



Republic of the Philippines  
Department of Environment and Natural Resources  
**ENVIRONMENTAL MANAGEMENT BUREAU**  
Regional Office No. VIII  
Tacloban City, Philippines

**IN RE: VIOLATION OF SECTION 4,  
PRESIDENTIAL DECREE NO. 1586**

ENVIRONMENTAL MANAGEMENT BUREAU  
RELEASED BY: \_\_\_\_\_  
DATE: 8-4-22  
TIME: 11:30 a

-versus-

**ARNOLD CHIN BEACH RESORT DEVELOPMENT PROJECT**

Brgy. San Juan, Mondragon, Northern Samar

*Respondent*

X-----X

**DECISION**

This resolves the **Notice of Violation** dated **15 November 2021** issued by this Office against Arnold Chin Beach Resort Development Project, herein referred to as the "Respondent" for brevity, located in Brgy. San Juan, Mondragon, Northern Samar for the following violation:

- a. Undertaking a beach resort development project located in Brgy. San Juan, Mondragon, Northern Samar, without first securing an Environmental Compliance Certificate, in violation of **Section 4, P.D 1586**.

**Statement of Facts**

An **Environmental Compliance Certificate (ECC)** is a decision document issued to the Proponent after thorough review of the EIA Report. It outlines the commitments of the proponent which are necessary for the project to comply with existing environmental regulations or to operate within best environmental practice that are not currently covered by existing laws.

One of the salient features of an ECC are conditions and restrictions, which the Proponent must undertake before and during the operation of a project, and in some cases, during abandonment phase, to mitigate adverse environmental impacts.

On **01 October 2021**, technical personnel from the Provincial Environmental Management Unit- Northern Samar of this Office conducted an investigation upon herein respondent. The investigation

DECISION

In re violation of the provisions of P.D 1586  
vs Arnold Chin Beach Resort Development Project

report alleged that the respondent has undertaken the development of a beach resort project without first securing an ECC. In support to such an allegation are the findings that the subject area occupied by the respondent covers more than 1000 square meters. The findings also alleged that a concrete fence, concrete retaining walls, wooden bridge, and a temporary cottage were constructed inside the subject project area. The findings further disclosed that no buildings have been constructed yet.

Consequently, this Office issued a Notice of Violation dated 15 November 2021 against the respondent and the latter was called to attend a Technical Conference/Hearing last **06 December 2021**. The respondent defaulted in the technical conference but submitted a position paper last 06 December 2021.

In the said position paper, the respondent denied having committed a violation as it claims that it is not yet undertaking a development for a beach resort in its property. According to the respondent, the concrete fence constructed is intended to ensure that no encroachment and boundary conflict would ensue later between adjoining owners of the property. It is for the purpose of securing its property.

The respondent also asserts that there is no permanent structure yet inside the premises. It denies undertaking the said project not only because it entails a big amount of money but also because it knows for a fact that certain clearances and permits must first be secured before commencing the project. That as an owner of the property, it is its right and obligation to preserve its ownership and for this reason it has decided to secure it by constructing a concrete fence.

The respondent further argued that the Notice of Violation will not apply because it is not undertaking a project, nor it has any plan yet to develop the property into a regular resort or construct a building or other permanent structure which will be open to public for business purposes.

Consequently, the Hearing Officer submitted the case for the decision of this Office as he opines that the respondent did not commit a violation based on grounds which will be discussed hereunder.

### Issue

Whether or not Respondent the respondent has undertaken the development/construction of a beach resort project without an Environmental Compliance Certificate (ECC).



## Ruling

This Office finds no cogent reason or legal justification to deviate from the recommendations of the Hearing Officer. Accordingly, the same recommendations are hereby adopted.

**Section 4 of Presidential Decree No. 1586**, in part, provides that:

**“No persons, partnership or corporation shall undertake or operate any such declared environmentally critical project or area without first securing an Environmental Compliance Certificate.”** Emphasis ours

Under **Section 1 of EMB Memorandum Circular No. 2014-005<sup>1</sup>**, amending Section 2.1 of the Revised Procedural Manual for DENR Administrative Order No. 2003-30<sup>2</sup>, every proposed project or undertaking, which is projected to have a significant impact to the quality of the environment, is covered by the Philippine EIS System.

