



**MEMORANDUM**

**TO : ALL REGIONAL DIRECTORS**

**SUBJECT : GUIDELINES IN THE PROCESSING OF FIRE SAFETY INSPECTION CERTIFICATE (FSIC) DURING RENEWAL OF BUSINESS PERMITS SPECIFICALLY IN AREAS WHERE ONE-STOP-SHOP IS BEING IMPLEMENTED**

**DATE : 24 September 2012**

**I. BACKGROUND**

Pursuant to Rule 9 Division 4 Section 9.0.4.1 Implementing Rules and Regulation (IRR) of Republic Act 9514 otherwise known as the Fire Code of the Philippines of 2008, which categorically states that "Upon compliance of the fire safety requirements under Rule 10 of this IRR, a Fire Safety Inspection Certificate (FSIC) shall be issued by the BFP as a pre-requisite for the issuance of Business or Mayor's Permit, Occupancy Permit, PHILHEALTH Accreditation for Hospitals, DOH License to Operate and other licenses issued by other government agencies."

In line with the tenets of the Fire Code, the BFP Local Offices/Fire Stations then designates the task to the Fire Safety Inspector's (FSI's) of conducting inspection of a building or structure within their area of responsibility each time the owner, administrator or occupant shall renew his/her business permit or permit to operate as a requirement for the issuance of FSIC which in the same way is a pre-requisite in granting business permits as stipulated in Section 4.0.0.3 A (4 and 5) of the IRR of RA 9514.

Applying the provisions indicated under the Fire Code,

**"CHAPTER 2. FIRE SAFETY IN BUILDINGS, STRUCTURES AND FACILITIES**

**"DIVISION 1. SCOPE**

"A. This Chapter deals with life safety from fire and like emergencies in buildings, structures and facilities. It covers construction, protection and occupancy features to minimize danger to life from fire, smoke, vapor and fumes before buildings are vacated. It also discusses procedures and guidelines in fire drills required for all types of occupancies to prevent panic in times of emergencies. It specifies the number, size, and arrangement of means of egress sufficient to permit prompt and safe escape of occupants from buildings, or structures or facilities in case of fire or other conditions dangerous to life and property." (Emphasis supplied)

In addition to the foregoing, no less than the State Principles and State Policies mentioned in Sections 5 and 9, Article II of the Constitution, mandates the primacy of certain considerations, to wit:

"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.

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"The State shall promote a just and dynamic social order that will ensure the prosperity and independence of the nation and free the people from poverty through policies that provide adequate social services, promote full employment, a rising standard of living, and an improved quality of life for all." (Emphasis supplied)

On the other hand, while R.A. No. 9514 was meant to address, among other things, the worsening fire casualty statistics in the country, B.P. Big. 220 was crafted due to the subsisting and omnipresent chronic problem of poverty, thus, the policy of said law, to wit:

"SECTION 1. It is hereby declared a policy of the Government to promote and encourage the development of economic and socialized housing projects, primarily by the private sector, in order to make available adequate economic and socialized housing units for average and low-income earners in urban and rural areas." (Emphasis supplied)

It is not for nothing that B.P. Big. 220 itself qualifies the phrase

The 15-meter criterion may have been the prevailing generally accepted standard at the time the B.P. Big. 220 IRR was revised in 2001, which was when the old Fire Code was still in effect.

However, with the passage of R.A. No. 9514 and its IRR, which prescribed standards that "shall [not] be construed to prohibit a better type of design, building construction, more exits, or otherwise safer conditions than the requirements specified in [Chapter 2, Rule 10 thereof]" (i.e., minimum standards) there is no other possible conclusion other than that the agency recognized by the law as having the required expertise on fire safety measures (i.e., the BFP) has read what are to be considered as "within the generally accepted levels of safety"; hence, the 4-storey or more/more than 12 units criterion to supplant the old 15-meter benchmark.

Finally, this conclusion is also supported by the principle in statutory construction summed up in the Latin maxim "ratio legis est anima" (the reason for the law is its very soul), which dictates that, in construing provisions of statutes, the policies of the law should prevail.

