ACTIVE ADMINISTRATION : CASE STUDY

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PASSIVE ADMINISTRATION

START
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SECURE
HAPPINESS FOR PEOPLE

Anti-Corruption & Civil Rights Commission
Republic of Korea

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Passive administration disappears. People live happier lives.

As of 2019, South Korea has become the 10th largest economy and stands tall in the World after having played host to the 1988 Winter Olympics, 2002 FIFA World Cup, and the 2018 Winter Olympics

Korea's development is thanks to the dedication and effort of civil servants who worked silently in the background without complaint. Until now, the public office stood at the forefront of resolving issues when the country was in hard times, showing its unique diligence and sincerity.

Civic consciousness of our citizens were further enhanced with economic development and there is an increasing demand for protection of rights. As the importance of protecting the right of every single person grows by the day, the public office also needs to create a culture of working actively side by side with the citizens in line with current trends.

Since its establishment in 2008, the Anti-Corruption and Civil Rights Commission has acted as a tribune that protects citizens when their rights are infringed upon by unreasonable laws and systems, and has been at the forefront of rectifying illegal/unjust or passive treatment by administrative institutions.

As stated in the definition of civil petitions handled by the Anti-Corruption and Civil Rights Commission, Commission's purpose and mission as an institution for citizens is to resolve any inconveniences resulting from passive administration, build a sense of consensus by encouraging active administration, create an actively working officialdom.

And against this backdrop, this booklet was produced in an effort to assist in building an inclusive country where everyone prospers together, by protecting the rights of the citizens through active administration.

This booklet includes invaluable cases active administration in which the Anti-Corruption and Civil Rights Commission and relevant administrative and public institutions have helped resolve pain points experienced by civil petitioners.

Various cases were selected from each area and implications were identified to help Anti-Corruption and Civil Rights Commission employees as well as other public officials in Korea engage in active work and resolve issues from the people's perspective.

We hope the cases provided in this booklet helps the public office to become more active in working for the people. We hope that this will help people really see that our public office is actively transforming.

Moving forward, the Anti-Corruption and Civil Rights Commission will spearhead efforts to make our country a better place for our citizens to live happily by tackling passive administration and expanding active administration.

August 2019

Chairperson of the Anti-Corruption and Civil Rights Commission

Ahn Jong Ack

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01 Establishment of a ferry navigation way on a remote island (Biando), 17 years in the making

A regular means of maritime transport should be established if there is exposure to constant inconvenience and accident risks triggered by conflict between local residents on securing docks in advance.

"I never imagined this day would come… All I can say is thank you."

The voice of a teary-eyed elderly village chief in a remote island town broke down with emotion as he talked about the mediation meeting in December 2018 when the seemingly impossible resolution to the civil petition was finally made.

The meeting room became silent and solemn for a while as the participants became overcome with emotion and shed tears thinking back on their hardships of visiting one relevant institution after another to resolve civil petitions for several years and holding month long single-person protests in front of government buildings during harsh winter seasons.

What happened in this small island town of the west coast of Korea?

Embarking on a "Deathly Voyage" with small individual fishing boats

Biando, located in Okdo-myeon, Gunsan-si, Jeonbuk, South Korea is a beautiful island with a population of 440 people and 188 households. It is called Biando because the island is shaped like an airborne wild goose. It has been the only island without a marine transportation system in Korea for approximately 17 years after the ferry service was halted for the Saemangeum Seawall Construction, a national policy project. The residents travelled back and forth between Biando and the Garyeok dock on small fishing boats. This resulted in three residents losing their lives when a fishing

boat was capsized in 2007.

The chief of Biando visited relevant institutions dozens of times to protect the residents and held standalone protests in front of government building facing the cold winter weather, but received nothing but his own hallowed echoes for years.

Why did the country neglect these civil petitions for years and fail to protect the residents' basic rights when they should have taken an active hand in improving safety and helping put the people's life on an even keel?

Because of the "Saemangeum Seawall Construction", fishermen who fished at the estuary of the Dongjin River and Mangyeong River relocated their fishing base to the temporary docks in Garyeok-do. The maritime and land borderlines had not yet been confirmed and the fishermen from Buan-gun, Gunsan-si, Jeonbuk-do fought for Garyeok-do docking rights, exacerbating regional conflict. The fishermen from Buan-gun voiced their opposition to a ferry service between Biando and Garyeok dock, making it even more difficult to resolve the maritime transport issue in Biando. During

Biando~Garyeokdo docks.

all of this, relevant institutions remained passive, stating that this was a conflict between the residents.

The chief of Biando

Diving in on-site.

At an impasse, in July 2018, the residents of Biando filed a civil complaint with the Anti-Corruption and Civil Rights Commission. The Commission decided that the settlement issue and safety of the island residents took precedence and took the initiative in resolving this issue. First, an institution was selected for cooperation by identifying relevant legislations. And we visited Gunsan-si and Buan-gun on numerous occasions to listen to both sides and facilitate communication. We did not hesitate to dedicate our weekends for these visits.

Persuasion requires trust and empathy as precondition.

After figuring out what each other wanted, what concessions could be made, and identifying middle ground, compromises and agreements were made to create a full-on agreement on the ferry service for the Garyeok port in light of mutual development and harmony. This made us realize even the most closed minded people can open up their hearts if sincerity shines through.

Afterwards, we started on working level activities with relevant institutions to license the ferry service, prepare ships, and establish safety management measures and install facilities. In the end, the ten-year long civil petition was resolved at the meeting on December 18th, 2018.

As of now in 2019, the pathway regular maritime transportation routes for Biando are under construction.

IMPLICATIONS

If the residents are unable to establish ferry service due to docking right conflicts among locals, and the residents are exposed to risk of accidents and constant inconvenience when traveling inland on small fishing boats, various administrative bodies should come to an agreement with the stakeholders and review active measures to establish maritime transportation such as permitting ferry service.

The nature of the issue behind the conflicts should be identified as the first order of business in massive collective civil petition cases embroiled in different types of conflicts (private-private, private-public, public-public). When policies are in stalemate faced with local opposition, persuasion is key. Persuasion requires trust and resonance, which can only be secured by actively diving in onsite. If a sense of consensus and trust if created with the civil petitioners, conflict will melt away as snow does when spring comes.

