

HOUSE OF REPRESENTATIVES
Quezon City

Eighteenth Congress
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HOUSE RESOLUTION NO. 175



Introduced by Rep. Bernadette Herrera-Dy

RESOLUTION

URGING THE APPROPRIATE HOUSE COMMITTEE TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, ON THE ACTIONS OF THE HOUSING AND LAND USE REGULATORY BOARD (HLURB) IN IMPLEMENTING MEMORANDUM CIRCULAR NO. 09, SERIES OF 2018 AND HLURB RESOLUTION NO. 965, SERIES OF 2017, CONTAINING PROCEDURAL AND OTHER CUMBERSOME REQUIREMENTS OSTENSIBLY IN CONFLICT WITH THE PROVISIONS OF REPUBLIC ACT NO. 7279

WHEREAS, on 2 May 2018, the Housing and Land Use Regulatory Board (HLURB) issued Memorandum Circular No. 09 Series of 2018 or the "Guidelines for the Revised Implementing Rules and Regulations to Govern Section 18 of Republic Act No. 7279, as amended by Republic Act No. 10884, otherwise known as the 'Balanced Housing Development Program Amendments'" (hereinafter, "MC-9-2018");

WHEREAS, the aim of MC 9-2018 is to provide a uniform application, interpretation, usage, and implementation for the compliance of developers of main subdivision projects with Section 18 of RA 7279, as amended;

WHEREAS, some provisions of MC-9-2018 fail to acknowledge key provisions under the enabling law, Republic Act No. 7279 and amendments by Republic Act No. 10884, and these provisions within MC-9-2018 are not consistent with the mandate of the law;

WHEREAS, provisions of MC-9-2018, particularly Sections 4.1 and 4.2, are contradicting with Section 10 of the very same Memorandum Circular inasmuch as the former requires the compliance project to be located within the main project, but the latter 10 only requires the same location, if feasible. Furthermore, the amendments brought about by Republic Act No. 10884 deleted any reference to project location;

WHEREAS, Section 5.1.3 of MC 9-2018 requires all the Original Certificate of Titles (OCTs), Transfer Certificates of Titles (TCTs), and Condominium Certificates of Titles (CCTs) of the new settlement project be annotated indicating that such are strictly to be sold within the socialized housing price ceiling specifying the actual lot numbers, block numbers, unit numbers of the units allocated for sale and made within 6 months from issuance of Certificate of Registration & License to Sell (CRLS) on the OCTs, TCTs, and CCTs of the compliance project. The stated provisions also require that the developer shall submit a certification from the Registry of Deeds (RD) of the completeness of the annotation;

WHEREAS, the annotation requirement along with the specified period of compliance in Section 5.1.3 is baseless and may impede the efficiency of the housing production. Instead, the provision is in conflict with the purpose and provisions of the law because the such requirements may cause a slowdown in housing production;

WHEREAS, the previously mentioned annotation requirement will have several adverse consequences not only to developers but also more importantly to the beneficiaries, such as the following: (a) the annotation will be regarded as an encumbrance to the title that could alienate banks and other financial institutions from extending developmental loans to private developers. It is probable that private financial institutions would not accept as collateral the housing unit which title has a lien pertaining to the prevailing maximum price ceiling, (b) buyers would also be burdened with by the annotation of the price ceiling and would be unduly restricted in disposing their housing units at a much higher price (c) beneficiaries will be burdened to go through legal recourse and not to mention the cost of the process to remove the lien that was imposed;

WHEREAS, The aforementioned provision is contrary to Section 20 of RA 7279 as amended by RA 10884, for the annotation on the title of the land in the law is required only for purposes of availing the tax incentive;

1 **WHEREAS**, Section 5.1.3 of MC-9-2018 requires that before the developers of the main project
2 can use the socialized housing projects and programs as project compliance, the same shall be
3 approved by the Chief Executive Officer of the HLURB. Similarly, Sections 22 and 23 also
4 require additional costs and period of completion on the part of the developer. These provisions
5 do not recognize the mandate of Republic Act 11032, or the Ease of Doing Business Act of
6 2018 as it fails to ease and hasten the process of approval. This directive does not also exhaust
7 other options to help the process and to ensure quality of approving such projects;

8 **WHEREAS**, in Sections 5.2.1.1 and 5.2.2.1, it was stated that the cost incurred by the
9 developer in its compliance through the Joint Venture Agreement(JVA) with Local Government
10 Units (LGU) or housing agencies are presumed or considered as recoverable upon payment of
11 the socialized housing units. However, it must be pointed out though that costs incurred in the
12 joint venture will only be recoverable if there is a sharing of resultant lots or proceeds;

13 **WHEREAS**, the aforementioned section also implies that the State indirectly and implicitly
14 exercises taking of property without proper just compensation because it cannot guarantee
15 profit for the developer. Thus,the recovery of cost cannot be cannot be guaranteed upon the
16 payment of socialized housing units;