We need not reiterate the obvious significance of the Fire Code and its IRR. The State's policy of ensuring public safety and promotion of economic development through the prevention and suppression of all kinds of destructive fire (Section 2 quoted above) is a non-negotiable fact. On the other hand, the *raison d'être* for the various safety requirements detailed in the IRR, including the mandatory requirement of automatic fire detection and alarm system for certain types of buildings, may be gleaned from certain provisions under Rule 10 of the

IRR, thus:

**"RULE 10. FIRE SAFETY MEASURES**

**'CHAPTER 1. COVERAGE**

"This Rule covers the Fire Safety Measure for Buildings, Structures and Facilities, Hazardous Materials and Wastes, Hazardous Operations and Processes and Miscellaneous Hazardous Premises and/or conditions, that by its very nature or relation to life, property and environment poses threat or danger.

the phase of securing a FSIC covers a minimum period of five (5) days processing commencing from application until the issuance of the FSIC. However, with the emergence of several Business Permit Licensing Offices (BPLO) of local government agencies/units which are all offering a one-stop-shop system in the renewal of permits and licenses for the convenience of the applicants, it is appropriate for the BFP to adjust to the demands of this times and work on delivering improved service to the public by coming up with a proposal of implementing a one stop shop scheme for expediency and feasibility. With this modification, BFP becomes more responsive and effective in its commitment of providing better services by employing specific guideline such as a "One Stop Shop Policy" in the issuance of Fire Safety Inspection Certificate (FSIC).

**II. PURPOSE**

A. To hasten the issuance of FSIC for the benefit of the applicants in the renewal of their permits and/or licenses.

B. To improve the quality of service provided to the applicants by implementing a policy for the expeditious administration of applications.

C. To give ample time for applicants in correcting any violations previously identified by Fire Safety Inspectors as to avoid delay in the processing of their applications

D. To manage and reduce the work load of all BFP Local Offices/Fire Stations by giving prompt service to applicants.

**III. PROCEDURE**

1. All City/Municipal Fire Marshall having jurisdiction shall observe periodic fire safety inspection of any building, structure and establishment two (2) or three (3) months in advance before the scheduled renewal of any permits or licenses by the BPLO in pursuant to Section 7 of RA 9514.

2. All Fire Safety Inspection Certificates (FSIC) for business or permit to operate shall have a validity of 365 days or one (1) year from the date of issuance unless

revoked/cancelled for justifiable cause in accordance to Rule 13 of the Implementing Rules and Regulations (IRR) of RA 9514;

3. Only buildings, structures and establishments found to have no violation during the periodic inspection and with valid FSIC shall be recommended for issuance of business or permit to operate provided that pertinent fire code fees are collected;

4. Proof of payment of the following fire code revenues, whenever applicable, shall be presented in addition to the other documentary requirements prior to the granting of business permit, to wit:

- a. Fire safety inspection fee
- b. Fire code construction tax
- c. Fire code realty tax
- d. Fire code premium tax
- e. Fire code sales tax
- f. Fire code proceed tax
- g. Storage clearance fee
- h. Conveyance clearance fee
- i. Other fees

5. All buildings, structures and establishments found to have violated any provisions of the fire code shall only be recommended for issuance of business permit upon correction of the violations noted in the periodic inspection;

6. All City/Municipal Fire Marshals shall ensure that all buildings, structures and establishments with issued business permit during the one stop shop are inspected within three (3) days upon receipt of payment of pertinent fire code fees; and

7. All Regional Directors are responsible for the dissemination, information and implementation of this guideline to give better services to the owner, administrator or occupant of buildings, structures and establishments who shall renew his/her permits and/or licenses.

schedule of fees/fire service charges and administrative penalties therefore as provided in the pertinent provisions of the Fire Code.

Hence, between the earlier law, B.P. Big. 220, and the IRR issued by the Housing and Land Use Regulatory Board (HLURB) on the one hand; and the later and more specific special law relating to fire prevention and suppression, and the IRR issued by the Bureau of Fire Protection on the other, we have no reservations in stating that the latter law and the IRR issued by the latter agency, which was mandated by said law to administer and enforce its provisions, supersedes conflicting provisions found in the earlier law.

