L.N. 372 of 2020

GOVERNMENT LANDS ACT
(CAP. 573)

Regulations on the Correction of a Description of Immovable Property transferred to third parties by the Government, or the Lands Authority or an Ecclesiastical Entity by means of Public Contracts, 2020

Cap. 573.

IN EXERCISE of the powers conferred by item (L) of paragraph (g) of article 31 of the Government Lands Act, the Minister responsible for the Lands Authority has made the following regulations:

Title.

1. The title of these regulations is the Regulations on the Correction of a Description of Immovable Property transferred to third parties by the Government, or the Lands Authority or an Ecclesiastical Entity by means of Public Contracts, 2020.

Interpretation.

2. In these regulations, unless the context otherwise requires:

Cap. 573.

"Act" means the Government Lands Act;

Cap. 563.

"Authority" means the Authority established under article 5 of the Lands Authority Act or any other person or entity who by law or contract is entrusted with the administration of Government land;

Cap. 563.

"Board of Governors" means the Board of Governors of the Lands Authority established by article 10 of the Lands Authority Act;

"Garage" means a building wherein only a vehicle is placed and does not include a building or garage used as a warehouse or for any commercial purpose of any kind.

Qualification.

3. Any person who owns immovable property, transferred to them by a public contract, which immovable property belonged to the Government, or the Lands Authority, or an Ecclesiastical Entity, only in the event that such an immovable property is the person's ordinary residence or otherwise a garage, and the description in that public contract does not reflect their current situation, the said person may, by virtue of these regulations, and within the limits of the same regulations, apply to the Authority for the necessary changes to that description.

4. These regulations shall only apply to: Applicability and exclusion of these regulations.

(i) immovable property in front of or adjacent to immovable property which qualifies as the applicant's ordinary residence or garage in which a vehicle is placed, and which has been transferred or granted as emphyteusis and which serves as a front or side or back garden and is not larger than fifty (50) square metres in total;

(ii) immovable property adjacent to the applicant's property and which, although not acquired by the applicant, is located between the said property and the official road alignment.

5. (1) The applicant must: Eligibility.

(a) be a citizen of the European Union;

(b) be recognized by the Authority as the person who is in effective possession of the immovable property for which he is requesting the correction of the description made in the public contract.

(c) prove that there are no arrears, on the property applied for in accordance with these regulations, of any payments due to the Authority.

6. (i) Anyone who has acquired immovable property as provided in regulations 3 and 4, and it transpires that the actual state of that immovable property is not in accordance with the description made in the original public contract, may apply to the Authority for the correction of the description required. The Authority shall not make any requested correction if it transpires that the applicant was not in good faith when building or occupying such immovable property. Corrections that may be effected by the Authority.

7. In order to establish ordinary residence, it shall be proved to the satisfaction of the Board of Governors of the Authority that the applicant meets the following requirements: Ordinary residence.

(a) holds an identity card registered on the said building for a period of not less than three (3) years prior to the application;

(b) is a citizen of Malta or of the European Union;

(c) that this building has been granted for the purpose of residence in the original contract; and

(d) indicate by means of an affidavit that the said building served as his residence during the last three (3) years prior to the application.

Payment for occupation or development of land in excess of that described in the original public contract.

8. (1) The value for the replacement or removal of a condition in the original contract of sale or emphyteusis shall be determined by an architect or architects appointed by the Authority, which assessment shall be in accordance with article 79 of the Act.

(2) In any case, the assessment made must reflect the development potential that may occur, in accordance with the planning laws in force at the date of the original acquisition.

Any correction shall be made by means of a public contract.

9. Any correction in the original public contract as provided for in these regulations, shall be made by means of a public contract.

In the event of the applicant's death.

10. There may be no change in the applicant, after an application has been submitted in accordance with these regulations, unless it results from a *causa mortis* declaration that the rights in the property that is the subject of the application have been transferred to the person demanding such a change.

Documents required with the application.

11. The following documents shall be submitted with each application submitted in accordance with these regulations:

(a) an authenticated copy of the original contract;

(b) in the case of an emphyteutical contract, a copy of the last receipt of payment of the ground rent;

(c) in the case of an emphyteutical contract where the applicant has not yet been recognized by the Authority as the building or site emphyteuta, an authenticated copy of all contracts entered into since the last emphyteuta was recognized by the Authority;

(d) a detailed plan on a scale of 1:100 made only according to the template which is available from the Authority and strictly following the guidelines for the use of this template. This plan shall show the interior of the property at each level and the distance from the corner of the nearest road. In addition, a scanned plan, duly authenticated by an architect, shall be submitted;

(e) a property or site plan issued by the Lands Registry, duly authenticated by an architect;

(f) a copy of the identity card of the applicant;

(g) photographs that shall indicate the date and time and the current state of the building or site; and

(h) a 1:100 scale survey showing the acquired property outlined in red and the property being requested for acquisition outlined in blue. This survey shall be accompanied by official road alignments and front garden alignments.

Payment of arrears.

12. Before any application may be processed in accordance with these regulations, the applicant shall pay all arrears due in accordance with paragraph (c) of regulation 5.

Sworn statement.

13. Every applicant submitting an application in accordance with these regulations shall submit the requested information together with his affidavit stating that the entire content of the application is true and that he has not omitted any other relevant information or facts which, had they been known to the Authority, would have led to the refusal and rejection of the application. No applicant may justify such an omission on the basis of the fact that the Authority was already aware of this information or of these facts.

Consent and approval by the Board of Governors.

14. Any contract entered into by virtue of these regulations shall be subject to the approval of the Board of Governors of the Authority and shall be in accordance with such conditions as may be imposed by the said Board. These conditions shall be published in the said contract.

Payment due to the Lands Authority.

15. Every application made under these regulations shall include a payment in the amount of five hundred euro (€500) or any other sum which the Authority, by means of a notice published in the Government Gazette no later than two (2) months before the application is made in accordance with these regulations, may declare are due to it by any applicant under these regulations.

Costs.

16. The Authority shall ensure that all costs incidental to this request are collected from the applicant and that before such costs are collected in their entirety no contract in respect of which the application has been made may be published.

Reservations.

17. (1) The Authority reserves the right to refuse and reject any application made pursuant to these regulations at its sole absolute discretion. The said rejection or refusal shall be in writing and the Authority shall include detailed reasons for its decision.

(2) The Authority reserves the right to terminate the application process made pursuant to these regulations at any stage or to refuse to accept any such application, if in its opinion, such property is situated in a place of national importance. In this case, the applicant

shall only be entitled to receive the costs he has paid to apply under these regulations. The Authority shall be exempt from any damage or claim for any kind of compensation that may be made to it by the applicant in this regard.

(3) The Authority shall have the right to bring an action before the First Hall of the Civil Court in case it considers that there is a breach of any provision of these regulations.

Right of action of the Authority.

18. The Authority has the right to proceed with a case before the First Hall of the Civil Court in case it considers that there is a breach of any provision of these regulations, even after the relative contract with the due correction has been signed, against any person involved and request the said Court to declare that contract with the correction null and void, even if the property has been transferred to third parties. No person against whom the Authority proceeds shall have the right to claim or be awarded any damages of any kind, or any kind of compensation, for any improvements which he has carried out or may have carried out in that building.

Transitory provisions.

19. These regulations shall apply to those situations described in regulation 4 and which already existed in 2012.

20. Any request for a correction in the description of immovable property which was owned by the Government, or the Lands Authority or an Ecclesiastical Entity before the entry into force of these regulations shall be examined and decided in accordance with these regulations.

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