



HOUSE OF REPRESENTATIVES

House Bill No. **1183**

Introduced by Representative CHRISTIAN TELL A. YAP

EXPLANATORY NOTE

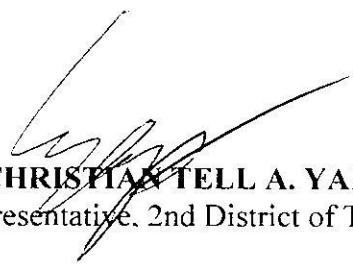
The COVID-19 pandemic accelerated the country's digital transition as lockdowns restricted movement and mobility. Consequently, Filipinos relies heavily on digital means such as the work and study from home, as well as commerce.

However, telecommunication companies have cited the objection of private villages and subdivisions to the installation of cell sites as a stumbling block in the roll out of the much-needed infrastructure aimed at improving internet speed and mobile connectivity in the country. According to the Department of Information and Communications Technology (DICT), the Philippines has 25,213 government-funded cell towers as of November 2021.

Most of the time, homeowners associations oppose the deployment of cell sites in their villages and subdivisions due to perceived health risk and aesthetic reasons. However, homeowners are also the first ones to complain of lack of connectivity and poor quality of service from the telcos.

This bill seeks to mandate developers to reserve utility space for telecommunication facilities and infrastructure including cell sites and base stations.

In view of the foregoing reasons, the approval of the bill is earnestly sought.


CHRISTIAN TELL A. YAP
Representative, 2nd District of Tarlac

HOUSE OF REPRESENTATIVES

House Bill No. 1183

Introduced by Representative CHRISTIAN TELL A. YAP

AN ACT MANDATING THE ALLOCATION OF AN AREA FOR INFORMATION AND COMMUNICATION TECHNOLOGY INFRASTRUCTURE AND FACILITIES IN SUBDIVISIONS AND HOUSING DEVELOPMENT PROJECTS

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

SECTION 1. *Short Title.* – This Act shall be known as the “Housing Development Digital Connectivity Act”.

SEC. 2. *Declaration of Policy.* – It is the policy of the State to undertake, in cooperation with the private sector, a continuing program of urban and housing development which considers the provision of integrated, reliable, and affordable information and communications technology (ICT) services.

The State, recognizing the need for such an integrated approach in nation-building, shall pursue the development of affordable housing side by side with sustainable physical infrastructure that responds to the needs of the population and residents including those pertaining to connectivity, health, education, housing, community, public space, transportation, sports and recreation, the practice of faith, public information, arts and culture, and public safety.

In pursuing these goals, particularly the strengthening of ICT infrastructure, the State shall put the needed mechanisms, policies, and interventions in place including those that will facilitate the processing of licenses, clearances, permits, certifications or authorizations needed.

SEC. 3. *Definition of Terms.* – As used in this Act:

a. *Homeowners’ association* refers to a nonstock, nonprofit corporation registered with the Department of Human Settlements and Urban Development (DHSUD), or one previously registered with the Philippine Guarantee Corporation or the Securities and Exchange Commission, organized by owners or purchasers of a lot in a subdivision, village or other residential real property located within the jurisdiction of the association; or awardees, usufructuaries, legal occupants and lessees of a housing unit and lot or lot in a government socialized or economic housing or relocation project and other urban estates; or underprivileged and homeless citizens as defined under existing laws in the process of being accredited as usufructuaries or awardees of ownership rights under the Community Mortgage Program, Land Tenure Assistance Program and other similar programs in relation to a socialized housing project actually being implemented by the national government or the local government unit;

b. *Independent tower company (ITC)* refers to a private entity duly organized and

existing under the laws of the Philippines, registered with the Department of Information and Communications Technology (DICT), and engaged in the business of establishing or operating one or more shared passive telecommunications tower infrastructure;

c. *Information and communications technology (ICT)* refers to the totality of electronic means to access, create, collect, store, process, receive, transmit, present and disseminate information;

d. *ICT infrastructure and facilities* refer to telecommunications towers, cell sites, base stations, antenna, commercial power systems, and other telecommunication apparatus such as switches, cables and poles needed to provide telecommunications service;

e. *ICT provider* refers to any person, firm, partnership or corporation, government or private, engaged in the provision of ICT services including public telecommunications entity as defined under Republic Act (RA) No. 7925, otherwise known as the "Public Telecommunications Policy Act of the Philippines"; and

f. *Passive telecommunications tower infrastructure (PTTI)* refers to all types of indoor or outdoor non-electronic communications infrastructure or civil works, including towers, masts, poles, and other similar infrastructure such as the following:

1. Appurtenant shelters, sheds, cabins, cabinets or other similar housing for the base-band units, radio units, and related electronic equipment, as well as the cable entrances thereof;
2. Ducts, ladders, arresters, mounts, cable entrances, and the cable trays of the PTTI;
3. Shared fiber optic or radio frequency cables or other similar equipment assemblies that make up the fronthaul;
4. Power supply and back-up power management systems; and
5. All other facilities necessary and pertinent for the proper, resilient, and continuous operation of a PTTI, built either on the ground or installed on buildings, walls, rooftops or other edifice, that are utilized for purposes of mounting antennas, transmitters or receivers, radio frequency modules, and other radio communications systems as macro cell sites for the rendition of information and communications technology services in the telecommunications network.

