

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

NINETEENTH CONGRESS
First Regular Session

House Bill No. **1994**

Introduced by Rep. Edcel C. Lagman

EXPLANATORY NOTE

Way back in 2014, the construction of the high-rise condominium Torre de Manila standing 870 meters to the rear of the monument of Philippine National Hero Dr. Jose P. Rizal in Luneta stirred a hornet's nest.

A host of concerned government agencies and private groups including, among others, the National Commission for Culture and the Arts, the National Parks Development Committee, and the Knights of Rizal, expressed indignation and grave concern over the construction.

Outraged citizens labelled it a "photobomber" or an attention grabber that spoils or ruins an otherwise normal photo. The Torre de Manila is the worst kind of photobomber since it is a constant and stationary background blemish that ruins pictures of our national hero's monument from all angles.

The DMCI Homes building is too conspicuous and towers behind Rizal's shrine even as it distracts viewers from remembering his heroism and martyrdom in Luneta and the dire consequences of Spain's colonial rule in the Philippines spanning 300 years.

Today, eight years later, the Philippines still lacks a law that will obviate the recurrence of the Torre de Manila issue. The very absence of a statute prohibiting real estate development that could ruin the view or sightline of a national monument was what prompted the Supreme Court in 2017 to decide in favor of DMCI Homes.

On 25 April 2017, the Supreme Court ruled to lift the temporary restraining order that it issued one year and seven months earlier and allowed DMCI Homes to resume construction of the Torre de Manila condominium. The majority decision of the High Court underscored that: "There is one fact that is crystal clear in this case. There is no law prohibiting the construction of the Torre de Manila due to its effect on the background 'view, vista, sightline, or setting' of the Rizal Monument."

The dispute that divided capitalists and nationalists was not conclusively resolved by the high tribunal's ruling in the absence of a law expressly prohibiting the challenged construction.

It is then imperative that a national legislation be finally enacted to preclude the repetition of this shameful photobombing of a cultural landmark.

This bill seeks to expressly prohibit any construction or real estate development that could ruin the view and sightline of any national shrine, monument, landmark, and other historical or cultural edifices and structures by amending Republic Act No. 10066, otherwise known as the "National Cultural Heritage Act of 2009".

It also mandates the local government unit (LGU) where any of the aforementioned cultural properties are located to pass an ordinance that would provide for the protection and prevention of any substantive adverse visual impact on said cultural properties that may arise from real estate developments in order to protect their designated views and sightlines.

The appropriate LGU is also authorized to condemn, demolish, and abate any offensive building or structure at any stage of its construction at the expense of the violator.

It must be underscored that a similar bill was passed on third reading by the House of Representatives in the previous 18th Congress without any controversy but it was not acted upon by the Senate.

Approval of this measure is earnestly sought.

EDCEL C. LAGMAN

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House Bill No. **1994**

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**AN ACT
PROTECTING THE PHYSICAL INTEGRITY OF A CULTURAL PROPERTY
FROM ADVERSE VISUAL IMPACT AND PROHIBITING ANY
OBSTRUCTION TO ITS VIEW AND SIGHTLINE, AMENDING FOR THE
PURPOSE REPUBLIC ACT NO. 10066, OTHERWISE KNOWN AS THE
"NATIONAL CULTURAL HERITAGE ACT OF 2009"**

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

SECTION 1. *Short Title.* – This Act shall be known as the "Cultural Property Sightline Act."

SEC. 2. *Declaration of Policy.* – Article XIV, Section 15 of the Constitution declares that "the State shall conserve, promote and popularize the nation's historical and cultural heritage and resources." To this end, the State shall preserve, protect, and promote the nation's historical and cultural heritage and the people's artistic creations. To honor the great deeds of the country's heroes and martyrs and the important milestones in the history of the nation, the State shall likewise protect historical monuments, shrines, and landmarks from development aggression and profit-motivated incursion.