In particular, neglecting issues that have direct bearing on people's safety because they are considered private-private conflicts cannot be justified.

This is a case related to Article 6 of the Islands Development Promotion Act, which states that mayors/governors in charge of islands shall establish a business plan on items related to shipment and transportation means required to increase the convenience of regional transportation/communication.

02 National scholarships for earthquake victims

Families that have experienced actual damage should be supported even if they do not satisfy the disaster support fund (scholarship) application criteria.

"My mother simply applied on my behalf because I was busy working. I can't understand why my family member can't apply for national scholarship."

Pohang-si of Gyeongbuk Province was hit at 2:29 pm on November 15th, 2017. It was the second biggest earthquake in history after a 5.8 magnitude earthquake hit Gyeongju in 2016. The scale of damage surpassed that of the Gyeongju earthquake and the College Scholastic Ability Test scheduled for the next day was postponed, the first time in history. It was truly a disaster that transcended Pohang and rattled the entire Korean peninsula.

The government released immediate damage recovery measures and strived to provide practical help to more people. The special national scholarship provided to college students whose families had suffered from the Pohang earthquake was one of those measures.

The focus should be on the actual damage rather than procedure.

The person who raised the civil petition is a father of a college student living in Pohang. The father tried to apply when he heard that the Ministry of Education was providing scholarships to students whose households were damaged by the earthquake, but the grandmother applied instead because the father was busy at work.

However, the Ministry of Education rejected the application stating that the applicant must be a student who is currently attending university and is a member of a house-

hold qualifying for the disaster support fund on the National Disaster Management System, the parents of the students, or the spouse. But this application was made by the mother of the person who raised the civil petition.

Fact checks revealed that the civil petitioner and his mother were registered and living together in the same apartment that was damaged by the earthquake. The student could not receive support even after suffering actual damage because the application was submitted by a family member who was not the parent or the spouse of the applicant, but was nonetheless a member of the three generation of families that lived together. It was not wrong for the mother of the civil petitioner to apply as a "victim" since she was also family member living in the home hit by the earthquake. The range is also subject to criticism in that it was excessively narrow, limiting the applicant to the student and parent.

The Anti-Corruption and Civil Rights Commission focused the actual damage relief rather than the procedure itself. A recommendation was made to include the civil petitioner as a qualifier for the national scholarship as soon as possible, and the Ministry of Education agreed and took measures to the special support in the form of the national scholarship to the daughter of the civil petitioner.

Administration requires procedures. Procedures ensure legitimacy, but procedures should not be all consuming. It is especially so for procedures needed to support special disasters. The procedure must be improved upon in the process of execution if there have been things overlooked by the procedure.

IMPLICATIONS

Even if the grandparents of the student are not eligible to apply for the disaster support fund (scholarship), given that the grandparents are registered as living together with the parents of the student at the residential address in question, and are actual victims of the disaster and a member of the household that suffered damage, application should not be limited to the student, parent, or spouse. It should be extended to others so that unnecessary grievances can be prevented.

This is a case related to the 2017 Detailed Implementation Guideline on Pohang Disaster Support, which states that applicants of the disaster damage should be university students, the student's parent or spouse.

03 Cancellation of seatbelt fines imposed on disabled people with lower bodily disabilities

Fines imposed on those with impairments that make it hard to wear seatbelts should be cancelled even if the impairment is not in the upper body.

"Wearing the seatbelt is actually a hindrance when driving. I ask for your understanding about the special circumstances."

It is without a doubt that seatbelts act as a prevention system to protect human lives while driving. Death rate among casualties from car accidents was merely 0.04% for those who wore seatbelts and 26 times higher at 1.04% for those who did not wear seatbelts. The rate of serious injuries was also 0.22% and 3.73%, respectively, a 17-fold difference.

However, some people find it difficult to wear seatbelts - people with physical impairment.
This civil petitioner had level 1 physical impairment and was pulled over by the police for not wearing a seatbelt while driving. He asked to be exempt from the fine, explaining that wearing a seatbelt actually makes driving more difficult because he has level 1 impairment. The police officer still issued a fine, stating that the petitioner's impairment was not in the upper half of the body but in the lower half of the body.

Principles are important but the special situation of the civil petitioner who cannot sit for extended periods of time should also be considered.

According to the Article 31.1 of the Enforcement Degree of the Road Traffic Act, "a person with difficulty in wearing a seat belt due to an illness and so forth" is

someone with an impairment to the upper half of the body such as the shoulder, collarbone, and stomach, which makes it impossible to drive if a seatbelt is worn. The National Police Agency claimed that the civil petitioner circumstances did not meet the criteria as he has an impairment in the lower half of the body. However, the aforementioned enforcement decree does not actually limit impairments to the upper half of the body.

The Anti-Corruption and Civil Rights Commission decided to seek medical advice about the civil petitioner. According to the opinion of a medical expert, the civil petitioner had a deformation in both the pelvis and condyle, and the deformation on the right side was especially serious, making the pelvis unstable, while contraction in the femur, scoliosis of the waist, and spondylosis made it difficult for the patient to maintain the same position for 20 minutes or longer. It was medically confirmed that seatbelts are difficult for people with impairments to the lower half of the body.

The Anti-Corruption and Civil Rights Commission advised that the fine be canceled and the National Policy Agency conceded and canceled the noticed disposition to the civil petitioner.

It may be difficult to decide on the spot whether exceptions to wearing seatbelts are justifiable. However, disabled persons should be given the opportunity to explain considering their predicament, because sometimes seatbelts do help enhance driving safety for some people.

IMPLICATIONS

Even though the fine was imposed for not wearing a seatbelt, since 'impairment' qualifies as an exception to wearing seatbelts in accordance with the law and exemptions are not limited to the impairment in the upper half of the body, if a medical expert who states that it is difficult for the civil petitioner in question to maintain the same seated position for 20 minutes or longer due to a congenital deformation in the pelvic area, the person should be exempt from wearing a seatbelt, and cancelling the fine should be actively considered.

