NINETEENTH CONGRESS OF THE REPUBLIC OF THE PHILIPPINES

Third Regular Session

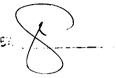
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SENATE

Proposed Senate Resolution No.1205 RECENCIONE

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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

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

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

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

1 Development Regulation and Homeowners' Associations and Community

2 Development mandate;

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

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

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

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

WHEREAS, in the same case, the HSAC also issued a Joint Resolution dated 0.9 November 2023 reiterating its directive to the DHSUD-HOACDD to conduct and supervise the special elections for the 2024 term of its Board of Directors (BOD) of the MVHAI;

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

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

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

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

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

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

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

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

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

DHSUD to HOA election controversies, in order to prevent inconsistencies and conflicting decisions and directives between the two agencies that would only result to confusion, chaos and further exacerbation of disputes by and among homeowners and members of homeowners' associations;

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NOW THEREFORE, be it RESOLVED, as it is hereby RESOLVED by the Senate of the Philippines, to direct 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 the Republic Act No. 11201, in order to prevent inconsistencies and conflicting decisions and directives between the two agencies.

Adopted,

AQUILINO "KOKO" PIMENTEL III