SEC. 4. *Housing Development Enhancement.* – To promote the accessibility of information and communications technology and ensure digital connectivity in urban centers and populated areas of the country, all housing projects, subdivisions, villages, or other residential real property, including socialized or economic housing shall allocate an area within its designated open space for the establishment of ICT infrastructure and related amenities.

SEC. 5. Section 31 of Presidential Decree (PD) No. 957, as amended by PD 1216, is hereby further amended to read as follows:

“Sec. 31. Roads, Alleys, Sidewalks and Open Spaces. The owner as developer of a subdivision shall provide adequate roads, alleys and sidewalks. For subdivision projects one (1) hectare or more, the owner or developer shall reserve thirty percent (30%) of the gross area for open space. Such open space shall have the following standards allocated exclusively for parks, playgrounds, recreational use, INFORMATION AND COMMUNICATIONS TECHNOLOGY INFRASTRUCTURE AND FACILITIES, AND OTHER RELATED AMENITIES:

- (a) 9% of gross area for high density or social housing (66 to 100 family lot per gross hectare).
- (b) 7% of gross area for medium-density or economic housing (21 to 65 family lot per gross hectare).
- (c) 3.5 % of gross area for low-density or open market housing (20 family lots and below per gross hectare).

The[se] areas reserved for parks, playgrounds and recreational use shall be non-alienable public lands, and non-buildable. The plans of the subdivision project shall include tree planting on such parts of the subdivision as may be designated by the [Authority] DEPARTMENT OF HUMAN SETTLEMENTS AND URBAN DEVELOPMENT.

Upon their completion as certified to by the [Authority] DEPARTMENT OF HUMAN SETTLEMENTS AND URBAN DEVELOPMENT, the roads, alleys, sidewalks, [and] playgrounds, AREA SET ASIDE FOR INFORMATION AND COMMUNICATIONS TECHNOLOGY INFRASTRUCTURE AND RELATED FACILITIES, AND OTHER RELATED AMENITIES shall be donated by the owner or developer to the city or municipality and it shall be mandatory for the local governments to accept: *Provided, however,* That the parks and playgrounds may be donated to the Homeowners Association of the project with the consent of the city or municipality concerned. No portion of the parks and playgrounds donated thereafter shall be converted to any other purpose or purposes.”

1 **SEC. 6. Housing Projects.** – A developer of a subdivision project shall set aside an
2 area for ICT infrastructure and facilities in the open space mandated under Section 31 of PD
3 957, otherwise known as the “Subdivision and Condominium Buyers’ Protective Decree”, as
4 amended.

5
6 (a) In order to maintain the area reserved for parks, playgrounds and
7 recreational use, and other public space for social infrastructure and community
8 activities, the developer may opt to provide an area for ICT infrastructure and facilities
9 from the net saleable lots outside the mandatory thirty percent (30%) of the gross area
10 for open space, and the use for ICT infrastructure and facilities of these saleable lots
11 zoned as residential shall be allowed, unless there are express prohibitions under
12 existing laws, regulations, and ordinances, and shall not be used as a reason for denying
13 the certificate of completion for the subdivision project.

14
15 (b) The area set aside for ICT infrastructure and facilities can either be
16 obtained through direct purchase based on the fair market value of the land or used by
17 way of a long-term lease: *Provided*, That the expenses incurred in building the ICT
18 infrastructure and facilities shall be borne by the purchaser or the lessee which is an
19 ICT provider or by a duly registered ITC: *Provided, further*, That developers of future
20 subdivision projects may likewise opt to serve as the ITC: *Provided, finally*, That
21 payment of any kind for the establishment of ICT infrastructure and facilities shall be
22 held in trust by the developer in favor of the homeowners’ association and turned over
23 once the homeowners’ association is constituted in accordance with Section 30 of PD
24 957 and registered with the DHSUD pursuant to Sec. 5(IV)(a) of RA 11201 otherwise
25 known as the “*Department of Human Settlements and Urban Development Act*” in
26 relation to Sec. 4 of RA 9904 also known as the “*Magna Carta for Homeowners and*
27 *Homeowners’ Associations*”, except in cases under Section 5 (b) of this Act where
28 payment shall accrue to the developer.

29 (c) All ICT infrastructure and facilities, particularly PTTI, to be built in
30 future housing subdivision projects shall be non-exclusive and shall be accessible for
31 shared use by ICT provider and all installation of active infrastructure such as antennas,
32 transmitters, receivers, radio frequency modules, radio communication systems, and
33 other active information and communications technology equipment, units, and
34 implements for macro cell sites, as well as improvements, renovations, upgrades, or
35 updates thereof, shall be co-located thereon.