In other words, impairment should not just be judged to be uniform based simply on appearance. We need to first hear out the disabled person and see what experts have to say before making decisions on the status of impairment.

This is a case related to Article 31 (Reason for not wearing seat belt) of Enforcement Decree of the Road Traffic Act, which stipulates exceptions for wearing seatbelts.

04 Recognizing the employment status of a spouse of a business person

Eligibility as an insurant to the employment insurance should be recognized if the legal employment status of the person is recognized, even if he/she is the spouse of the employer.

"I don't think I should be discriminated just because I am the wife of the employer when I worked the same as all the other employees."

Employment insurance promotes workers' job stability and implements occupational capability development projects, pays secondary unemployment allowance if a person has become unemployed due to unavoidable circumstances, and promotes reentry into the workplace with the aim of resolving socio-economic problems triggered by unemployment.

In addition to health insurance, national pension, and industrial accident compensation insurance, the employment insurance is one of Korea's major four social security systems and is indispensable to workers as it is a system that promotes mutual growth and prosperity of the state, enterprises, and people.

This civil petitioner came to the Anti-Corruption and Civil Rights Commission claiming that she had been stripped of her eligibility as an insurant. She had worked diligently for her husband's company - Company A - for 6 years before retiring when it went out of business. She dutifully paid the insurance premiums for the four major insurance plans and was hardworking. But the problem was that her employer was her husband.

The Ministry of Employment and Labor's position was that this was not enough to prove an employer-employee relationship

because the civil petitioner was a beneficiary of the profit and the loss resulting from the business operation. In other words, she could not be reinstated as an insurant because she was not deemed an employee.

Legal employment status should be proven if the employee is the wife of the employer.

Article 2.1.1 of the Labor Standards Act defines the term employee as "a person, regardless of the kind of occupation, who offers labor to a business or workplace for the purpose of earning wages". The Handbook on Insurant Management provided by the Ministry of Employment and Labor, stipulates that "a person is deemed an employee even if he/she is a relative living with the employer as long as it is unequivocally verifiable that the 'person is being paid in cash or valuables as wage in return for providing full-time work under the command and supervision of the employer' in the same manner as other general workers".

The civil petitioner's employment status should be checked by reviewing whether there is an employer-employee relationship and whether the civil petitioner's work was irreplaceable.

Based on a fact check of Company A's payroll and the work schedule, the civil petitioner reported for work at specified times from Monday to Friday to do bookkeeping and office work and was paid a consistent salary on a monthly basis. In addition, another worker B worked on the weekends to conduct the same tasks that the civil petitioner carried out and was paid wages. This means that the civil petitioner carried out the same tasks in the same location that worker B did, and it seems that the nature of the work could not be adjusted proprietarily.

Furthermore, the civil petitioner seemed to have had some expectations for the employment insurance upon termination of the employer-employee relationship as she had paid employment insurance premium for six years.

The Anti-Corruption and Civil Rights Commission decided that it was not unreasonable to view that the civil petitioner worked under a dependent employer-employee labor relationship with the employer, who was her husband. As such, the Committee advised the Ministry of Employment and Labor reinstate the petitioner as an insurant and re-examine the employment status. Conceding, the Ministry of Employment and

Labor conducted a re-examination and re-instated the civil petitioner's eligibility as an insurant.

The civil petitioner was pleased that her work was acknowledged. Employment insurance as a part of the social security system is there to protect people like the civil petitioner who diligently paid insurance premiums for six years and did the same level of work at the same position as other ordinary employees.

IMPLICATIONS

Even if it seems as if the employee in this case shares in the profit and loss from business operation of the employer, if a dependent labor relationship can be established in consideration of the work tasks, working hours, and type of work, the petitioner should be actively acknowledged as an employee.

Workers' rights are protected under labor-related laws, which means that deciding the employee status of a worker is a serious issue. However, determining the legal employment status of a person who is in a special relationship with the employer, we should not only look merely at the formalities of the person being the wife of the employer, but also at the practicalities such as wage payments and work.

This is a case related to the Handbook on Managing the Insured Persons (2010. 12.) provided by the Ministry of Employment Labor, which regulates the legal employment status of relatives living together with their employer.

05 Recognition of labor permits to protect foreign workers

Employment permits should be granted if the employment intention of the employer can be verified, even if the foreign worker's job seeking effective period has expired.

"I was hired at a company that was referred to me by the Ministry of Employment and Labor. Why can't I get a foreign labor permit?"

Korea's rising clout makes it an attractive place for foreign workers. Small and medium-sized companies in Korea also want to hire foreign workers to resolve the shortage in labor. As such, since 2004, the Ministry of Employment and Labor has permitted small and medium sized companies with less than 300 workers that struggle with shortage to hire foreign workers, while protecting employment opportunities for Korean residents as well.

This civil petitioner of Uzbekistan nationality was referred by the Ministry of Employment and Labor to a company – Company A - with foreign worker employment permit and was hired. The civil petitioner quit his old job after getting hired by Company A but would have no choice but to leave Korea if he could not acquire a permit changing workplaces within three months. The civil petitioner enlisted the help of the Anti-Corruption and Civil Rights Commission stating that he had asked the CEO of the Company, Mr. B, to register him as having been hired so that he could acquire the employment (change) permit, but the CEO delayed registration.

Upon investigation, it was discovered that an intermediary list (reply to hiring status) stating that the civil petitioner was chosen

Support center for foreign worker

as a qualified employee was sent via fax on August 20th, 2014, and the employment permit application had been made on August 22nd. However, the Ministry of Employment and Labor claimed that the permit could not be granted because the timeframe of three months for changing workplaces - May 21st to August 21st, 2014 – had expired.

A turning point for improving advance notification about foreign worker permits

In accordance with Article 8.3.4 of the Act on the Employment, etc. of Foreign Workers, the head of an employment security office shall, upon receipt of an application and shall grant employment permission without delay to an employer who has selected an eligible person.

If there is factual evidence that the civil petitioner was hired by Company A with the help of the Ministry of Employment and Labor, and that CEO Mr. B of Company A did fax the "intermediary list" stating that the civil petitioner was selected as the qualified employee, it is then reasonable that the time of sending the 'intermediary list' via fax was substantially equivalent to the time of applying for the employment permit.

