


NINETEENTH CONGRESS OF THE)
REPUBLIC OF THE PHILIPPINES)
Third Regular Session)

24 SEP 23 P3:34

SENATE
Proposed Senate Resolution No. 1205

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Introduced by Senator Aquilino “Koko” Pimentel III

RESOLUTION

DIRECTING THE APPROPRIATE SENATE COMMITTEE TO CONDUCT AN INVESTIGATION, IN AID OF LEGISLATION, TO CLARIFY THE RESPECTIVE JURISDICTIONS OF THE DHSUD AND THE HSAC AS DEFINED IN REPUBLIC ACT NO. 11201 IN ORDER TO PREVENT INCONSISTENCIES AND CONFLICTING DECISIONS AND DIRECTIVES BETWEEN THE TWO AGENCIES

1 **WHEREAS**, Republic Act No. 11201, otherwise known as the
2 "*Department of Human Settlements and Urban Development Act*", in
3 Section 4 thereof provides that the Department of Human Settlements and
4 Urban Development (DHSUD) shall be the sole and main planning and
5 policy-making, regulatory, program coordination, and performance
6 monitoring entity for all housing, human settlement and urban development
7 concerns, primarily focusing on the access to and the affordability of basic
8 human needs;

9
10 **WHEREAS**, on the other hand, Section 12 of said Republic Act No. 11201
11 reconstituted and transferred the adjudicatory function of the Housing and
12 Land Use Regulatory Board (HLURB) to the Human Settlements
13 Adjudication Commission (HSAC), an attached but independent agency
14 from the DHSUD;

15
16 **WHEREAS**, on 14 February 2024, the DHSUD issued Department
17 Circular No. 2024-005 to standardize its rules of procedure in the conduct
18 of its regulatory and supervisory function particularly in the issuance or
19 denial of applications for licenses, permits, and clearances and the
20 monitoring and imposition of sanctions under the Housing and Real Estate

1 Development Regulation and Homeowners' Associations and Community
2 Development mandate;

3
4 **WHEREAS**, under said Department Circular, it is stated that the Regional
5 Director may *motu proprio* issue a writ of execution to enforce his orders
6 and decisions and may request assistance from the Philippine National
7 Police (PNP) to enforce the same;

8
9 **WHEREAS**, on the other hand, the HSAC in the exercise of its quasi-
10 judicial function issued *En Banc* Resolution No. 8 Series of 2021
11 promulgating the Rules of Procedure of the Human Settlements
12 Adjudication Commission (HSAC);

13
14 **WHEREAS**, there have been numerous reports of conflicts between the
15 exercise of jurisdiction between the Regional Offices of the DHSUD and
16 the HSAC in controversies relating to the election and terms of office of
17 officers of Homeowners Associations;

18
19 **WHEREAS**, one of the reported conflicts involves a Decision of the HSAC,
20 dated 26 April 2023, in the case of *Multinational Village Homeowners*
21 *Association Inc. et al. vs. Arnel Gacutan* (HSAC Case No. HOA-A-221220-
22 0369) which directed the Homeowners Association and Community
23 Development Division (HOACDD) of the DHSUD to conduct special
24 elections of officers of the Multinational Village Homeowners' Association,
25 Inc. ("MVHAI");

26
27 **WHEREAS**, in the same case, the HSAC also issued a Joint Resolution
28 dated 09 November 2023 reiterating its directive to the DHSUD-HOACDD
29 to conduct and supervise the special elections for the 2024 term of its Board
30 of Directors (BOD) of the MVHAI;

31
32 **WHEREAS**, under Section 25.3.6 of the Implementing Rules and
33 Regulations of R.A. 11201, one of the core functions of the Regional Offices
34 of the DHSUD is to call, conduct and supervise special elections of officers
35 of Homeowner's Associations;

36
37 **WHEREAS**, Section 95 of the 2021 Implementing Rules and Regulations
38 of Republic Act No. 9904, otherwise known as the "Magna Carta for
39 Homeowners and Homeowners' Associations", also provides that the

1 DHSUD-HOACDD shall conduct the election of the members of the Board
2 upon the directive of the HSAC;

3
4 **WHEREAS**, the Decision and Joint Resolution of the HSAC in the case of
5 *Multinational Village Homeowners Association Inc. et al. vs. Arnel Gacutan*
6 (HSAC Case No. HOA-A-221220-0369) have become final and executory;

7
8 **WHEREAS**, instead of conducting and supervising the special elections as
9 directed by the HSAC *En Banc* in its Decision dated 26 April 2023, the
10 DHSUD-NCR Regional Office *motu proprio* issued a Letter dated 29
11 February 2024 which reinstated the 2019 Board of Directors (BOD) as the
12 alleged hold-over officers of MVHAI and instructed the said 2019 BOD to
13 conduct the elections for the officers of the 2024 term;

14
15 **WHEREAS**, the DHSUD-NCR Regional Office thereafter issued a Writ of
16 Execution dated 03 June 2024 and a Break Open Order dated 05 August
17 2024 to cause the turn-over of the management and possession of the
18 properties, facilities and funds of MVHAI to the 2019 BOD, and requested
19 the PNP to assist in implementing the Writ and Break Open Order;

20
21 **WHEREAS**, the 2019 BOD of MVHAI which was reinstated by the
22 DHSUD-NCR Regional Office has already been declared perpetually
23 disqualified in a Decision dated 28 April 2021 issued by the HSAC *En banc*
24 in the case of *Duldulao et. al. v. Pecson et. al.* (HSAC-HOA-A-210122-
25 0147). This Decision was affirmed by the Court of Appeals. The perpetual
26 disqualification has likewise been further reaffirmed in a more recent
27 Decision dated 26 June 2024 issued by the HSAC Special Division in the
28 case of *Multinational Village Homeowners' Association, Inc. v. Carmelo*
29 *Marquez* (HSAC Case No. HOA-A-231013-0476);

30
31 **WHEREAS**, despite the final and executory decisions of the HSAC and the
32 Court of Appeals declaring the nullification of the election and the perpetual
33 disqualification of the 2019 BOD of MVHAI, the DHSUD-NCR, forcefully
34 implemented the Writ of Execution and the Break Open Order with the
35 assistance of the Southern Police District of the Philippine National Police
36 (PNP-SPD) in the wee hours of the morning of 05 September 2024;

37
38 **WHEREAS**, there is a need to clarify the respective jurisdictions of the
39 DHSUD and the HSAC as defined in the Republic Act No. 11201, including
40 the applicability of Department Circular No. 2024-005 issued by the

1 DHSUD to HOA election controversies, in order to prevent inconsistencies
2 and conflicting decisions and directives between the two agencies that
3 would only result to confusion, chaos and further exacerbation of disputes
4 by and among homeowners and members of homeowners' associations;
5
6 **NOW THEREFORE, be it RESOLVED, as it is hereby RESOLVED**
7 **by the Senate of the Philippines,** to direct the appropriate Senate
8 committee to conduct an investigation, in aid of legislation, to clarify the
9 respective jurisdictions of the DHSUD and the HSAC as defined in the
10 Republic Act No. 11201, in order to prevent inconsistencies and conflicting
11 decisions and directives between the two agencies.

Adopted,


AQUILINO "KOKO" PIMENTEL III