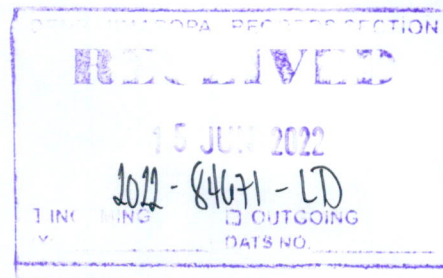




Republic of the Philippines
Department of Environment and Natural Resources
Visayas Avenue, Diliman, Quezon City, 1100
Tel. Nos.: (632) 929-66-26 to 29 • (632) 929-62-52
929-70-41 to 43-52



MEMORANDUM

FOR : THE REGIONAL EXECUTIVE DIRECTOR
MIMAROPA Region
Roxas Boulevard, Ermita, Manila City

FROM : THE ASSISTANT SECRETARY
Field Operations- Luzon – Visayas and Concurrent Supervising Assistant
Secretary of the Metropolitan Environmental Offices (MEO)

SUBJECT : LETTER DATED 03/04/2022 CC PERTAINS TO THE EMB
NOTICE OF VIOLATION ISSUED BY EMB ROMBLON

DATE : 09 JUN 2022

Referred herewith is the letter, dated March 04, 2022, addressed to the PENRO Thelmo S. Hernandez, from Atty. Francisco F. Benedicto Jr., Romblon, Romblon, pertaining to the above-mentioned subject.

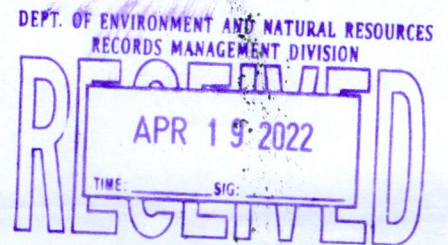
Please take appropriate action on the matter and directly coordinate with the concerned party consistent with the existing policies, rules and regulations within the prescribed period as provided under Republic Act 11032 or the Ease of Doing Business and Efficient Government Service Delivery Act of 2018. Copy furnish this office of the action taken citing document tracking no. DENR-ASRMD-2022-010307 for record and monitoring purposes.

FOR IMMEDIATE COMPLIANCE.


GILBERT C. GONZALES, CESO III

553
10307
Romblon, Romblon
March 4, 2022

MR. THELMO S. HERNANDEZ
OIC TSD DENR MIMAROPA
ROMBLON PROVINCIAL OFFICE
Odiongan, Romblon



Dear Thelmo S. Hernandez,

This is in response to your letter dated January 12, 2022 copy attached for ready reference.

Going straight to the point, the Office of the Environmental Management Bureau (EMB) has no authority to issue a Notice of Violation of Section 51 of P.D. 1067, the Water Code. The concern of EMB is only with respect to P.D. 1586, otherwise known as the Philippine Environment Impact Statement System. I am not aware of any Notice of Violation of Article 51 of P.D. 1067 issued by EMB Romblon. The authority to do so rest with the PENRO Mr. Maximo C. Landrito. This exercise of authority by PENRO to issue a Notice of Violation is shown in the cases of Punta Corazon, Dario Tan, El Krimphoff, Rev. Father Ricardo Magro III, Engr. Winnie Caldit, Hipolito Berano, Ester Mesana and Dina Moreno. After issuing letter with Notices of Violation, they were required to submit documents. The structures involved in these cases were even inspected and investigated together with that of Mr. Jose Riano on August 3-6, 2021, and all were found to have violated the Salvage Zone. So, why were letters with Notices of Violations issued to these eight (8) persons and no such letter with Notice of Violation was issued to Mr. Riano?

The procedure was even reversed to benefit just one person, Mr. Riano. Instead of issuing a Notice of Violation and requiring him to submit documents,

PENRO directed him to submit approved plan and only then will DENR decide the issuance of a Notice of Violation. Mr. Riano was not even given a deadline for submission of the subject documents. So what will happen if the subject documents are not submitted?