The Anti-Corruption and Civil Rights Commission advised the Ministry of Employment and Labor to permit hiring (change) of the civil petitioner as that was the genuine intent of Company A. Unfortunately, the civil petitioner could not be helped because he returned the Uzbekistan in the meantime. The Ministry of Employment and Labor announced that it would make an active bid to improve the employment (change) permit procedure upon realizing the need to strengthen protection for foreign workers like this civil petitioner.

Protection of foreign workers is strengthening as the number of foreign workers in Korea increases. Moreover, it is high time for fundamental discussions on whether or not the employment permit system itself infringes upon the rights of the foreign workers.

IMPLICATIONS

The foreign worker could not receive the change permit because the employer did not apply for the workplace (employment) change to the Regional Employment and Labor Administration within the three-month period. But if the employer hired the foreign worker referred to by the Regional Employment and Labor Administration before the three months passed and informed the Regional Employment and Labor Administration of said fact, it should be actively considered that the application had in fact been made.

The Ministry of Employment and Labor increased awareness by raising awareness via text messages and notifications sent to the employers related to the foreign worker employment permit with information about reporting (replying) to the Regional Employment and Labor Administration within three months of hiring a foreign worker in order to prevent similar occurrences in the future.

Furthermore, the Anti-Corruption and Civil Rights Commission is taking measures so that foreign workers are protected so that their departure can be postponed while their civil complaint is being handled. The civil complaint application form is now sent to the Immigration Office and the Support Center for Foreign Workers to provide substantive relief to foreign workers.

This is a case related to Article 8 (Employment Permit of Foreign Workers) of the Act on the Employment, Etc. of Foreign Workers, which stipulates that foreign workers have to leave the country if the permit on change of the workplace is not received within three months from the date of applying for a change after resigning from a company.

06 Severance payments to workers who have worked de facto for one year or more

Severance pay must be provided if a person has actually worked for one year or more, even if the employment contract was for less than one year

"It is unfair and I can't understand why I am not eligible for severance pay when I clearly worked for more than a year at one company."

The severance pay system was introduced to help stabilize a worker's life after retirement. In particular, for the ordinary people who are not able to start a new job for various different reasons, severance pay is valuable as it is used urgently to cover living expenses. Since 2010, the government also took this reality into consideration and started providing severance to workers working at small businesses with less than five full-time workers.

The civil petitioners worked for over a year as a daily laborer working at Company A, a constructor of storing tank structures, but did not get the severance pay. Thinking that this was unjust, a written petition was submitted to the Ministry of Employment and Labor, but the case was closed stating that the civil petitioners were deemed as not having worked over a year because the civil petitioners' labor contract was on a monthly basis and workdays differed between months. Company A claimed that the civil petitioners had signed disclaimers relinquishing all claims on future severance pay and said they were not obligated to provide severance pay.

Decision must be made based on actual working hours rather than the labor contract

It was confirmed that the civil petitioners

worked continuously for at least 11 days to 22 days every month starting from August 2013 to August 2015. In accordance with Article 8.1 of the Act on the Guarantee of Workers' Retirement Benefits, the Supreme Court ruled that even if a worker only worked for 4 days to 15 days in a month, severance pay must be paid out based on the Labor Standards Act if the person is recognized as having worked continuously for several years, and emphasized the importance of continuity rather than tagging a certain number of days every month. Based on this ruling, the civil petitioner is considered to have actually worked for more than a year despite the monthly labor contracts.

Furthermore, it is reasonable to consider the disclaimer signed by the civil petitioners relinquishing the right to severance pay has no effect, because it was unfair based on the dependent employer-employee labor relationship with Company A. It would have been difficult for the civil petitioners to refuse signing the disclaimer.

The Anti-Corruption and Civil Rights Commission decided that the severance pay request was extremely reasonable and had considerable merit, and recommended that the Ministry of Employment and Labor reexamine the issue. As a result, the civil petitioners were able to receive the severance pay.

We hope that this case serves as a building block so that similar cases don't end up at the Anti-Corruption and Civil Rights Commission again in the future, because protection of rights are strongest when processed as swiftly as possible.

IMPLICATIONS

Even if the employer and the workers repeatedly entered into monthly based labor contracts, if the workers received specific work orders from the employer (company) and actually worked for a year or more by working constantly every month (11~22 days) without a gap during the term, the workers should be actively recognized as having worked continuously for one year or more.

Severance pay is an indisputable worker's right guaranteed by the legislation and is not something that can arbitrarily be relinquished through a disclaimer or contract. Therefore, the employer must provide severance pay to the workers if the conditions for severance pay is recognized, even if there are certain restrictions such as the disclaimer.

This is a case related to Article 8.1 (Establishment of the severance pay system) of the Act on the Guarantee of Workers' Retirement Benefits, which states that severance pay amounting to 30 days of average pay or more should be paid for a continuous work period of one year.

07 Permitting prioritized entry for children of double-income agricultural worker parents into the day cares

Prioritized entry of farmer's children should be allowed if the couple both works even if it is difficult to prove that they are self-employed (farmers).

"My husband is a diligent worker who works tirelessly on this farm. I don't know why families in the farming business are not recognized as self-employed workers."

Low birth rates are a serious problem in Korea. According to the 2017 Statistics on Newly Married Couples, 37,5% (or 410,000 couples) of 1.1 million newly married first time couples had not had a child as of November 1st, 2017. The government provides various benefits and childcare support to prop up birth rates. One of these measures is providing children of double income couples priority when applying for daycare.

This civil petitioner is the wife in a double income family. The petitioner works in the real-estate business in Seoul and her husband is a countryside grape farmer. The couple tried to send their second child to daycare, but were not allowed prioritized entrance. The reason was the husband's occupation. The civil petitioner thought this was unjust and said this was unfathomable.

Difficult-to-prove self-employment status for farmers should be resolved.

The Ministry of Health and Welfare rejected the application of the civil petitioner, stating that the business registration form, proof of income statement, and the taxable basis for

VAT should be submitted since it is difficult to recognize the husband as being self-employed simply based on the shipment confirmation of the farmland registers.

