

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

THIRTEENTH CONGRESS
2nd REGULAR SESSION

HOUSE BILL NO. 4904

Introduced by **HON. EDUARDO C. ZIALCITA**

EXPLANATORY NOTE

The development of the nation is not the sole responsibility of the State nor can it perform in its lonesome the whole gamut of development initiatives. It is a collaborative effort of the State, its instrumentalities, and the private sector. That "the State recognizes the indispensable role of the private sector" in nation-building has been enshrined in **Article II, Section 20** of the **Constitution**.

The advent of the **LOCAL GOVERNMENT CODE of 1991**, emphasized the need for the LGUs to become self-reliant communities. Thus, they were given the latitude to chart their own development initiatives. In the same token, their revenue generating authority was likewise broadened. However, in certain areas of concern, such authority fetters the participation of the private sector in such development initiatives.

This bill, therefore, seeks to remove the impediment brought by the passage of the Local Government Code of 1991 on real estate developers, particularly subdivision developers, on their drive to pursue more development activities.

Under Section 31 of Presidential Decree No. 957, as amended by Presidential Decree No. 1216, a subdivision developer **shall** provide adequate roads, alleys and sidewalks and **shall** reserve a certain percentage of the gross area of the project for open space which shall be allocated exclusively for parks, playgrounds, and recreational use. Upon their completion, "the roads, alleys, sidewalks and playgrounds **shall** be donated by the owner or developer to the city or municipality concerned and it shall be mandatory for the local government to accept" the same, but the parks and playground may be donated to the homeowners association within the project.¹

¹ Section 31, PD 957.

It is apparent from the language of the law that the donation of the roads, alleys, sidewalks and open space are mandatory on the part of the developer. In this connection, it should be noted that Section 101 (A)(2) and Section 101 (B)(2) of the National Internal Revenue Code provide that "[g]ifts made to or for the use of the National Government or any entity created by any of its agencies which is not conducted for profit, or to any political subdivision of said Government" are exempt from donor's tax. In line with this provision, donation of real property by the owner-developer of a subdivision in favor of the LGU is exempt from said tax. This includes the donation of open spaces to the LGU, since the donee is a political subdivision of the National Government. The question raised is: Should these roads, alleys, sidewalks and open space be subject to real property tax and later, upon their donation in favor of the LGU, to transfer tax? This humble representation believes they should not for three major reasons, to wit:

1. The roads, alleys, sidewalks and open space, upon their designation as such, are removed from the realm of saleable lots, hence, cease to have any commercial or market value. In fact, from that time on, there exists a prohibition on their alienation, except in favor of the national and local government.

2. As a consequence of the above, prudent business practice dictates that whatever value said roads, alleys, sidewalks and open space may have are distributed to the saleable lots, thus increasing the tax base of the latter for purposes of real property and transfer taxes.

3. The entry of new communities in the LGU may translate to more economic activities thus improve the fiscal position of the LGU with more taxes to collect.

The real estate industry is a pump-primer in the economic thrusts of the government. However, the imposition of real property and transfer taxes on roads, alleys, sidewalks and open space dissuades subdivision developers from investing and undertaking subdivision projects.

In this regard, the State shall first and foremost provide a supportive role, rather than trifle the initiatives of the private sector. The State should ensure a holistic approach in working with the subdivision developers by providing the structure, the perfect climate, incentives and privileges in order to recompense their performance in a particular locale.

Once a subdivision developer undertakes a particular project, the prime beneficiary is the LGU concerned. By providing such exemptions, the LGU, the subdivision developer, and the community as well, will be benefited.

WE BELIEVE THAT THIS BILL ADDRESSES THESE URGENT CONCERNS. HENCE, PASSAGE OF THIS BILL IS SOLEMNLY PRAYED.

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Introduced by **HON. EDUARDO C. ZIALCITA**

AN ACT
GRANTING REAL PROPERTY AND TRANSFER TAX EXEMPTIONS TO REAL
ESTATE DEVELOPERS, AMENDING FOR THIS PURPOSE SECTIONS 135 AND
234 OF THE LOCAL GOVERNMENT CODE OF 1991 AND FOR OTHER
PURPOSES

Be it enacted by the Senate and the House of Representatives of the Philippines in Congress assembled:

SECTION 1. This Act shall be known as the " Act Amending Sections 135 and 234 of the Local Government Code of 1991".

SECTION 2. Section 135, paragraph (a) is hereby amended to read as follows:

Section 135. Tax on Transfer of Real Property Ownership.-

(a) The province may impose a tax on the sale, donation, barter, or on any other mode of transferring ownership or title of real property at the rate of not more than fifty percent (50%) of one percent (1%) of the total consideration involved in the acquisition of the property or of the fair market in case the monetary consideration involved in the transfer is not substantial, whichever is higher.

The sale, transfer or other disposition of real property pursuant to R.A. No. 6657, **and the donation of roads, alleys, sidewalks, and open spaces for parks, playgrounds and recreational facilities to the local government unit and/or the homeowners association of the subdivision project pursuant to Section 31 of Presidential Decree No. 957, as amended by PD No. 1216, as well as the donation of home lots to tenant, awardees or beneficiaries pursuant to law or a settlement agreement in relation to the development of the subdivision,** shall be exempt from this tax.

Section 3. Section 234 is hereby amended by inserting a new subparagraph (f) which shall read as follows:

Section 234. Exemptions from Real Property Tax. – The following are exempted from payment of the real property tax:

XXX XXX XXX

- (f) ***Real property allocated by subdivision developers for roads, alleys, sidewalks, and open spaces for parks, playgrounds, recreational facilities as provided under P.D. 957, as amended, effective the quarter following approval of the subdivision project and issuance of license to sell by the Housing and Land Use Regulatory Board.***

XXX XXX XXX

Section 4. Separability Clause. – If any part, section or provision of this Act is held invalid or unconstitutional, other provisions not affected thereby shall remain in full force and effect.

Section 5. Repealing Clause. – All other laws, decrees, orders, issuances, rules, and regulations contrary to or inconsistent with the provisions of this Act are hereby repealed, amended or modified accordingly.

Sec. 6. Effectivity. – This amendment shall take effect fifteen (15) days after its publication in at least two (2) newspapers of national circulation.

Approved,

A handwritten signature in black ink, appearing to be a stylized 'J' or 'I' followed by a flourish.