Moreover, why direct the submission of a Survey Authority and approved Survey Plan when these documents are themselves issued by PENRO. Does it mean that no Survey Authority and approved Survey Plan have yet been issued/approved by PENRO when the project was started several years ago?

Please be informed that according to DENR Executive Regional Director Maria Lourdes G. Ferrer in her letter to the undersigned dated August 19, 2021, titled properties are not exempt from the salvage zone requirement. Therefore, even if the structures of Mr. Riano are within his titled property, there is still a violation of the salvage zone if they are within twenty (20) meters from the highest tide.

With this clarification and the letter of PENRO Landrito dated August 20, 2021 that based on the inspection, it was confirmed all the structures are well within the 20-meter salvage zone, copy attached, issuance of a Notice to Vacate to Jose R. Riano is imperative.

By the way the concrete fence and building of Mr. Riano in the subject area have no building and fencing permits. And on February 22, 2022 an inspection survey team was in Romblon to conduct a survey of Mr. Riano's property among other things. Did PENRO Landrito issue a survey authority to Mr. Riano and that the survey was conducted by DENR Survey Team?

In the case of Nonok Beach, PENRO Landrito refused to issue a survey authority saying that there is a violation of P.D. 1067. So the application for the legalization of existing reclamation (allowed by law) did not succeed. Now in the case of Mr. Riano who was found by DENR, Odiongan to have violated the

Salvage Zone, is not only given a Survey Authority but surveyed by DENR itself who earlier found it to have violated Article 51 of P.D. 1067!

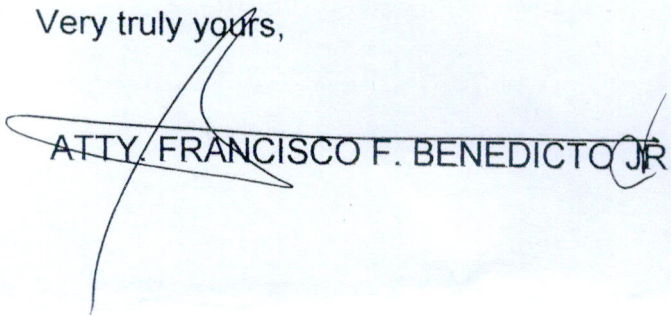
I can recall that there is a high end compound with several structures within the salvage zone in Sitio Ipil Barangay Lonos, Romblon. On several occasions there were personnel inspecting and conducting measurements. Then all of a sudden the harassment stopped. I later learned that DENR conducted a survey of the property and after paying 40K for the survey, all questions and problems relating to the violation simply stopped.

Will this happen again that after finding the constructions to be within the salvage zone, DENR will conduct a survey, approve its own survey and presto, there is no more violation of article 51 of P.D. 1067 and pertinent environment laws of the Philippines.

Obstinate refusal to issue subject Notice to Vacate maybe ground for administrative sanction for grave misconduct and/or neglect of duty.

Kindly acknowledge receipt hereof and favor me with a copy of the action taken herein. Thank you.

Very truly yours,


ATTY. FRANCISCO F. BENEDICTO JR.

Cc:

Lormelyn E. Claudio
OIC Executive Regional Director
DENR MIMAROPA Region
1515 L&S Bldg. Roxas Boulevard, Ermita Manila

USEC. RODOLFO C. GARCIA
CHIEF OF STAFF
DENR CENTRAL OFFICE
VISAYAS AVENUE, QUEZON CITY

MR. MAXIMO C. LANDRITO
PENRO DENR MIMAROPA REGION
Odiongan, Romblon

DIRECTOR JAIME LLAGUNO MABINI
Office of the President
Presidential Complaint Center
Malacanang, Manila



January 12, 2022

ATTY. FRANCISCO F. BENEDICTO, JR.
Brgy. Bagacay, Romblon, Romblon

Dear Atty, Benedicto, Jr.,

I hope this letter finds you well!