However, business registration forms and other documents are difficult for farmers. Furthermore, agricultural working status is easily verified by shipment confirmation of agricultural goods and the farmland registers.
Article 29.2.2 of the old Child Care Act provides for prioritized daycare center entrance for "children whose parents are both working". The dictionary definition of self-employed includes the type of work in which a single person or a family becomes the agent of management and/or ownership covering a wide range of jobs ranging from experts such as lawyers to street vendors. There are also various methods to prove double income.

According to the shipment confirmation of agricultural goods and the farmland registers(issued by the Agricultural Cooperative), the husband of the civil petitioner works in the agricultural industry and conducts economic activities. Since the civil petitioner is working in real estate, the couple is obviously a double income couple.

This fact could not be any clearer. The Anti-Corruption and Civil Rights Commission advised that prioritized entrance of the children of the civil petitioner into the daycare be reconsidered and proposed reasonable improvement measures. The Ministry of Health and Welfare was in full agreement.

Not all systems and legislations are perfect from the get go. Any loopholes and unreasonable issues should be revised and corrected along the way when they are identified. This is the duty of civil servants tasked with enforcing the law and should always be encouraged to put themselves in the shoes of the civil petitioners.

IMPLICATIONS

Even if the business registration form, income statement, and tax basis for VAT cannot be submitted because one of the couple is a farmer, given that registering as a self-employed worker is difficult unless the person conducts his/her business on a large scale, if the person's status as a farmer is confirmed based on shipment confirmation forms for agricultural goods and the farmland registers in line with the profession that corresponds to the "skilled worker in the agriculture, forestry, and fishing industry" outlined in Korean's standard occupational category no. 6, the couple in question should be actively recognized as a double income couple.

Revising regulation should be actively considered to minimize citizens' inconveniences by actively recognizing various other methods of proving a person's status as a beneficiary even if exemplary regulations about the required documentations exist.

This need was echoed by the Ministry of Health and Welfare after this civil petition and improvements were made to farmers as a double income couple if other official documents such as the farmland registers are submitted.

This is a case related to Article 29.3 (Prioritized provision for child care) of the Enforcement Decree of the Child Care Act, which provides for that prioritized child care for double income parents.

08 Improving registration exemptions as unknown residence in order to protect victims of domestic violence

Inevitable reasons such as domestic violence should be recognized as an exception to being categorized as persons of unknown residence even if the person does not reside at the address on one's residential registration.

"I was abused my husband and was thrown out of the house with only the clothes on my back and lost all my possessions. I ask for your understanding of the predicament I am in."

Domestic violence. The word itself inflicts pain. Violence is utterly unjustifiable and is even more so for domestic violence in households where it should be harmonious. The government has made considerable effort to prevent domestic violence and support victims, but lot more remains to be done.

After being thrown out of her home and abused by her husband by law, the civil petitioner was staying temporarily at a shelter for victims of domestic violence. She was categorized as a person of "unknown residence registration by ex officio" by Saha-gu in Busan during this time. The civil petitioner explained that she did not have an address she could immediately move to, but it didn't work out. Saha-gu claimed that she may potentially be in violation of the Resident Registration Act if she fails to file a move-in notification after leaving the shelter, as her place of residence would remain as the address of her old home.

Policies that do not consider the predicaments of petitioners should be remedied.

The Enforcement Decree of the Resident Registration Act stipulates that those currently conscripted in the army, long-term patients, and prisoners are not classified as unknown residence registration by ex officio. The civil petitioner did not fit this category.

Due to realistic concerns, shelters for victims of domestic violence are operated as undisclosed facilities and the victims and exterior of the facility are prohibited from being exposed. However, the Enforcement Decree of the Resident Registration Act fails to take this into consideration. Therefore, Saha-gu had no choice but to classify the civil petitioner as a person of unknown residence registration after a perfunctory investigation of the fact, although Saha-gu was aware that the petitioner was in a shelter for victims of domestic violence.

These are the cases in which regulations should be revised if need to help resolve such cases if current regulations in place fail to rectify the situation. The Anti-Corruption and Civil Rights Commission advised Saha-gu to delete the civil petitioner's record of unknown residence registration and separately recommended the Ministry of Public Administration and Security to amend the Enforcement Decree of the Resident Registration Act in order to protect victims of domestic violence. Saha-gu and the Ministry of Public Administration and Security implemented the recommendations to amend the Enforcement Decree of the Resident Registration Act and recognize the victims of the domestic violence who go to shelters as the civil petitioner did, as exempt from being classified as persons of unknown registration and exempt from having their social residential IDs cancelled.

The pain inflicted by domestic violence stays with a person forever. This is why government policies related to these victims should be reviewed with meticulous care.

IMPLICATIONS

Even if the civil petitioner's reasons are not listed as exemptions to classification as a person of unknown registration by ex officio, if the person is staying at a shelter for victims of domestic violence, this should constitute unavoidable circumstances which makes it impossible to change addresses. If this is something that can happen to other people as well, improvement measures should be actively reviewed so that the regulations in question can be revised.

As a result, the Ministry of Public Administration and Security amended the Enforcement Decree of the Resident Registration Act (2016.12.30) by adding victims of the domestic violence staying in shelters to the "exceptions to unknown residence registration by ex officio" along those currently conscripted in the army, long-term patients, and prisoners.

This is a case related to Article 30 (Measure to take measures by the authority) of the Enforcement Decree of the Resident Registration Act, which provides for exemptions to being classified as a person of unknown registration by ex officio when a person cannot reside at the address on their residential registration due to unavoidable circumstances.

09 Permission to install network cameras that serve the objective of crime prevention and security

Equipment that allow lawful purposes to be met should be allowed even if they are not surveillance cameras (CCTVs).

