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Second Regular Session )

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SENATE  
P. S. R. No. 723

RECEIVED BY: 

Introduced by Senator Miriam Defensor Santiago

RESOLUTION  
DIRECTING THE COMMITTEE ON PUBLIC WORKS, SPECIFICALLY THE  
SUBCOMMITTEE ON BILLBOARDS, TO CONDUCT AN INQUIRY IN AID OF  
LEGISLATION, ON THE REPORTED INJURIES THAT RESULTED FROM THE  
FALL OF BILLBOARDS

WHEREAS, the Constitution, Article 2, Section 5 provides, "The maintenance of peace and order, the protection of life, liberty, and property, and promotion of the general welfare are essential for the enjoyment by all the people of the blessings of democracy";

WHEREAS, Article 12, Section 6 of the same, provides, "The use of property bears a social function, and all economic agents shall contribute to the common good. Individuals and private groups, including corporations, cooperatives, and similar collective organizations, shall have the right to own establish, and operate economic enterprises, subject to the duty of the State to promote distributive justice and to intervene when the common good so demands";

WHEREAS, various media reported that three billboards along EDSA fell, injuring five people and causing heavy traffic, during a downpour in Manila last 13 October 2008;

WHEREAS, the victims suffered fractures to minor scratches;

WHEREAS, one of the billboards was an 80-90 foot Jollibee billboard that fell on top of a bus terminal in Cubao, smashing a bus and hitting a store inside the terminal; another billboard, this time promoting Purefoods, collapsed on the abandoned Auto Avenue car repair shop; the last billboard to have reportedly fall did not cause any damage because fortunately, its fabric was folded back immediately when it fell;

WHEREAS, Roberto Esquivel, head of the Metro Manila Development Authority (MMDA) sidewalk clearing operations, allegedly pinned the blame for the falling billboards on the Department of Public Works and Highways (DPWH), the Quezon City Engineer's Office, and advertising agencies, claiming also that the Jollibee and Purefoods billboards were illegal because these billboards were too close to the road; Esquivel allegedly said that they would request the DPWH to review the giant billboards on EDSA to check whether some might not be following standards;

WHEREAS, Emmanuel Cantupay, executive director of the Department of Public Works and Highways National Building Code Development Office, reportedly said that the Purefoods and Jollibee billboards were "fly-by-night" and not members of the Association of Outdoor Advertisers of the Philippines (AOAP); hence, they were not granted any clearance to set up the billboards;

WHEREAS, Catnupay also allegedly blamed the Quezon City government for issuing permits for the Jollibee and Purefoods billboards, while Esquivel alleged that the two billboards were “too big” and were on top of weak structures;

WHEREAS, Esquivel reportedly urged commuters and those injured to file charges against the advertising agency that owns the fallen billboards;

WHEREAS, Catnupay allegedly said that together with the AOAP, they will create stricter guidelines on outdoor advertisements;

WHEREAS, previous to this report, many billboard related accidents have occurred, especially during bad weather; for example, in November 2007, six billboards collapsed in Cebu City and Mandaue City when winds of typhoon Lando caught Cebu by surprise;

WHEREAS, due to such incidents, the DPWH sped up its Operation Baklas (Dismantle) Billboard in July 2008, taking down 315 billboards, which had been declared illegal;

WHEREAS, aside from visual clutter, oversized billboards are also wrapped around buildings, which compromises natural light or ventilation, or are mounted on firewalls of tall buildings, which violates prescribed limits on physical development potentials and property rights;

WHEREAS, Republic Act No. 6541 or the National Building Code of the Philippines defines dangerous or ruinous buildings:

SECTION 1.01.08: *Dangerous and Ruinous Buildings or Structures*

(a) *General.* - The provisions of this Code shall apply to all dangerous buildings, as herein defined, which are now in existence or which may hereafter be constructed, as well as to ruinous buildings as defined in Article 482 of the Civil Code of the Philippines;

(b) *Dangerous Buildings Defined.* - Dangerous buildings are those which are structurally unsafe or not provided with safe egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health or public welfare, by reason of inadequate maintenance, dilapidation, obsolescence, fire hazard, or abandonment; or which otherwise contribute to the pollution of the site or the community to an intolerable degree. Any building or structure which has any or all of the conditions or defects hereinafter described, or conditions or defects similar thereto, shall be deemed to be dangerous building: Provided, That such conditions or defect exists to the extent that the life, health, property, or safety of the public or its occupant are endangered;