This is to acknowledge receipt of your letter received by this office dated January 3, 2022 regarding the non-issuance of Notice of Violation (NoV) to Gov. Jose R. Riano.

Anent to the non-issuance of NoV to Gov. Jose R. Riano may we clarify that DENR PENRO Romblon no longer issue the Notice of Violation because that power to issue such notice resides with the office of Environmental Management Bureau. Instead of Notice of Violation this office issue a Notice to Vacate and Self-demolish of structures found to be within the legal easement. However, no Notice to Vacate was issued to Gov. Riano since we are waiting for the approval of his Survey Authority and the approved plan. Once we have the approved plan we will now be able to verify whether the structures are within the titled property or outside. That will be the proper time that we can decide whether an issuance of Notice to Vacate is appropriate.

Thank you and God Bless!

Respectfully yours,
"For and in the absence of PENR officer"


THELMO S. HERNANDEZ
OIC, Technical Services Division

Copy furnished:

Office of the Regional Executive Director
DENR MIMAROPA Regional Office
1515 L&S Building, Roxas Blvd,
Ermita, Manila

Office of the Municipal Mayor
LGU Romblon, Romblon

Mr. Erwin Anzaldo
Environmental Management Bureau

ANNEX F

MEMORANDUM

FOR : The **PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICER**
Department of Environment and Natural Resources
Province of Romblon

FROM : The **CHIEF**
Environmental Management Services
Romblon

SUBJECT : **COMPLAINT OF ATTY. FRANCISCO BENEDICTO JR. ON THE CNC ISSUED TO MR. ARAMANDO GUTIERREZ FOR THEIR ARMANDO SUNSET BEACH HOUSE AT LONOS, ROMBLON, ROMBLON.**

DATE : January 11, 2021


This is to respectfully inform the PENRO, that this Office has already set the re-validation of the Sunset Beach House at Sitio Pawahan, Lonos Romblon as one of its priority activities in the Island of Romblon, Romblon once the island's lockdown status is lifted.

Evaluation of said case referred on January 8, 2021 by your Office disclosed that a certain Atty. Francisco Benedicto Jr. is complaining that the EMB has kept silent on to issue why Mr. Armando Gutierrez was issued a **Certificate of Non Coverage (CNC)** to their *Armando Sunset Beach House*. We would like to inform the PENRO that the Certificate of Non-Coverage is issued as a certification that the project is not within the purview of **PD 1586** otherwise known as the **"Philippine Environmental Impact Statement System"**. As such the project is not required to secure an **Environmental Compliance Certificate (ECC)**. Hence, the project no longer falls within jurisdiction of the Environmental Management Bureau, **notwithstanding**, if the project install and operate an Air Pollution Source Installation, Generate Hazardous Waste or Discharges Regulated Effluent under RA 8749, RA 6969, and RA 9275.

Records show that the proponent applied for said CNC online in accordance with the directive of the Environmental Management Bureau. The proponent has declared in their application that they will build an infrastructure project within a 1.800 Hectare lot in Brgy. Lonos, Romblon, Romblon. Infrastructure project falls under item of **3.6.9 INFRASTRUCTURE PROJECTS/BUILDINGS INCLUDING HOUSING STORAGE FACILITIES AND OTHER STRUCTURES/FAMILY DWELLINGS/APARTMENT TYPE** of Annex A of DENR Administrative Order 2003-30. The project was issued CNC **CNC-OL-R4B-2020-08-00852** on August 17, 2020 since the application has completed the **MUST** requirements.

The CNC may be cancelled under due process, however, if there are valid evidences that the project is actually covered by PD 1586 and that the proponent has willfully declared misrepresentations or misdeclarations in their application that would indicate the same.

For the PENROs, information and reference.