36
37 **SEC. 7. Existing Subdivisions.** – Homeowners’ associations in existing subdivisions
38 shall provide an area in the open space mandated under Section 31 of PD 957, as amended by
39 this Act, where ICT infrastructure and facilities shall be established.

40
41 (a) If the area identified for ICT infrastructure and facilities is located in an
42 open space in an existing subdivision already donated and accepted by the city or
43 municipality, the consent of the city or municipality shall be secured.

44
45 (b) If the area identified for ICT infrastructure and facilities is located in an
46 open space in an existing subdivision already donated and turned over to the
47 homeowners’ association with the consent of the city or municipality, the homeowners’

1 association shall be consulted in accordance with Section 19 of RA 9904 and secure its
2 consent.

3
4 (c) If the area identified for ICT infrastructure and facilities, however, is a
5 lot in an existing subdivision owned by a private individual, no such consent from the
6 homeowners' associations shall be required and the deed of restrictions insofar as the
7 subject lot is concerned shall be deemed modified accordingly: *Provided*, That the
8 subsequent related application for clearances before the homeowners' association shall
9 be strictly governed by the guidelines provided under Section 15 of RA 11032,
10 otherwise known as the "*Ease of Doing Business and Efficient Government Service*
11 *Delivery Act of 2018*" and violation thereof shall be imposed the sanctions set forth in
12 the law.

13
14 (d) In all instances, the area set aside for ICT infrastructure and facilities
15 can either be obtained through direct purchase based on the fair market value of the
16 land or used by way of a long-term lease: *Provided*, That the expenses incurred in
17 building the ICT infrastructure and facilities shall be borne by purchaser or the lessee
18 which is an ICT provider or by a duly registered ITC.

19
20 (e) All ICT infrastructure and facilities, particularly PTTL, to be built in
21 existing subdivision shall be non-exclusive and shall be accessible for shared use by
22 ICT provider and all installation of active infrastructure such as antennas, transmitters,
23 receivers, radio frequency modules, radio communication systems, and other active
24 information and communications technology equipment, units, and implements for
25 macro cell sites, as well as improvements, renovations, upgrades, or updates thereof,
26 shall be co-located thereon.

27
28 (f) Existing subdivisions with established ICT infrastructure and facilities
29 shall be deemed compliant with this Act: *Provided*, That the ICT infrastructure and
30 facilities are compliant with the requirements of the DICT.

31
32 **SEC. 8. *Jurisdiction of Human Settlements Adjudication Commission.***— In case of
33 denial of consent by the homeowners' association under Section 6 (a) and (b), ICT providers
34 may file a case before the Regional Adjudicator of the Human Settlements Adjudication
35 Commission. The Regional Adjudicator of the region where the subdivision is located shall
36 exercise original and exclusive jurisdiction to hear and decide the case.

37
38 **SEC. 9. *Rationalized Locational Plan.*** — The DICT and the National
39 Telecommunications Commission (NTC) shall prepare a comprehensive locational plan that
40 identifies the sites for the construction and establishment of ICT infrastructure and facilities in
41 accordance with the comprehensive land use plan and zoning ordinance of each local
42 government unit.

43
44 Such rationalized locational plan shall be reviewed every five (5) years by the DICT
45 and NTC, in coordination with the DHSUD and the Department of the Interior and Local
46 Government (DILG).

47
48 The NTC shall issue the document certifying the necessity for ICT infrastructure and
49 facilities as provided under the rationalized locational plan of proposed sites.

1 **SEC. 10. *Information Campaign.*** – The DICT shall, in partnership with the DHSUD,
2 DILG, Department of Health (DOH), and the Food and Drug Administration, in coordination
3 with ICT providers, conduct an information campaign to address the safety concerns on the
4 radio frequency radiation emitted by telecommunication towers.

5
6 **SEC. 11. *Implementing Rules and Regulations.*** – Within sixty (60) days from its
7 effectivity, the DHSUD shall, in consultation with the DICT, NTC, DILG, DOH, and the
8 stakeholders, promulgate the necessary rules and regulations for the effective implementation
9 of this Act.

10
11 **SEC. 12. *Separability Clause.*** – If any provision of this Act shall be declared
12 unconstitutional or invalid, the other provisions not otherwise affected shall remain in full force
13 and effect.

14
15 **SEC. 13. *Repealing Clause.*** – Sec. 31 of PD 957, as amended by PD 1216, is hereby
16 amended. All laws, decrees, executive orders, proclamations and other executive issuances
17 which are inconsistent with or contrary to the provisions of this Act are hereby amended or
18 repealed accordingly.

19
20 **SEC. 14. *Effectivity.*** – This Act shall take effect fifteen (15) days after its publication
21 in the *Official Gazette* or in a newspaper of general circulation.

Approved.