

FIRST REGULAR SESSION

RESOLUTION No. 36

URGENT RESOLUTION REQUESTING THE DEPARTMENT OF INTERIOR AND LOCAL GOVERNMENT (DILG) THROUGH MINISTRY OF INTERIOR AND LOCAL GOVERNMENT (MILG) TO CLARIFY ITS MEMORANDUM CIRCULAR NUMBER 2019-121. RE: DIRECTING ALL PROVINCIAL GOVERNORS, MAYORS, PUNONG BARANGAYS AND BARMM REGIONAL GOVERNOR TO CLEAR ROADS BY ILLEGAL STRUCTURES AND CONSTRUCTIONS

WHEREAS, during his 2019 State of the Nation Address, President Rodrigo Roa Duterte enjoined all local officials to exercise their powers essential to reclaim public roads which are being privately used and in the process, rid them of illegal structures and constructions;

WHEREAS, on July 29, 2019, the Department of Interior and Local Government released a Memorandum Circular No. 2019-121 directing all provincial governors, mayors, and punong barangay to clear roads and illegal structures and constructions;

WHEREAS, on the same memorandum circular, all local executive were given sixty days (60) to report significant result, and to make weekly report on the matter and to advice the DILG secretary through Bureau of Local Government supervision, with the strong caution that non-compliance thereof, the administrative case shall be filed against them;

WHEREAS, in response to the aforementioned circular and in order to avoid administrative cases, all local executives down to barangay chairmen used their powers to clear all illegal structures and reclaim public roads which are being used for private ends;

WHEREAS, the problem arises, when some local executive measure the national highway from the center and claim that the fifteen meters (15) from the center of the highway were considered a right of way, hence, all structure built therein shall be considered as obstructions, thus, must be removed within the very short of time;

WHEREAS, on the other hand, the land owner (with lot title) insist that they must not be included as an illegal occupant because they have legitimate title over their property. The act of the local executive in summarily destructing their property is a blatant disregard of their right to property and taking of property without just compensation as protected by the constitution;

WHEREAS, the lot owner likewise insists that the interpretation on the memorandum circular is erroneous considering that the memorandum circular failed to state the fifteen meters measurement from the center. The memorandum circular directed only to those public roads used for private end. Thus. The occupant of the property is considered illegal if he /she has no legitimate title over it issued by the government;

WHEREAS, the lot owner likewise invokes that, it is the Department of Public Works and Highway has jurisdiction to clear the national highway. The local government can destroy or remove the structures when it is declared as nuisance.

WHEREAS, they likewise insist that their property being private cannot be taken away from them without just compensation. **The act of some local executive is no longer removing obstruction but already a road widening which required compensation from the government.**

NOW THEREFORE, be it

RESOLVED, as it hereby resolved, to request the Department of Interior and Local Government (DILG) through Ministry of Interior and Local Government (MILG) to clarify its Memorandum Circular No. 2019-121, Re: "Directing all provincial governors, mayors, punong barangays and the BARMM regional governor to clear roads by illegal structures and constructions."

RESOLVED, FURTHER, that in order to protect the local chief executive for the possible legal action against them by some lot owner/structure owner and to protect the right of lot owner claiming blatant disregard of their constitutional right over their property, Memorandum Circular 2019-121 issued by DILG government be clarified by the said office (DILG) with respect to the following query; to wit:

1. What is the scope of implementation in terms of area coverage;
2. What is the treatment to the legitimate lot owner (with lot title) that has been affected;
3. Whether or not the said memorandum shall be construed as road widening; Thus, the lot owner is entitled to just compensation;
4. Whether or not the local executive has jurisdiction to demolish, destroy or remove all structure fifteen (15) meters from the center of national highway instead of Department of Public Works and Highway.

RESOLVED FINALLY, to forward the foregoing Resolution to the Honorable Secretary of the Department of Interior and Local Government (DILG), the Secretary of the Department of Public Works and Highway (DPWH), and the Minister of the Ministry of Interior and Local Government (MILG)-BARMM, for information and appropriate consideration.

Adopted, September 20, 2019.

Certified Correct

PROF. RABY B. ANGKAL
Secretary-General

Attested:


ATTY. ALI PANGALIAN M. BALINDONG
Speaker

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