NATIONAL ADMINISTRATIVE REGISTER · DECEMBER 12, 2013

GUIDELINES ON THE PROPER IMPLEMENTATION OF AN ADMINISTRATIVE BOARD DECLARATION IN CASE THE PREMISES DECLARED TO BE PUBLIC NUISANCE IS A RESIDENTIAL HOUSE

DDB BOARD REGULATION NO. 3, S. 2013, December 12, 2013

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WHEREAS, Section 81 (b) of Republic Act No. 9165 or the Comprehensive Dangerous Drugs Act of 2002 provides that the Board shall promulgate rules and regulations to carry out the purpose of this Act;

WHEREAS, Section 53 of Republic Act No. 9165 the local government units (LGU's) the power to abate drug related public nuisances;

WHEREAS, Section 53 of the Implementing Rules and Regulations of RA No. 9165 states that the DDB shall issue guidelines on the proper implementation of the order of the Administrative Board of the LGU's declaring the place or premises to be a public nuisance, in case such place or premises is a residential house;

NOW, THEREFORE, be it RESOLVED, as it is hereby RESOLVED, to promulgate this Regulation which shall govern instances where the Administrative Board declares a residential house to be a public nuisance:

Section 1. DRUG RELATED PUBLIC NUISANCE. Any place or premises which have been used on two or more occasions as the site of the unlawful sale or delivery of dangerous drugs, or used as a drug den for pot sessions and other similar activities, may be declared to be a public nuisance.

Section 2. THE ADMINISTRATIVE BOARD. As provided for in Section 52 (a) of the Implementing Rules and Regulations of RA No. 9165, any city or municipality may, by ordinance, create an administrative board to hear complaints regarding drug related public nuisances, to be composed of the following local officials:

- City/Municipal Health Officer as chairperson;

- City/Municipal Legal Officer as member, or the City or Municipal Administrator if there is no City / Municipal Legal Officer; and

- The local Chief of Police as member.

Section 3. FILING OF COMPLAINT. Complaint for abatement of public nuisance may be filed:

- By any employee, officer or resident of the city or municipality may bring a complaint before the Administrative Board after giving not less than three (3) days written notice of such complaint to the lawful owner/possessor of the property which is a residential house at his/her known address;

- Within three (3) days from receipt of the complaint, a hearing shall then be conducted by the Administrative Board, with notice to both parties, and the Administrative Board may consider any evidence submitted, including evidence of general reputation of the place or premises;

- The lawful owner/possessor of the property shall be given an opportunity to present evidence in his/her defense before the Administrative Board;

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- The hearing shall be terminated within ten (10) days from commencement;

- After hearing, the Administrative Board may declare the property to be a public nuisance.

Section 4. IMPLEMENTATION. If the Administrative Board determines that a residential house is a drug related public nuisance:

- It shall be declared as a public nuisance and an order immediately prohibiting the conduct, operation or maintenance of any business or activity on such premises shall be issued.

- The said order shall be implemented by the local chief executive, through the City/Municipal Health Officer, in cooperation with the Barangay Anti-Drug Abuse Council (BADAC) and/or Municipal/City Anti-Drug Abuse Council (MADAC/CADAC) and the local police force.

- A copy of the Order shall be mailed to the lawful owner/possessor of the property via registered mail. If the lawful owner/possessor is unknown or cannot be located, notice may be given by posting a copy of the Order upon the entrance or any conspicuous area of the property and by mailing a copy of the Order via registered mail to the address shown in the property tax records or to his/her last known address.

- After ten (10) days of actual receipt or posting and notice as stated in the last preceding paragraph, the City/Municipal Officer, or his authorized representative, shall implement the Order. However, prior to the actual implementation of the Order, the implementing person/persons shall secure a certified true copy of the Order.

- Upon reaching the property which is the subject of the Order, the City/Municipal Health Officer, or his authorized representative, shall show and explain to the lawful owner/possessor of the property or any member of his family of sufficient age and discretion or in the absence of the latter, two persons of sufficient age and discretion, the Order issued by the Administrative Board prohibiting the conduct, operation or maintenance of any business or activity on the premises. The City/Municipal Health Officer or his/her authorized representative shall cause the aforesaid person/persons to sign a document stating that they understand the Order and its implication to the property under issue.

- If the Order provides the vacating or closure of the property, the local police force, with the assistance of the BADAC or the MADAC/CADAC, shall prohibit the occupancy or trespass of the property by padlocking all or portion of the property or the boarding up of all or portion of the property, whichever is appropriate.

- Thereafter, the City/Municipal Health Officer, or his/her authorized representative shall cause the posting of a notice at the entrance or any conspicuous area of the property which states that a Declaration of Nuisance and an Order prohibiting the conduct of any business or activity on such premises has been issued against the property and its owners and/or possessors.

- No person shall enter any property declared by the Administrative Board to be a drug related public nuisance. The Administrative Board shall formulate guidelines on penalties for trespass on and unauthorized occupation of properties declared to be a drug related public nuisance.

- The BADAC and the MADAC/CADAC shall maintain a list of properties declared to be drug related public nuisances and of the remedy ordered by the Administrative Board. The list shall be made available for inspection at the offices of the BADAC and the MADAC/CADAC.

Section 5. APPEAL. Within ten (10) days from the receipt of the adverse decision of the Administrative Board, the lawful owner/possessor may appeal such decision with the Sanguniang Bayan or Sanguniang Panglungsod, as the case may be.

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Section 6. PENALTIES. Non-compliance with the decision of the Administrative Board shall constitute a violation of Sec. 32 of RA No. 9165, in addition to other sanctions imposed by the Administrative Board.

This regulation shall not restrict the right of any person to proceed under the Civil Code on public nuisance. Neither shall this restrict the power of the local Sangunian to declare, prevent or abate any nuisance as provided for in the Local Government Code.

Section 7. SEPARABILITY CLAUSE. If, for any reason or reasons, any part or provision of this Regulation shall be held invalid, other parts or provisions hereof which are not affected thereby shall continue to be in full force if effect.

Section 8. EFFECTIVITY. This Regulation shall take effect fifteen (15) days after its publication in two (2) newspapers of general circulation and after its registration with the Office of the National Administrative Register (ONAR), UP Law Center, Quezon City.

Approved and Adopted, this 12th day of December, in the year of our Lord, 2013 in Quezon City.

(SGD) Secretary ANTONIO A. VILLAR, JR.
Chairman, Dangerous Drugs Board

Attested by:

(SGD) JOSE MARLOWE S. PEDEREGOSA
Undersecretary-Executive Director
Secretary of the Board

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