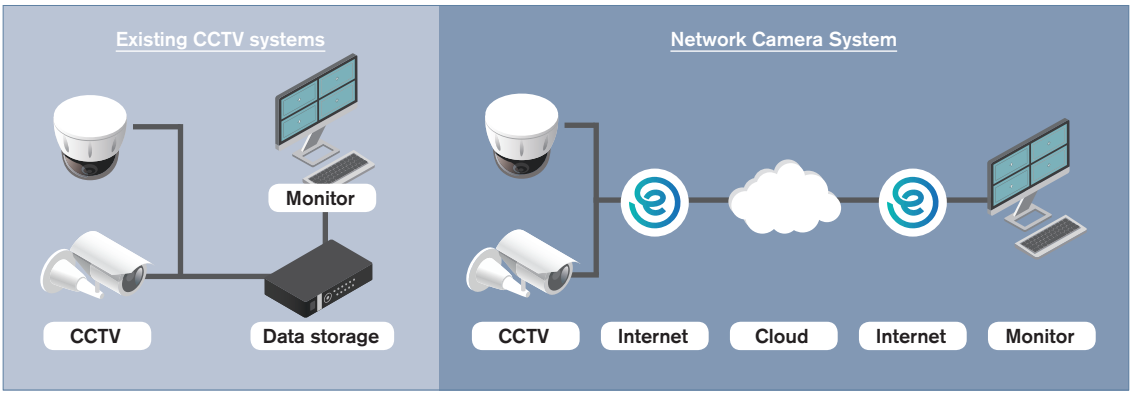
"We are trying to ensure the safety of all residents with better methods and technologies. It does not make sense to regulate this with legislation."

Closed-circuit television (CCTV) has become a necessity in modern society. In particular, it plays a crucial role in security and crime prevention. Recently, CCTVs with various specifications or enhanced functions are emerging. Concerns such as privacy violations from video leakages were voiced, but solutions have been swiftly identified.

This civil petitioner is resident's representative organization at an apartment in Seocho-gu. The problem here arose when the resident's representatives put it to a vote and installed network cameras after the apartment complex's the security and the crime prevention CCTVs' valid period of use expired. Seocho-gu demanded that the apartment to remove the cameras stating that installing devices other than CCTVs was a violation of relevant legislations. The civil petitioners enlisted the help of the Anti-Corruption and Civil Rights Commission saying that this decision was outdated.

Endless development of relevant equipment with the advancement of IT.

The Multi-Family Housing Management Act and other relevant legislations stipulate that CCTVs must be installed for security and crime prevention purpose at multi-family housing complexes. On the other hand, CCTVs are classified as "video information



Existing CCTV systems

processing devices" in accordance with the Personal Information Protection Act and others, making it difficult to establish a unified definition about video storage devices.

The network camera installed by the civil petitioners is a product provided by a telecommunication company and has many benefits - storage/checking video information can be done via internet network at any location, separate storing devices are not needed, and data can be stored off-site outside the apartment. The resolution is five times better than the existing device. Personal information is secured by installing the signs similar to those used with CCTVs. In addition, the supplier stated that security is not an issue because the externally-stored data (video information) is encrypted.

In fact, network cameras have been installed and are up and running in more than 100 apartment complexes across the country and the number continues to grow. The Anti-Corruption and Civil Rights Commission advised the Seocho-gu, Seoul and the Ministry of Land, Infrastructure, and Transport which is in charge of the relevant legislation to dismiss the order of removing the network cameras and revert them to their original state. All the recommendations were accepted and relevant legislations were also amended.

We expect that media coverage of this resolution will result in more installations of network cameras that allow people to keep track on their smartphones or computers in real-time.

IMPLICATIONS

Even if network cameras instead of CCTVs are installed, if devices developed with technological advancements that provide better function and performance than those stipulated in legislations can help achieve certain purposes, relevant statutes should be actively reviewed to incorporate reality.

In other words, the purpose of legislation and level of technical advancements should be fully considered and actively interpreted. The Regulations on Housing Construction Standard and Others was amended (2018.12.31) to enable "installation of not only CCTVs, but also network cameras as a security and crime prevention equipment in multi-family housing complexes". Network cameras that allow you to view via your smartphones or computers in real-time can now be installed in all apartments and basement parking lots of all buildings.

This is a case related to Article 39 (Installation of the closed circuit television) of Regulations on Housing Construction Standard and Others, which stipulates that CCTVs should be installed at multi-family housing complexes for security and crime prevention purposes.

10 Ex officio revisions of building ledgers that do not correspond to the location of the actual owner's residence

Even if the mismatch in the unit number for each public housing household registered on the building ledger and that of actual ownership status is an unintentional result, correction must be made by one's own authority.

"This happened because the wrong unit number plate was installed when the building was constructed. I can't understand why revising the unit numbers is impossible when every household in the building has agreed to the revision."

What if the home you are living in isn't your home? What if your home and your neighbor's has been switched? This is what has actually happened. And to numerous households at that. The reason lies in a minor mistake. There was an error in placing the unit numbers when the building was built, triggering mishaps.

The civil petitioners are residents living in a condominium complex in Dobong-gu, Seoul. The petitioners are owners of residents living in units one and two from level one to six of the six story building where a total of 17 households live. The unit numbers were not installed in line with unit numbers outlined in the building ledger (floor plan), making it difficult to exercise property rights. The residents have requested that the unit numbers be corrected, but the request was rejected. The grounds for rejection was that the correction would constitute a change in ownership rights, disqualifying this as a subject for correction by ex officio.

The civil petitioners state that they cannot continue living this way with their homes

out of order. As such, the petitioners came to the Anti-Corruption and Civil Rights Commission looking for other ways to resolve this issue without resorting to filing a lawsuit.

The confusion and costs triggered if the situation remains unresolved would be too great.

The Rules Related to Buildings Ledgers, etc. stipulates that if an error or omission is found in the information provided on a buildings ledger based on the base line data of a ledger, the head of the local government may correct or add information by ex officio.

Although we found that this was not a frequent occurrence, we also discovered that this case was not unique. In the past, the Seoul Administrative Inquiry Committee adjudicated on a case of unit numbers that had been switched left and right, delivering a judgement that a simple mismatch between the building status chart and actual location of residence of the owners did not constitute a change in ownership and should therefore be corrected by ex officio.