This conclusion is further reinforced by the fact that the IRR of B.P. Big. 220 relied upon by PHINMA cites, in its preambular portion, Presidential Decree (P.D.) No. 1185 or the old Fire Code as one of the bases for its issuance, thus:

"Pursuant to Section 3 of BP 220, the Housing and Land Use Regulatory Board is authorized to establish and promulgate two levels of standards and technical requirements for the development of economic and socialized housing projects/units in urban and rural areas from those provided in PD 957, PD 1216, PD 1096, and PD 1185, hence the following rules are hereby promulgated." [Emphasis supplied]

Such law, P.D. No. 1185, was expressly repealed by Section 15 of R.A. No. 9514, which also expressly states that "all... rules and regulations insofar as they are inconsistent with [said] Act, are hereby repealed or amended as the case may be." Hence, the certain provisions of the IRR for B.P. Big. 220, which were issued on the basis of, among others, P.D. No. 1185, and which are inconsistent with those set forth in R.A. No. 9514, are deemed repealed or amended.

Further support for the conclusion that the fifteen (15)-meter criterion has been superseded is found in Section 4 of the IRR of B.P. Big. 220 itself, which states that one of the basis for the minimum design standards set forth therein are the "generally accepted levels of safety", and lists, first and foremost among the parameters used in formulating such design standards, the consideration for the "**protection and safety of life, limb, property and general public welfare** "

units, automatic fire detection and alarm systems are required.

The requirement, to emphasize, is mandatory based on the language used in the above-quoted provisions in the IRR, which uses the words "shall" and "mandatory" in prescribing such requirement. The only exceptions appear to be, as follows:

- (1) buildings provided with approved, supervised sprinkler protection in accordance with Section 10.2.6.5 of the IRR;
- (2) buildings that are equipped with "better type of design, building construction, more exits, or otherwise safer conditions than the requirements specified in" Chapter 2, Rule 10 of the IRR; and
- (3) in case of existing buildings only, which when forced to comply will compromise the structural stability/integrity, the Chief, BFP may accept adequate alternative and/or remedial fire safety measures in lieu of the fire safety requirements of this IRR upon application by the owner/occupant/building administrator of the building or structure.

In so holding, we note, first and foremost, the primacy of R.A. No. 9514, otherwise known as the Revised Fire Code of the Philippines of 2008, insofar as prescribing minimum fire safety standards and requirements is concerned, pursuant no less to the policy of the State, as stated in Section 2 thereof, to wit:

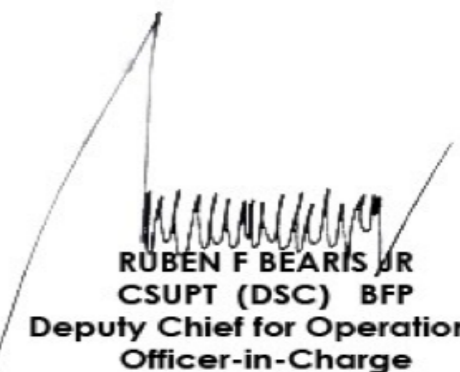
"SECTION 2. It is the policy of the State to ensure public safety, promote economic development through the prevention and suppression of all kinds, of destructive fires, and promote the professionalization of the fire service as a profession. Towards this end, the State shall enforce all laws, rules and regulations to ensure adherence to standard fire prevention and safety measures, and promote accountability in the fire protection and prevention service." [Emphasis supplied]

Such primacy of the Fire Code translates into a concomitant primary of the authority of the Chief of the BFP, with the approval of the Secretary of the Interior and Local Government (SILG), to issue rules and regulations and prescribe standards,

#### IV. EFFECTIVITY

All Memorandum Circular inconsistent herewith are hereby amended accordingly.

This guideline shall take effect immediately upon approval.



**RUBEN F BEARIS JR**  
**CSUPT (DSC) BFP**  
**Deputy Chief for Operations/  
Officer-in-Charge**