SEC. 3. Article II, Section 3 of Republic Act (R.A.) No. 10066, otherwise known as the "National Cultural Heritage Act of 2009," is hereby amended, to read as follows:

"SEC. 3. *Definition of Terms.* — For purposes of this Act, the following terms shall be defined as follows:

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(o) "Cultural property" shall refer to all products of human creativity by which a people and a nation reveal their identity, including [churches, mosques and other places of religious worship, schools and natural history specimens and sites, whether public or privately-owned, movable or immovable, and tangible or intangible] NATIONAL HISTORICAL SHRINES, MONUMENTS AND LANDMARKS, AS DECLARED BY THE NATIONAL HISTORICAL COMMISSION OF THE PHILIPPINES (NHCP);

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(s) "NATIONAL [H]historical landmarks" shall refer to sites or structures that are associated with events or achievements significant to Philippine history as declared by the [National Historical Institute] NHCP.

(t) "NATIONAL [H]historical monuments" shall refer to structures that honor illustrious persons or commemorate events of historical value as declared by the [National Historical Institute] NHCP.

(u) "NATIONAL [H]historical shrines" shall refer to historical sites or structures hallowed and revered for their history or association as declared by the [National Historical Institute] NHCP.

SEC. 4. Article V, Section 20 of R.A. 10066 is hereby amended, to read as follows:

"SEC. 20. Immovable National Cultural Treasures AND CULTURAL PROPERTY. –

Immovable national treasures AND NATIONAL HISTORICAL LANDMARKS, SHRINES, MONUMENTS AND SITES AS DECLARED BY THE COMMISSION, THE APPROPRIATE CULTURAL AGENCY, OR BOTH, shall not be relocated, rebuilt, defaced or otherwise changed in a manner which would destroy, DIMINISH, OR NEGATIVELY AFFECT the property's SIGNIFICANCE, dignity, and authenticity, INCLUDING THROUGH ANY DEVELOPMENT THAT WOULD LEAD TO AN ADVERSE VISUAL IMPACT, except to save such property from destruction due to natural causes OR NATIONAL EMERGENCIES, AND WITH PRIOR APPROVAL FOR SUCH HIGHLY EXCEPTIONAL PURPOSES AS MAY BE DECLARED BY THE COMMISSION, THE APPROPRIATE CULTURAL AGENCY, OR BOTH."

SEC. 5. Article VII, Section 25 of R.A. 10066 is hereby amended, to read as follows:

"SEC. 25. Power to Issue a Cease and Desist Order. – When THE SIGNIFICANCE AND ESPECIALLY the physical integrity of national cultural treasures, NATIONAL HISTORICAL LANDMARKS, SHRINES, MONUMENTS AND SITES, or important cultural properties are found to be in danger of destruction or [significant] SUBSTANTIVE alteration [from its original state], INCLUDING THAT WHICH WOULD LEAD TO AN ADVERSE VISUAL IMPACT, THE COMMISSION, the appropriate cultural agency, OR BOTH, shall immediately issue a Cease and Desist Order *ex parte* suspending all activities that will affect the cultural property. The local government unit which has the jurisdiction over the site where the immovable cultural property is located shall report the same to the appropriate cultural agency immediately upon discovery and shall promptly adopt measures to [secure] PROTECT THE SIGNIFICANCE AND [the] integrity of such immovable cultural property. Thereafter, THE COMMISSION, the appropriate cultural agency, OR BOTH, shall give notice to the owner or occupant of the cultural property and conduct a hearing on the propriety of the issuance of the Cease and Desist Order. The suspension of the activities shall be lifted only upon the written

authority of THE COMMISSION, the appropriate cultural agency, OR BOTH, after due notice and hearing involving the interested parties and stakeholders.”

SEC. 6. Article XIII, Section 48 of R.A. 10066 is hereby amended, to read as follows:

“SEC. 48. *Prohibited Acts.* – To the extent that the offense is not punishable by a higher punishment under another provision of law, violations of this Act may be made by any person who intentionally:

(a) Destroys, demolishes, mutilates, [or] damages, MODIFIES OR PERMANENTLY AFFECTS IN ANY ADVERSE MANNER, INCLUDING THROUGH VISUAL IMPACT, any CULTURAL PROPERTY CLASSIFIED AS A UNESCO world heritage site, national cultural treasures, NATIONAL HISTORICAL LANDMARK, SHRINE, MONUMENT AND SITE, important cultural property, [and archaeological and anthropological sites] HISTORICALLY MARKED STRUCTURE OR SITE, AND ANY TERRESTRIAL OR UNDERWATER ARCHAEOLOGICAL SITE OR ANTHROPOLOGICAL SITE AS MAY BE DECLARED OR DESIGNATED BY THE COMMISSION, THE APPROPRIATE CULTURAL AGENCY, OR BOTH, WITHOUT PRIOR AUTHORIZATION FROM ANY OF THEM. THIS INCLUDES A SECURITY OR BUFFER ZONE WHICH SHALL EXTEND FIVE (5) METERS FROM THE ESTABLISHED PERIMETER OR CORE ZONE OF THE CULTURAL PROPERTY, IF NOT OTHERWISE PRESCRIBED RELATIVE TO A SPECIFIC CULTURAL PROPERTY. THE APPROPRIATE SECURITY OR BUFFER ZONE AS MAY BE ESTABLISHED BY THE COMMISSION, THE APPROPRIATE CULTURAL AGENCY, OR BOTH, MAY BE EXTENDED TO AS FAR AS THE VISIBLE HORIZON FROM APPROPRIATE VIEWING POINTS IF SUCH IS FOUND NECESSARY TO PROTECT AND PRESERVE THE SIGNIFICANCE AND INTEGRITY OF THE SPECIFIC CULTURAL PROPERTY FROM ADVERSE VISUAL IMPACT;

[(b) Modifies, alters, or destroys the original features of or undertakes construction or real estate development in any national shrine, monument, landmark and other historic edifices and structures, declared, classified, and marked by the National Historical Institute as such, without the prior written permission from the Commission. This includes the designated security or buffer zone, extending five (5) meters from the visible perimeter of the monument or site;]

(B) AUTHORIZES OR ALLOWS THE CONSTRUCTION OF, OR CONSTRUCTS, A BUILDING OR SIMILAR STRUCTURE THAT BECAUSE OF ITS SIZE, DESIGN, PURPOSE, PROXIMITY OR ANY OTHER RELEVANT CONSIDERATION CAUSES NEGATIVE OR ADVERSE VISUAL IMPACT ON ANY CULTURAL PROPERTY ENUMERATED IN SECTION 48(a) OF THIS ACT.

THE LOCAL GOVERNMENT UNIT, WHERE ANY SUCH CULTURAL PROPERTY IS LOCATED, SHALL PASS AN ORDINANCE THAT PROVIDES FOR THE PROTECTION AND PREVENTION OF ANY SUBSTANTIVE ADVERSE VISUAL IMPACT THAT MIGHT ARISE FROM

SUCH CONSTRUCTION, INCORPORATING IN THE ORDINANCE THE STIPULATIONS AND RECOMMENDATIONS TO BE MADE FOR THE PURPOSE BY THE COMMISSION, THE APPROPRIATE CULTURAL AGENCY, OR BOTH, REGARDING THE CULTURAL PROPERTY CONCERNED. THE ORDINANCE SHALL LIKEWISE PROVIDE FOR PENALTIES FOR VIOLATIONS THEREOF. ANY BUILDING OR STRUCTURE THAT IS CONSTRUCTED IN VIOLATION OF THIS SECTION, IN WHATEVER STAGE OF CONSTRUCTION, SHALL BE CONDEMNED, DEMOLISHED, AND ABATED BY THE CONCERNED LOCAL GOVERNMENT UNIT AT THE EXPENSE OF THE ENTITY OR ENTITIES RESPONSIBLE FOR THE VIOLATION;”

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SEC. 7. *Implementing Rules and Regulations.* – Within sixty (60) days from the effectivity of this Act, the NCCA shall, in coordination with concerned cultural agencies of the government, promulgate the necessary rules and regulations for the proper implementation of this Act.

SEC. 8. *Separability Clause.* – If any provision of this Act is declared unconstitutional, the remainder of this Act or any provision not affected thereby shall remain in full force and effect.

SEC. 9. *Repealing Clause.* – Sections 3, 20, 25, and 48 of R.A. 10066 are hereby amended. All other laws, executive orders, presidential decrees, proclamations, rules, regulations, issuances, and enactments or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

SEC. 10. *Effectivity.* – This Act shall take effect fifteen (15) days after its publication in the *Official Gazette* or in a newspaper of general circulation.

Approved.