IRWIN A. ANZALDO

Encl.: CNC-OL-R4B-2020-08-00852

PENRO Compound, Brgy. Suqui, Calapan City, Oriental Mindoro
Satellite Office, 6th Floor DENR by the Bay Bldg., 1515 Roxas Blvd., Ermita, Manila
Regional Director's Office (02) 536-9786; Administrative and Finance Division Telefax No. (02) 400-5960
Environmental Monitoring and Enforcement Division (02) 521-8904; Clearance and Permitting Division Telefax. (02) 400-5960
e-mail address: environmental@denr.gov.ph
website: www.denr.gov.ph

26 JAN 2021

MEMORANDUM

TO : The PENRO
Romblon

FROM : The Regional Executive Director

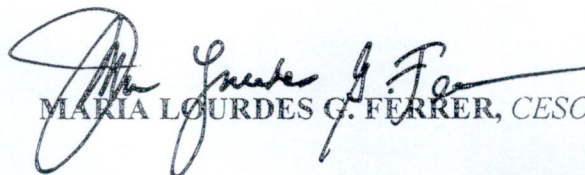
SUBJECT : LETTER DATED SEPTEMBER 22, 2020 OF ATTY. FRANCISCO F. BENEDICTO, JR. RE: REQUEST FOR APPROPRIATE ACTION OF FOUR (4) COMMERCIAL BUILDINGS AT SITIO BINAGONG, BRGY. BAGACAY, ROMBLON, ROMBLON WHICH APPEARS TO BE IN VIOLATION OF THE WATER CODE AND SALVAGE ZONE (DENR-ASRMD-2020-020019)

Referred is the Memorandum dated December 14, 2020 of the Assistant Secretary for Field Operations-Luzon with the attached letter-complaint dated September 22, 2020 of Atty. Francisco F. Benedicto, Jr., addressed to the PENR Officer of Romblon, copy furnished this Office regarding the above subject.

Based on the complaint, four (4) commercial buildings were constructed at Sitio Binagong, Brgy. Bagacay, Romblon, Romblon which appear to be in violation of the Water Code and Salvage Zone.

In line with this, you are hereby directed to conduct an immediate investigation to determine the veracity of the complaint, and if so warrant, issue Notice of Violation against the offender for violation of existing ENR laws and regulations. Submit report of your actions taken together with your categorical recommendations within five (5) working days upon receipt hereof, which will serve as basis for further action by this Office.

For strict compliance.


MARIA LOURDES G. FERRER, CESO III

Cc: Atty. Francisco F. Benedicto, Jr.
Brgy. Bagacay, Romblon, Romblon



Department of Environment
and Natural Resources
MIMAROPA Region



Doc ID: 39832



Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region

August 9, 2021

MR. DARIO TAN

Brgy. Bagacay, Romblon, Romblon

Dear Mr. Tan,

Hoping this letter finds you well!

This is in relation to the **conduct of inspection in the vicinity of the building** currently being constructed in Sitio Binagong, Brgy. Bagacay, Romblon, Romblon. During inspection, it was found out that the entire structure is within the 20-meter legal easement. As per P.D. 1067 known as the Water Code of the Philippines, any structures within the legal easement is prohibited. Since the structure is well within the easement, Notice to Vacate and Self-Demolish of Structures will be issued thereafter.

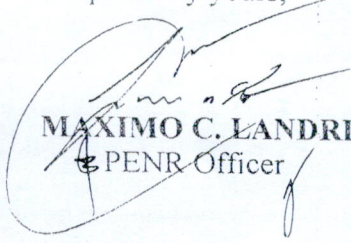
With that being said, you are required to submit several documents as listed below:

1. Latest Tax Declaration
2. Proof of Ownership (e.g. Title, Deed of Conveyances)
3. Approved Survey Plan if available

This will be your **FIRST NOTICE**; you are given fifteen (15) days to submit the necessary documents. Failure on your part to submit these documents, recommendation of the removal of the structures will be made.