To determine coverage, proposed projects or undertakings shall be screened according to categories (A, B, C, D) -----Category **B** are projects and undertakings which are not classified as *Environmentally Critical Projects* under Category A, but which are likewise deemed to significantly affect the quality of the environment by virtue of being located in *Environmentally Critical Area* <sup>3</sup> as declared under **Proclamation No. 2146<sup>4</sup>** and the parameters set forth in attached guidelines.

XXX

**Section 5. Environmentally Non-Critical Projects.** - All other projects, undertakings and areas not declared by the President as environmentally critical shall be considered as non-critical and shall not be required to submit an environmental impact statement. The National Environmental Protection Council, thru the Ministry of Human Settlements may however require noncritical projects and undertakings to provide additional environmental safeguards as it may deem necessary.

XXX

---

<sup>1</sup>Guidelines for Coverage Screening and Standardized Requirements under the Philippine Environmental Impact Statement System (PEISS) amending relevant portions of MC 2007-002.

<sup>2</sup>Implementing Rules and Regulations of Presidential Decree No. 1586, Establishing the Philippine Environmental Impact Statement System.

<sup>3</sup>Environmentally Critical Area- area delineated through presidential proclamation 2146 (1981) as environmentally sensitive such that significant environmental impacts are expected if certain types of proposed projects or programs are located, developed, or implemented in it.(EMB Memorandum Circular No. 2014-005)

<sup>4</sup>Proclamation No. 2146 Proclaiming Certain Areas And Types Of Projects As Environmentally Critical And Within The Scope Of The Environmental Impact Statement System Established Under Presidential Decree No. 1586.

An area is environmentally critical if it exhibits any of the characteristics enumerated under **Table 1, Section 3-b of EMB Memorandum Circular No. 2014-005** and/or falls within the ECA as mapped by the EMB. In accordance with Presidential Proclamation No. 2146, series of 1981, Table 1 enumerates **Twelve (12) main categories of Environmentally Critical Areas**. One of the ECA Categories described are areas that are **frequently visited and or hard-hit by natural calamities which shall be so characterized if the area is frequently visited or hard-hit by typhoons**, among other conditions. For purposes of coverage, depressions, storms and typhoons will be covered in such a category. This shall also refer to **all provinces** in the country affected by a tropical cyclone in the past, which necessarily include the location where herein project is situated.

Further, **Section 1.2 of EMB Memorandum Circular No. 2014-005** provides that to expediently screen proposed projects/undertakings that may be covered by the EIS System, **thus required to secure an ECC**, a ready matrix for determining the category in which proposed projects fall is described as **Annex A** (Project Thresholds for Coverage Screening and Categorization) on the same memorandum circular.

Based on the said matrix, Resorts and other tourism/leisure projects whose project size parameter (total/gross floor area of structures plus open areas and other facilities e.g., landscape, parking, pools is **more than 1000 square meters**, are required, by law, to secure an ECC.

In this case, it is settled that respondent occupies a total gross floor area of **more than 1,000 square meters**. But contrary to the allegation, the respondent cannot be said to have undertaken a beach resort development project because based on the findings of the investigation conducted, there is no substantial evidence to show that structures indicative of a beach resort project development was being constructed at the time of the investigation. Note that the threshold of more than a thousand square meters is comprised of the total/gross floor area of structures plus open areas and other facilities e.g., landscape, parking, pools, and not of the land area alone.

The findings reveal that no building has yet been constructed, but a temporary cottage was seen inside the fenced area. The temporary cottage, however, temporary, and unique as it is, is not conclusive evidence that a development of a resort project is being undertaken. It could be that the temporary cottage is only intended for private usage. The construction of a concrete fence and concrete retaining wall is likewise not an indicia that a resort is being



DECISION

In re violation of the provisions of P.D 1586  
vs Arnold Chin Beach Resort Development Project

developed/constructed. It could be that a private residential structure is intended to be constructed.

At any rate, to conclude at the time of the investigation that a beach resort is being undertaken/developed in the subject area is premature as it is without basis. The very basic components of a beach resort project, such as cottages catering the public, hotel buildings, pools, etc. are absent.

There is no construction/development of a beach resort project without first securing an ECC, so to speak. Consequently, the respondent must therefore be relieved from liability.

**WHEREFORE**, premises considered, this Office finds that the respondent did not commit a violation. The alleged violation is hereby **DISMISSED** and the respondent is relieved from any liability.

**SO ORDERED.** MAR 03 2022. Tacloban City, Philippines.

  
**ENGR. REYNALDO B. BARRA**  
OIC- Regional Director