

Dasmarinas Village Association Inc.
1417 Campanilla Street, Dasmarinas Village
Tel. Nos.: 817-3316; 817-1442; 817-8755; 810-2795

D.V.A. CIRCULAR NO. 01-2000

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UPDATE ON OPENING OF VILLAGE ROADS

Dear Residents:

This will serve to update you on the opening of our Gates by the Metro Manila Development Authority (MMDA) for four (4) hours a day to alleviate the "anticipated" congested northbound traffic during the construction of the MRT-3 and additional northbound road lanes at EDSA (Magallanes flyover to Ayala Ave.).

Pursuant to the Memorandum of President Estrada to MMDA Chair Jejomar Binay our private roads, particularly Amorsolo and Palm Avenues were allowed to be used by the public as alternate routes through our village with exits at the Banyan and Palm Ave. Gates.

At the outset, we objected to the opening of our gates because -

- 1) It is clear to us that the alleged traffic mess is caused by the contractors of MRT-3 and adjacent road lanes who are at fault in not complying with their schedules of work, by not working 24-hours a day and in not providing alternate routes. And, instead of going after the contractors the government simply shifts the burden to us;
- 2) The urgent need of opening our village roads does not exist. (In fact, after our roads were opened an average of 100-200 cars a day enter our village during the 4-hour period). This does not reflect an "emergency" situation.

Furthermore, video and photographic recording of traffic flow at the northbound lanes show no congestion at all before and after the opening of the Amorsolo Gate.

- 3) Prior to the opening of the Amorsolo Gate as entry point, negotiations with the MMDA were carried out on several occasions. We had proposed that alternative measures to help alleviate the "anticipated" traffic mess at EDSA should first be tried and implemented before our village roads are considered for opening. These measures include:
 - (i) The dissemination of ALTERNATIVE ROUTES to the motoring public in print as well as broadcast media;
 - (ii) The deployment of towing service on a 24-hour basis just in case vehicle breakdown occurs in the 3-lane Southbound Tunnel when it is completed and ready for use;
 - (iii) The employment of a radio communications group that will help monitor traffic flow and at the same time relay the status of traffic conditions at the affected segment of EDSA for the benefit of motorists;
 - (iv) Setting up a "buddy" system arrangement between Village and MMDA personnel to direct and enforce traffic on EDSA; and

- (v) MMDA argues that there will be more traffic once the northbound lanes are closed prior to the completion of the southbound lanes which are supposed to accommodate both southbound and northbound. But why close the northbound if the southbound is not yet completed? It is, therefore, simply a matter of timing. Meanwhile, we are compelled to open our gates on a predicted traffic mess while the contractors just take their sweet time unscrupulously ignoring their schedule of work.

Unfortunately, on December 18, 1999 at about 3:00 p.m. or so, we received copies of a letter from MMDA Chair Jejomar Binay accompanied by a Memorandum from President Estrada that the Village open its gates to public traffic effective December 20, 1999. On December 19, 1999, the day before the opening, the Board of Governors sent a letter to MMDA Chair Binay informing him that a referendum was being conducted. It was requested in the letter that the opening be deferred until the ballots are counted and verified. (Incidentally, the referendum resulted in a vote of 675 against and 27 in favor of opening the Village gates). Our letter was not answered.

On December 20, 1999, the Board decided to file a suit and considering that we had to contend with a Memorandum signed by no less than the country's President and no implementing guidelines were issued we decided to retain the services of no less than former Senator Rene Saguisag and the ACCRA law offices.

Based on previous decisions of the Supreme Court and an identical case decided by the Court of Appeals (Bel-Air Village Association vs. MMDA) we were assured that we have a strong case.

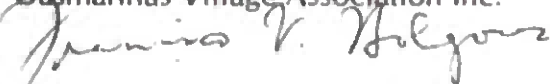
More particularly, in their complaint against the opening of our gates, our lawyers argued that -

1. MMDA has no authority to unilaterally enter private roads and force that it be used by the general public. This is the ruling by the Court of Appeals in the Bel-Air case handled by Senator Saguisag.
2. Neither does the City of Makati have the authority to enact an ordinance ordering the opening up of private streets as that authority was deliberately withheld from the City in its Charter.
3. A Presidential Memorandum cannot override a Republic Act. Besides, due process of law and our right to be heard was not respected.
4. Borrowing our streets for 4 hours a day for an indefinite period is a "taking" in law or the equivalent of expropriation which cannot be done except through the proper exercise of Eminent Domain through the courts.

It is our belief that if we do not take a stand now and pursue our case with utmost vigor and tenacity the next casualty will be Pasay Road which will connect Makati to Fort Bonifacio and after that the Tamarind Road starting from Forbes Park all the way to the south. You will thus appreciate why we have to file a case which could go all the way to the Supreme Court and will, therefore, take time to be resolved. If we do not take a stand the commercialization of our village is imminent and its privacy and security cannot be assured.

Very truly yours,

Dasmarinas Village Association Inc.



FRANCISCO V. HOLIGORES
President



EDUARDO F. HERNANDEZ
Chairman, Legal Committee