What is most important here is that all the owners of each unit have agreed to correcting the building ledger. This means that there would be no potential issues that could give rise to a dispute over ownership rights. Without an ex officio correction, a transfer registration of ownership rights would have to be made via legal action, or the residents would have to physically switch their homes in which they have resided in for quite some time, making it inconvenient and costly.

The Anti-Corruption and Civil Rights Commission relayed the residents' opinions by issuing a recommendation to Dobong-gu, upon which the recommendation was accepted by the local government and a correction was made to match the unit numbers to the building status chart.

You are bound to run into unexpected difficulties in life. At times there seem to be simple solutions to seemingly difficult problems, but you may run into statutory issues or opposition from the administrative institution that executes these laws. When this happens it is important to take heed and make sure that resentment isn't funneled towards the administrative institution in question.

IMPLICATIONS

Despite the difficulties in recognizing household unit number revisions as grounds for revising the building ledger by ex officio, if the register and ownership rights on the building ledger match and the only issue is that the actual owners are not living in the household units marked on the building ledger, active measures must be taken to revise the building ledger to reflect actual locations of residence.

Existing judicial relationships and transaction facts should be reviewed as the first order of business. Upon review, if there are no potential issues that may give rise to disputes over ownership rights, we need to tread carefully to make sure that unnecessary inconvenience or burden is placed on the civil petitioner. Therefore, resolving the complaint by revising the building ledger by ex officio rather than having to resort to costly litigation was a smart move because it minimized the burden placed on the civil petitioners.

This case is related to Article 21 (Managing the Baseline Data for Building Ledgers and Correcting Information in Building Ledgers) of the Rules Related to Recording and Managing Building Ledgers, which stipulates that any errors and omissions in the building ledger records may be corrected by ex officio upon factual confirmation.

11 Resolution of inconveniences experienced by companies by simplifying the process of changing ownership of buildings and structures

Even if the name of the building ledger holder is incorrectly recorded, the title should be corrected by ex officio if there are no issues that may potentially cause disputes over ownership.

"The entire company is in a predicament because of an incorrect record. We ask for leniency as we are a hard working small to medium sized business."

Everyone makes mistakes. Minor ones can be overlooked, but sometimes that may not be the case. That was the case for this particular civil petitioner. This small business owner had always felt that his plant was too small, making it hard for workers to operate smoothly. But, one day a good opportunity came along. On recommendation from an economic promotion agency, he found out that he could get a loan with SME loan support if he built a new plant. Full of hope and expectations, he completed constructing a new plant with company funds. Everything seemed to be going well.

After the construction was complete, he applied for building use in Dongrae-gu, Busan. But he ended up making a mistake. Without giving it much thought, he wrote down his own name instead of the name of his company as the owner on the building ledger. The owner had to be a company to get the business support loan and this would mean that he wouldn't be eligible to get the support loan. So, he put in a revision request with Dongrae-gu, but to no avail. The response he got was that the

title could not be changed after use had been approved, but that he could apply for preservative registration of the ownership rights to the building and then go through the process of transferring ownership to his company.

The civil petitioner however was in urgent need of the loan support. Put in a tight spot and grasping for straws, he enlisted the help of the Anti-Corruption and Civil Rights Commission.

Principle is important, but sometimes circumstances should be considered if no harm is done to others.

Upon reviewing the facts, the petitioner claimed that the plant belonged to the company not himself because it had been newly built with company funds. Therefore, there was no issue of ownership disputes to be found. The company was listed as the contractor on the contractor agreement that had been submitted when reporting the start of construction, which showed that the petitioner had mostly likely made a simple mistake writing down his own name rather than an intentional act.

The option of applying for preservative registration of ownership rights and then transferring ownership to the company that had been proposed by Dongrae-gu was not only time consuming and a hassle, but would deal a blow to company operations as it would delay getting the loan support.

Article 19.3 of the Rules Related to Recording and Managing Building Ledgers stipulates that when a preservative ownership registration is not possible, the deed to a building or structure may be revised if there is a certificate verifying that the building is not registered.

The Anti-Corruption and Civil Rights Commission advised that Dongrae-gu revise the name on the deed to the building, taking into consideration the circumstances the civil petitioner was in. Dongrae-gu conceded the Anti-Corruption and Civil Rights Commission's opinion and the crisis was averted.

The civil petitioner's mistake was without a doubt what caused this. However, simplifying the processes in question to alleviate inconveniences for companies would be wise in this case as there would be no harm done to others (no ownership dispute) and given the urgency of the situation as the fate of the civil petitioner's business was on the line.

IMPLICATIONS *Although revising the name on the deed to a structure or building by ex officio after it has been approved for use may be difficult, if there are no potential ownership disputes with third parties, active measures must be taken to revise the title on the building ledger by ex officio.*

Thus, resolving the complaint by revising the building ledger by ex officio rather than having to resort to costly litigation was a smart move because it minimized the burden placed on the civil petitioners.

This case is related to Article 19 (Change of Owner on Building Ledgers) of the Rules Related to Recording and Managing Building Ledgers, which stipulates a person may request the records related to a building or structure be revised by submitting supporting documents that the owner has changed if a preservative registration of ownership is not possible.

12 Childbirth grant support for families that have inadvertently failed to fulfill the requirements

Childbirth grants should be provided if the payment conditions have not been met due to inadvertent circumstances such as lawsuits.

"I always lived in this region and there were unavoidable issues due to divorce proceedings. Please help me take care of my child."

Because of its law birth rates, Korea has put in place a childbirth grant system that is implemented by ordinance at the local government level and has proven to substantively prop up birth rates.
The civil petitioner's wife, Mrs. A, has long since been a registered resident in the Wanju-gun jurisdiction. Mrs. A gave birth to a son in January 2016 and applied for a childbirth grant with Wanju-gun in October 2016.

However, her application was turned down by Wanju-gun, which stated that she did not qualify as having lived in the Wanju-gun jurisdiction for one year from the date of her son's birth until the date of registration, as her son's birth registration had been six months late and that Mrs. A had been re-enrolled as a resident after being classified as an unknown resident during the month of August in 2016.

The civil petitioner appealed that circumstances had been inevitable for Mrs. A. Mrs. A had been going through a legal proceeding about "consensual divorce intention confirmation and denial of paternity (over the son)" and could therefore not register her son's birth immediately after giving birth.