17 **WHEREAS**, Section 5.2.3.1 of MC 9-2018 permits the development of socialized housing
18 program or project by the subsidiary of the main developer but it requires that the mother
19 company owns at least 51% of the subsidiary. With this requirement, it is important to note that
20 there will be a difference if the subsidiary is an accredited socialized housing developer (and if
21 needed). This means that the 51% ownership of the mother company will be of no significance
22 since Section 5.2.3.2 allows a developer to enter a Joint Venture Agreement(JVA) with any
23 accredited socialized housing developer. If this happens, there is a need to clarify the
24 aforementioned sections because if the JVA is with a subsidiary, the JVA may be entered into
25 even if the developer as long as it owns at least 51% of the subsidiary. However, it also states
26 that if the JVA is with a non-subsidiary socialized housing developer, the same shall be entered
27 into only after the developer of the main project has filed an application for development permit
28 of its main project. If proven that the subsidiary is an accredited socialized housing developer, it
29 may override the provisions;

30 **WHEREAS**, Sections 5.2.3.2 and 5.2.4.1 of MC 9-2018 states that if the developer of the
31 compliance project shall fail to complete the development of the compliance project, the
32 developer of the main project shall be solitarily liable with the private socialized housing
33 developer or National Government Organization. However, the main developer should not be
34 held liable for the non-compliance of other parties for this is beyond the control;

35 **WHEREAS**, Section 5.4 of MC 9-2018allows as other manners of compliance the participation
36 through investment and the purchase of or subscription to "asset-backed securities" but these
37 modes do not directly contribute to actual production or development of socialized housing. In
38 addition, during the congressional hearings on the deliberation of RA 7279 through RA 10884,
39 amendments that were introduced to the provisions of Section 18 of RA 7279 already effectively
40 eliminates other manners of compliance that do not translate to actual production of socialized
41 housing, which includes the contested manners such as participation through investment and
42 purchase of asset-backed securities;

43 **WHEREAS**,Sections 5.4 and 5.5 of MC 9-2018 provides the issuance of a Provisional
44 Certificate of Compliance upon remittance of developer's participation in escrow or upon
45 registration of the subscription/purchase and the issuance of a Final Certificate of Compliance
46 only upon completion of the socialized housing project. However, theissuance of a Provisional
47 Certificate of Compliance becomes weak since the Final Certificate of Compliance may be
48 issued to the developer upon its remittance of its participation in escrow or subscription of
49 shares as the same is deemed to be the completion of its participation. Especially when the
50 main developer has no actual participation in the construction and completion of the socialized
51 housing project;

52 **WHEREAS**, Section 6.1 and Section 15 of MC 9-2018 are redundant. Section 6.1 mandates
53 developers of the main projects to submit the Certified true copy of the Development Permit,
54 Certificate of Registration, License to Sell of the Compliance Project and the title of the
55 compliance project with annotation of the JVA/MOA and geo-tagging in the approved Bureau of
56 Lands Locational Monument (BLLM), and the application for CRLS of the project to the Regional
57 Officer. At the same time, Section 15 mandates that developers must submit their License to
58 Sell of the compliance project. The provisions are self-defeating and could be in the same
59 directive in the circular;

60 **WHEREAS**,Section 11 provides that if the compliance socialized residential project is located in
61 a new settlement, the computation for the compliance of fifteen (15%) of the project cost of the

1 main subdivision project shall be based on the total saleable cost of the main subdivision project
2 vis-à-vis the total saleable cost of the compliance socialized residential project. However, it must
3 be emphasized that the compliance must be based on units that are saleable so as to be better
4 accounted for;

5 **WHEREAS**, Section 13 reiterates the liabilities of the main developer in reference to the
6 completion of the compliance project. These are also stated in Sections 5.2.3.2 and 5.2.4.1 of
7 MC 9-2018. The scope of liability of main developers must be primarily and explicitly defined. It
8 must also be stated whether the liabilities in the said provision apply to all schemes or modes of
9 compliance. Giving the main developer the ultimate responsibility of compliance gives an unfair
10 notion vis-a-vis the other party. They cannot be held liable for acts or omission of other parties
11 and be penalized and/or sanctioned due to other parties;

12 **WHEREAS**, Section 27 states that the application for the issuance of CR/LS of a developer for
13 its new main project in the country shall be denied if the compliance project for any of its main
14 projects has not been completed in the period fixed by the HLURB. The memorandum fails to
15 acknowledge reasonable grounds provided for by law. This provision of MC 9-2018 does not
16 recognize the 2015 Guidelines on Time of Completion which allows a developer additional
17 period of time to complete for reasonable causes states specified in Section 6 of the guidelines;

18 **NOW, THEREFORE, BE IT RESOLVED** that the appropriate house committee to conduct an
19 inquiry, in aid of legislation, on the actions of the housing and land use regulatory board
20 (HLURB) in implementing Memorandum Circular No. 09, series of 2018 and HLURB Resolution
21 No. 965, series of 2017, containing procedural and other cumbersome requirements ostensibly
22 beyond the provisions of Republic Act No. 7279.

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24 *Adopted,*

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