(2) Whenever the stress in any materials member or portion thereof, due to all dead and live loads is more than one and one-half times the working stresses or stresses allowed in this Code for new building of similar structure, purpose, or location: *Provided*, That in determining working stress, the working stress method of analysis shall be used, and in the case of engineering “*overstress*”, the ultimate strength method;xxx

xxx(4) Whenever any portion or member or appurtenance thereof is likely to fall, or to become detached or dislodged, or to collapse and thereby injure persons or damage property;

(5) Whenever any portion or member or any appurtenance or ornamentation of the exterior thereof is not of such sufficient strength or stability, or is not so anchored, attached, or fastened - place so as to be capable of resisting a wind pressure of one-half of that specified in this Code for new buildings of similar structure; purpose, or location without exceeding the working stresses permitted for such buildings; xxx

xxx(13) Whenever any building or structure is in such a condition as to constitute a public nuisance defined in Article 694 and 695 of the Civil Code of the Philippines;

WHEREAS, the Building Code is a preventive legislation. It does not have any provision imposing any penalty in case of injury or death. What it does address are situations that might lead to injury or death:

SECTION 1.01.08: *Dangerous and Ruinous Buildings or Structures*

xxx(c) *Abatement of Dangerous Buildings.* In all cases of dangerous buildings, except those covered by Article 482 and 694 to 707 of the Civil Code of the Philippines, the Building Official shall order their repair, vacation, or demolition in accordance with the following procedure:

(1) Where the dangerous building can reasonably be repaired such that it will no longer be dangerous, it shall be ordered repaired;

(2) Where the dangerous building is such that to repair it would cost more than 50 per cent of the current to replacement cost of the building, it shall be repaired or demolished at the opinion of the owner;

(3) Where the dangerous building poses an immediate threat to life, limb, or property, it shall be vacated immediately, then repaired or demolished in accordance with subparagraphs (1) or (2) herein;

WHEREAS, the Civil Code, Article 1723 states:

The engineer or architect who drew up the plans and specifications for a building is liable for damages if within fifteen years from the completion of the structure, the same should collapse by reason of a defect in those plans and specifications, or due to the defects in the ground. The contractor is likewise responsible for the damages if the edifice falls, within the same period, on account of defects in the construction or the use of materials of inferior quality furnished by him, or due to any violation of the terms of the contract. If the engineer or architect supervises the construction, he shall be solidarily liable with the contractor;

Acceptance of the building, after completion, does not imply waiver of any of the cause of action by reason of any defect mentioned in the preceding paragraph;

The action must be brought within ten years following the collapse of the building;

WHEREAS, the Civil Code, Article 2190 also defines who is civilly liable for billboard-related accidents, "The proprietor of a building or structure is responsible for the damages resulting from its total collapse, if it should be due to the lack of necessary repairs";

WHEREAS, the Penal Code, Article 365 could render the engineers and architects criminally responsible for the fallen structures as explained by Justice Luis B. Reyes in his book on the Penal Code: "Reckless imprudence consists in voluntarily, but without malice, doing or failing to do an act from which material damage results by reason of inexcusable lack of precaution on the part of the person performing or failing to perform such act, taking into consideration his employment or occupation, degree of intelligence, physical condition and other circumstances regarding persons, time and place";

WHEREAS, advertising is acceptable, provided it takes a form that does not endanger lives and property; however, these laws are inadequate to address the need to eliminate billboard-related accidents and hold responsible erring individuals, companies and government officials;

WHEREAS, officials of local government units, who have colluded with and accommodated private entities to erect billboards in violation of national laws, should also be held responsible and not be allowed to take the easy way out;

WHEREAS, it is unforgivable that the culprits for the injuries caused by these fallen billboards should go unpunished; it is the government's duty to ensure that the lives of their constituents are safe from flimsily placed advertisements that disregard the safety of passerby and onlookers;

WHEREAS, Senate Bill No. 2482, also known as the Anti-Billboard Bill was passed by the Senate during the 13<sup>th</sup> Congress; however, House Bill No. 4266, also known as the Billboard and Signage Act, which was the counterpart bill filed in the House of Congress, "died a natural death";

WHEREAS, aside from the DPWH drafting stricter guidelines on outdoor advertisements, these accidents, which are man-made calamities, could be prevented by passing both bills in the 14<sup>th</sup> Congress;

WHEREFORE, be it hereby resolved by the Philippine Senate, to direct the Committee on Public Works, specifically the Subcommittee on Billboards, to conduct an inquiry in aid of legislation, on the reported injuries that resulted from the fall of billboards.

Adopted,

  
MIRIAM DEFENSOR SANTIAGO

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