Government. Thus, resettlement becomes much harder for the persons affected by the project to find a similar land for resettlement, whereas the other depot choice is a land already for sale with abandoned warehouses at that time.

b. Compensation offered by the Project Proponents does not improve or at least restore the standard of living, income opportunities and production levels to pre-project levels because the Project Proponents (DOTR) refused to accept the current market value for the replacement land near the property where it is situated in. The offer prices were based only by the appraisal of Landbank, which were very low and inaccurate.

c. Compensation offered by the Project Proponents (DOTR) was not based on full replacement cost. They refused to revise their offer despite showing them the document that indicates the purchase price of the property because they allege that the first offer is the final and only negotiation.

d. Assistance for Land Zoning (Industrial use) and utilities to run the machines are not provided, because the Project Proponents (DOTR) alleged that they are not responsible for Land Zoning (which is handled by DILG, Valenzuela City) and utilities (handled by Meralco).

e. The published Resettlement Action Plan is only a Draft RAP report. The Project Proponents insisted that they have an unpublished final version which they called a Dec 2020 version but since it is unpublished, it is not available to the public.

4. Causal nexus between JICA's non-compliance with the Guidelines and the substantial damage:

a. According to the Feasibility Study, the best choice for the depot location is Ugong Valenzuela. With the participation of the persons affected by the project at the depot, they told the Project Proponents (DOTR and EcoSys) that the value of land has increased due to the development of the Mindanao Avenue, which will make the acquisition harder. However, the Project Proponents assured us that the Government of the Philippines has enough funding for the Right-Of-Way Acquisition (ROWA). They also assured us that JICA will oversee the project to make sure the compensations are given properly. Now, we have received their offer and they setup a meeting with us for negotiation but they would not accept the current market value of the area. Whereas RA 10752 encourages a negotiation, the Project Proponents alleged that according to RA 10752, if the property owners refuse their offer, they will immediately proceed to expropriation.

b. The income opportunities and production levels of our property are commercial and industrial. We use the ground level for production where the Aida machine is the largest. The second and third floors are used as Office and Commercial Space. The fourth floor is used for production area but only for light objects. The fifth floor is a roof deck. Based on the property's actual use, it should be Commercial Industrial. However, the compensation offered by the Project Proponents (DOTR) is only based on Residential. This substantial damage will not enable us to find a replacement land or at least restore the standard of living, income opportunities and production levels to pre-project levels.

c. The compensation offered by the Project Proponents for the land is less than the amount of purchase of the property, which is a direct violation of JICA's Policies for Social Considerations.

d. Without the proper land zoning and utilities for the replacement land, the machines and income opportunities are lost. This can also lead to more problems: environmentally (because the heavy machine needs a proper foundation) and socially (because operating the machine is a huge noise disturbance especially if the new location is heavily residential).

e. Only publishing a Draft version of the Resettlement Action Plan Report to the public and keeping the final version of the report unpublished does not help the persons affected by the project substantially because the compensations for the loss of livelihood, income opportunities, and production levels can be significantly changed from the promised compensations discussed from Public Consultation Meetings (PCM) and Focused Group Discussions (FGD).

5. Resolution desired by the Requesters:

We desire that the land be properly compensated according to the current market value similar to nearest area whichever is higher, to enable us, the requesters, to buy a replacement land near the property in order to improve or at least restore our income opportunities and production levels to pre-project levels.

We desire that assistance be provided to us prior to displacement regarding the required industrial zoning of the land and the facilities required like the 3 phase electricity in order to use our [REDACTED] machine and other rubber press machines.

We desire that the Project Proponents (DOTR), only after properly compensating us and enabling us to buy a replacement land with industrial zoning and utilities, proceed to negotiate the structures and improvements, because we currently have no replacement land to erect the machines. We also desire that they replace the [REDACTED] machine with the modern design and same specification to improve our income opportunities, as indicated in the JICA Guidelines.

We desire that the Project Proponents (DOTR) first publish the Final Resettlement Action Plan Report to the public before continuing with the project as required by the JICA Guidelines.

We desire that the Project Proponents (DOTR) do not proceed to expropriate our property or continue to prosecute any properties currently in litigation for the Depot because they have violated some of the JICA Guidelines.

6. Facts concerning the Requesters' consultations with the Project Proponents:

The Requesters had a meeting with the Project Proponents (DOTR) on [REDACTED] 2021 to negotiate and have DOTR revise their offer price. However, the DOTR alleged that according to RA 10752, if the property owner(s) refused their offer that was based on the appraisal of Landbank, they will proceed to expropriate. We told them that we are willing to negotiate and let them revise their offer price because it does not reflect the current market value of the land in the area and it does not even equal the purchase price of the property. This makes it impossible for us to resettle because it does not reflect the full replacement cost of the land.

We also pointed out to the DOTR the Draft Resettlement Action Plan Report (Draft RAP Report), that since we are also affected in our livelihood and income opportunities, we are entitled to other forms of compensation as well. However, the DOTR said that there is a newer version of the RAP Report and the entitlements have been changed. This alarmed us since we have read that JICA was in a loan agreement with the Government of the Philippines and that Social and Environmental Considerations are to be implemented to the satisfaction of JICA. We asked for a copy but they refused to give a copy because they alleged that the document is still not published for the public. They also claimed that I can request a copy from their department thru email which I immediately did but have not received any reply from them until now.

We then negotiated about the actual use of the land, the ease of access to the city thru Mindanao Ave, and the current market value of the land in the area. However, DOTR proposed that they proceed to expropriation because we are not amendable to their offer. We were hoping for a second or third offer as it was supposed to be a negotiation, but the DOTR proposing expropriation, we believe that this is contrary to the *raison d'etre* (purpose of existence) of RA 10752, which is written in the DPWH Right-Of-Way Acquisition Manual Main Guidelines ver 08Dec2017.

Regarding the assistance to zoning and the utilities, the DOTR replied that they are not in charge of the zoning since it is handled by the local government of Valenzuela City, while the three-phase electrical utility is handled by Meralco. They cannot promise any assurance or assistance.

The DOTR then promised the transportation assistance for the machines. However, as we told them from the start, we do not have a replacement land where the machines can be erected and setup, which brings the negotiation back to the price of land because their offer price is so low that we are not able to purchase a replacement land with the required industrial zoning and capable utilities.

7. Facts concerning the Requesters' consultations with JICA's Operational Departments:

The last known consultations with JICA was when the Metro Manila Subway Project was explained to us in Focus Group Discussions and Public Consultation Meetings. On those events, the entitlement matrix was explained to us, with the assurance that JICA will oversee the project to ensure that the persons affected by the project are properly compensated.

The Requesters hereby covenant that all the matters described herein are true and correct.