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CHAMBER OF REAL ESTATE & BUILDERS' ASSOCIATIONS, INC.

NATIONAL LAND USE ACT

House Bill Nos. 3526 & 6056

OBJECTIONABLE PROVISIONS

Notwithstanding its glowing policy pronouncements, the National Land Use Act proposed under the Bills is nothing more than a disguised attempt to place practically ALL of the country's lands under the CARP, and ban conversion of these lands for non-agricultural purposes – unless these lands are first awarded to CARP beneficiaries.

In other words, it is primarily geared towards enriching the peasantry apparently at the expense of all other sectors of the economy and society, and legitimizing the DAR's illegal issuances.

This is clear from the proposed redefinition of agricultural lands and the proposed conversion/reclassification ban, considering that practically any land can be made suitable for agriculture, and there is nothing in the proposed law that would constrain the DAR from issuing CARP notice of coverage for any of these lands.

HB 3526

DEFINITION OF AGRICULTURAL LANDS

Section 4 seeks to define agricultural lands to include virtually all lands suitable for agriculture. It provides no exceptions/exclusions. Effectively:

- a) It disregards the definition of agricultural lands under RA 6657 and RA 8435, which excludes reclassified lands;
- b) It discards the exemptions under Section 10 of RA 6657, as amended by RA 7881;
- c) It disregards the Supreme Court rulings that reclassified lands and livestock/poultry farms are not covered by the CARP; and
- d) It repeals PD 399 with respect to Striplands, RA 7279 with respect to the definition of urban areas), RA 7916 with respect to the definition of Ecozone areas, and RA 7160 with respect to LGU reclassification.

LANDS PROTECTED FROM CONVERSION

Section 33 seeks to protect the following lands against conversion:

1. All lands included in, but not limited to, the NPAAAD (Network of Protected Areas for Agricultural and Agro-Industrial Development) provided for under RA 8435. NPAAAD lands are:

- a) all irrigated areas;
 - b) all irrigable lands covered by irrigation funding commitment;
 - c) all alluvial plain lands whether irrigated or not;
 - d) agro-industrial croplands;
 - e) highlands (500 meter & above); and
 - f) all agricultural lands that are ecologically fragile.
2. All lands covered by CARP notices of compulsory acquisition and various other DAR notices.

CONVERSION/RECLASSIFICATION BAN

Section 33 also provides for a total conversion ban on agricultural lands:

- a) Pending completion of mapping/identification of NPAAAD lands and SAFDZ lands within the NPAAAD; and
- b) Pending preparation/completion of the NPPF (National Physical Framework Plan) which incorporates these lands.

The conversion moratorium is also effectively a reclassification moratorium, since Section 33 also provides that LGU reclassification/land use planning must conform to the NPPF.

IMPLICATIONS

1. Enactment will disregard provisions of the Constitution and scuttle all reclassification laws by Congress and LGUs.
2. DAR's conversion authority under Section 65 of RA 6657 and Section 9 of RA 8435 is being expanded to cover all lands, subject to no limitation.
3. The collective wisdom of Congress in the passage of previous reclassification laws is to be discarded in favor of a few executive officers of the proposed Land Use Planning Authority (LUPA).
4. The exercise of local autonomy by LGUs will become a farce.
5. The conversion authority of the President covering Ecozones is being transferred to DAR which is being installed as the sole conversion authority.
6. If enacted, in view of the conversion/reclassification ban, there will be practically a total standstill on non-agricultural development until completion of the mapping and identification of NPAAD and SAFDZ lands.

OTHER QUESTIONABLE PROVISIONS

1. Sec 63 provides stiff penalties for (1) no-development of lands within 1 year from conversion approval, and (2) failure to develop 50% within a given period.

2. Sec 68 increases the penalty for premature/illegal conversion.
3. Sec 70 provides for penalties for reclassification of protected lands.
4. Transfer of HLURB's land use functions to the LUPA.

HB 6056

BAN ON CONVERSION & RECLASSIFICATION

1. Section 2(d): Protection of prime agricultural lands and highest priority to CARP
2. Section 4(a): Definition of agricultural lands, amending the existing definition under RA 6657 and RA 8435 by removing the phrase "and not classified..."
3. Section 4(II): Definition of protected areas to include agricultural lands protected from conversion under Section 30
4. Section 30: Conversion ban/restrictions
 - a) Conversion restriction on all "agricultural lands" included in the NPAAAD but not limited thereto
 - b) Outright conversion ban on irrigated/irrigable lands, potential high-value crop lands, and ecologically fragile lands
 - c) Conversion restriction on CARPed and CARPable lands pending installation of farmer-beneficiaries, after which conversion shall be governed by Section 65 of RA 6657
 - d) No conversion application will be given due course pending completion of mapping of NPAAAD and SAFDZ
5. Section 4(e): Defining comprehensive land use plans as incorporating the protected agricultural lands
6. Section 4(kkk): Defining LGU zoning ordinances as incorporating the protected agricultural lands.
7. Section 4(pp): Defining reclassification by LGUs as subject to the requirements/procedures for conversion. In essence therefore, a conversion ban also means a reclassification ban.
8. Section 31. LGU reclassification shall exclude the protected agricultural lands
9. Section 4(xx): LGU reclassification shall be only one of the bases for conversion applications.
10. Section 46: Identification of industrial development areas shall take into account the NPAAAD and protected agricultural lands

BIAS IN FAVOR OF PEASANT SECTOR

1. Section 30: Bans/restricts conversion but allows it after installation of CARP beneficiaries

2. Section 63: Disturbance compensation: whichever is higher of (a) 5 times average gross harvest for 5 preceding years, or (b) a certain percentage of the converted land as DAR may determine

BIAS IN FAVOR OF MARGINALIZED SECTOR

1. Section 15: Composition of the Land Use Policy Council (LUPC) executive board, giving formal representation to marginalized sectors, while participation by other sectors shall only be through consultation
2. Section 22: Composition of local land use committees, with formal representation by marginalized sectors, while participation by other sectors shall be by invitation only
3. Section 75: Non-impairment clause in favor only of marginalized sectors

ONEROUS/CONFISCATORY PENALTIES FOR CONVERSION VIOLATIONS

1. Section 55: Fine of up to 50% of zonal value for failure to develop 50% of approved conversion plan within a specified time frame, and CARPing of the land. No reasonable exceptions provided.
2. Section 60: 7-12 years imprisonment and/or fine of 50% of market value of the land
3. Section 62: Penalty for reclassification of protected agricultural lands by local officials, 7-12 years imprisonment and a fine of not less than P100,000