Thank you and be safe always

Respectfully yours,


MAXIMO C. LANDRITO
PENR Officer

Copy furnished:

The Assistant Secretary
Field Operations – Luzon

The Undersecretary
Field Operations and Environment

Atty. Francisco Benedicto, Jr.
Brgy. Bagacay, Romblon, Romblon



Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region 713

August 20, 2021

ATTY. FRANCISCO F. BENEDICTO, JR.
Brgy. Bagacay, Romblon, Romblon

Dear Atty, Benedicto, Jr.,

This is to acknowledge receipt of your letter dated August 5, 2021 regarding the on-going massive construction within the salvage zone in a mangrove area in Lonos, Romblon, Romblon. However, it appears you have forgotten to attach the picture in that letter. But no matter, this office has already sent a team last August 3, 2021 to inspect areas you have reported.

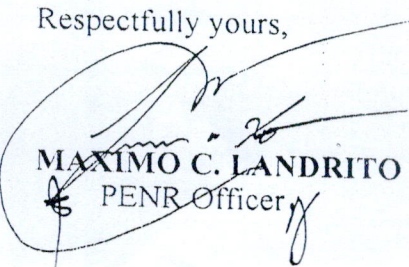
On August 3-6, 2021, a team from Regulation and Permitting Section (RPS) headed by Allan T. Sendiong, inspected the areas you have mentioned in your previous letter which includes El Krimhoff owned by Emelyn Mallen and Marble Riprap owned by Gov. Jose Riano all located in Brgy. Lonos, a 3 story building owned by Dario Tan and commercial stores in Sitio Binagong, Brgy. Bagacay owned by several individuals, and Punta Corazon in Brgy. Cajimos.

Based on the inspection, it was confirmed that all of these structures are well within the 20-meter salvage zone if measured from the highest line of tide. Some of these structures have no building permit, fencing permit, no ECCs/CNCs, while other structures have complied prior with the construction. However, some of these properties are titled like those properties owned by Dario Tan, Gov. Riano, Emelyn Mallen, and Corazon Abrenica.

Since all of these structures are well within the legal easement, an initial notice were sent to the recipients informing them of the violations and ordered them to submit proof of ownership and other documents. On the other hand, the LGU of Romblon have acted the same by issuing Notice to Vacate to number of recipients including personalities included in your previous letters.

Thank you and be safe always!

Respectfully yours,


MAXIMO C. LANDRITO
PENR Officer

Copy Furnished:

Office of the Regional Executive Director
1515 L&S Bldg., Roxas Blvd.
Ermita, Manila



AUG 19 2021

Atty. Francisco F. Benedicto, Jr.
Retired Senior State Prosecutor
Romblon, Romblon

Sir:

This is in response to your letter dated April 21, 2020 (*sic*) addressed to Atty. Gandhi G. Flores, Chief of the Legal Division of this Office, inquiring whether waterfront properties covered by original certificates of title/transfer certificates of title and were issued Environmental Compliance Certificates (ECCs) are exempted from the rules on easement or salvage zones.

We answer in the negative.

All lands, regardless of classification, and whether covered by certificates of title or not, are subject to the express provisions of P.D. 1067, otherwise known as *The Water Code of the Philippines*, which provides under Article 51 thereof that:

Art. 51. The banks or rivers and streams and the shores of the seas and lakes throughout their entire length and within a zone of three (3) meters in urban areas, twenty (20) meters in agricultural areas and forty (40) meters in forest areas, along their margins, are subject to the easement of public use in the interest of recreation, navigation, flotage, fishing and salvage. No person shall be allowed to stay in this zone longer than what is necessary for recreation, navigation, flotage, fishing or salvage or to build structures of any kind. (Emphasis ours)

In the case of *Pilar Development Corporation vs. Ramon Dumadag*, G.R. No. 194336, March 11, 2013, applying Article 51 of PD 1067, the Supreme Court ruled that:

Thus, the above prove that petitioner's right of ownership and possession has been limited by law with respect to the 3-meter strip/zone along the banks of Mahabang Ilog Creek. Despite this, the Court cannot agree with the trial court's opinion, as to which the CA did not pass upon, that respondents have a better right to possess the subject portion of the land because they are occupying an area reserved for public easement purposes. Similar to petitioner, respondents have no right or title over it precisely because it is public land. xxx (Emphasis ours)

Further, we are attaching herewith a copy of DENR Administrative Order (DAO) No. 2021-07, issued on April 28, 2021, which provides for the *Guidelines on the Establishment of Legal Easement Along the Seas, Rivers, Lakes, Esteros, and Creeks*, the bases of which include the above provision of PD 1067, for your reference.

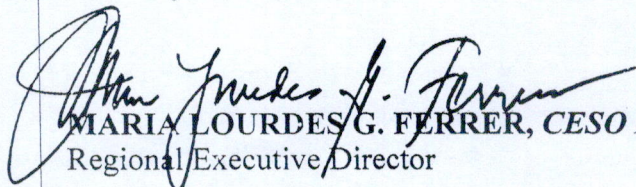
ARD-MS/LD

On the other hand, an ECC is a document issued by the DENR, through Environmental Management Bureau (EMB), pursuant to Section 4 of P.D. 1586, otherwise known as the *Philippine Environmental Impact Statement System*. The ECC is proof that the proponent has undergone the required Environmental Impact Assessment and that the project will not have a significant environmental impact. It also enumerates the proponent's commitment in its Environmental Monitoring Plan (EMoP) and Environmental Management Plan (EMP) to mitigate or minimize further any negative environmental impacts that the project may cause. The ECC also serves as a planning tool to prevent environmental degradation.

Thus, it is clear from the foregoing that certificates of title and ECCs do not grant the titleholder and the project proponent exemption from the rules on easement or salvage zones.

We hope that we have enlightened you regarding this matter.

Sincerely,


MARIA LOURDES G. FERRER, CESO III
Regional Executive Director

Copy furnished:

PENRO Romblon



Department of Environment
and Natural Resources
MIMAROPA Region



Doc ID: 69516

ARD-MS/LD

Page 2 of 2

1515 L & S Building, Roxas Boulevard, Ermita, Manila 1000
DENR VOIP (632) 82483367/82483468/82493367 local 2717 (Regional Executive Director); 2709 (Legal Division)
Direct Line: (632) 84050157
Website: <https://mimaropa.denr.gov.ph>
Email: mimaroparegion@denr.gov.ph; denr4blegal@gmail.com

Romblon, Romblon

July 7, 2021

Engr. Leonardo M. Mendez
Municipal Engineer
Romblon, Romblon

Dear Engr. Mendez,

Greetings!

Thank you for your reply of 05 July, 2021.

I have the honor to further inquire if the fencing permit of Mr. Riano in Lonos that you denied was reconsidered; if you issued a building permit to the four (4) buildings along the provincial road in Sitio Binagong, Barangay Bagacay built within the Salvage Zone; the beach front house of Mr. and Mrs. Edwin Buffe in Barangay Mapula/Ginablan and Seaview Restobar in Sitio Lusod, Barangay Lonos, Romblon.

Kindly acknowledge receipt hereof and favor me with your usual prompt action.

Thank you and more power to the Engineering Office.

Very truly yours,

Atty. Francsico F. Benedicto Jr.

7/12/21

Republic of the Philippines
Province of Romblon
Municipality of Romblon
-oo000oo-

OFFICE OF THE MUNICIPAL ENGINEER

July 15, 2021

Atty. Francisco F. Benedicto, Jr.
Romblon, Romblon

Dear Atty. Benedicto,

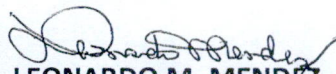
Greetings!!!

This is to acknowledge receipt on 12 July 2021 of your letter dated July 7, 2021.

As to regards to your inquiry, please be informed that based on our records filed, as mentioned on your 07 July 2021 letter, the fencing permit has not been reconsidered and no building permit issued by the undersigned before July 15, 2019 to those persons/locations mentioned thereon.

For your information and please acknowledge receipt hereof.

Very truly yours,


LEONARDO M. MENDEZ
Municipal Engineer

Emm/IIm