The legislative intent and purpose of the childbirth grants should be taken into consideration.

The Anti-Corruption and Civil Rights Commission decided that the petitioner's appeal had substantial ground and launched an investigation. Excluding the one month during which Mrs. A was registered as an unknown resident, she had been a registered resident with the jurisdiction in question for approximately 26 years and had resided within the jurisdiction during that problematic one-month period as well. The civil petitioner was also a registered resident in Wanju-gun for the past 16 years. It was safe to say that this couple had settled into this area.

The Enforcement Decree Related to Mother and Child Health Service stipulates that support may be provided if the new born child lives with one of the parents as registered residents as a means of alleviating the economic burden placed on parents during pregnancy and birth.

Taking into consideration the legislative intent and purpose of the ordinance to create a conducive environment encouraging childbirth, it seemed reasonable that the childbirth grant be provided to the civil petitioner.

Wanju-gun ended up providing the childbirth grant on recommendation from the Anti-Corruption and Civil Rights Commission.
Childbirth grants are invaluable to new parents and will be put to good use. Although the civil petitioner failed to meet some of the requirements, providing the grant would be without a doubt aligned with the intent of the childbirth grant program. After all, the civil petitioner's son is the future of our country.

IMPLICATIONS

Even if the mother of the newborn child had been classified as a person of unknown residence for a month before applying for the childbirth grant, inevitable circumstances such as the divorce proceedings with the previous husband and denial of paternity lawsuit should be important when considering whether or not to provide childbirth grants.

Therefore, recipients of the childbirth grant should be selected based not just on perfunctory requirements about whether the applicant meets the criteria, but also on practical issues that can decide whether the applicant meets the intent and purpose of the childbirth grant program.

This case is related to Article 3 (Eligible Recipients) of the Enforcement Decree Related to Mother and Child Health Service, which provides for childbirth grants to registered families who have lived within the jurisdiction for at least one year from the time the child is born up to the date of application.

13 Providing cremation support after application deadline

Cremation support should be provided even if the application deadline has passed in cases where the application period (30 days) is excessively shorter than that of other institutions (90 days).

"I lost track of things and didn't even know this type of program existed. I was never even told about such a support program during the cremation process."

Having to deal with an unexpected death in the family is an unspeakable ordeal. If the deceased is your child, for whom you would gladly give your own life, what more could be said. This civil petitioner's daughter met a sudden death. In a blur, she cremated her daughter and about three months after she had reported her daughter dead, she found out about the cremation support system and applied.

The response from Anseong-si was a rejection. The reason stated was that the application period (within 30 days after cremation) stated in the Enforcement Decree for Cremation Support had passed and that the support could not be granted as is would not be fair to others who had been faced with the similar issue. However, the petitioner came to the Anti-Corruption and Civil Rights Commission asking for help stating that no one had told her about the program.

Given the short application period, the support should be granted.

This was a heartbreaking story. We expressed our condolences to the petitioner and went to Anseong-si to investigate. The civil petitioner had moved to Anseong-si in 2006 and had continued to live there as a

Providing cremation facility

registered resident. The deceased daughter of the petitioner had also lived in Anseong-si up until her death. The requirements to grant cremation support had been met.

Article 5 of the Enforcement Decree for Cremation Support which stipulates that an application must be made within 30 days after cremation was the issue.

First of all, the petitioner's statement that she had not known about the cremation support program resonated with us. She stated that she had not been told about this program even when she had reported her daughter dead. People working in related fields would know about this program, but it's not something that people would hear about in their everyday lives. And the petitioner would not have been expecting a death to occur in the family. The petitioner must have been drowning in confusion and sorrow for some time afterwards.

We looked into other enforcement decrees at other local governments and found that most other local governments provided an application period of at least 90 days. The application period at Anseong-si was excessively shorter compared to that at other local governments. The source of the budget is also another area that potentially goes against equity.

The Anti-Corruption and Civil Rights Commission recommended that Anseong-si provide cremation support to the petitioner and Anseong-si took our advice and provided the support.

When dealing with civil complaints, there are a surprising number of cases that can be resolved by looking into the intent and characteristic of the program in question. This case about the cremation support program was exactly so.

IMPLICATIONS

Even if the petitioner applied for cremation support after the 30-day period, given that the application period is excessively shorter compared to that of other local governments (90 or 180 days) and accounting for the period of time spent grieving for deceased family (the daughter), measures to provide cremation support even after the application period expires should be strongly considered.

In 2018, in light of the frequent cases in which people could not receive cremation support because they either did not know about the program or because they failed to apply in time, the Anti-Corruption and Civil Rights Commission advised the Ministry of Health and Welfare to mandate informing the public about the cremation support (grant) program and revise the program to provide an application timeline of at least six months. The Ministry accepted the Commission's recommendation and is currently in the process of making improvements by informing the public about the cremation support and extending the application period.

We frequently see people who qualify for benefits but fail to receive them or are subject to penalties for violating regulations or policies simply because they did not know about them due to the lack of awareness when these policies are being implemented. This requires authorities to raise awareness about various programs and policies when that they implement by targeting specific beneficiaries or those subject to regulation (groups) by sending out text messages or using social media so that these civil complaints can be nipped in the bud.

This case is related to Article 5 (Application Method) of the Enforcement Decree for Cremation Support which states that application should be made within 30 days after cremation.

14 Greater importance of protecting trust in the administration compared to the different circumstance resulting from the revision of an ordinance

Even if circumstances change due to amendments made to enforcement decrees, businesses that were initiated before the amendment should be approved for business

"I was told unequivocally that my business was good to go. The financial damage considering the funds that went into leasing contracts and capital expenditures is considerable."

The civil petitioner was going to start a meat packaging business on the first floor of a building located on a street spanning approximately 4m wide in the jurisdiction of Dongdaemun-gu, Seoul. The petitioner asked the person in charge of approval and licensing at Dongdaemun-gu whether he would be cleared for business and was told that he would get a business permit. The petitioner then entered into a lease contract on credit guarantee and invested over KRW 150 million in facilities and equipment.

Afterwards, when the petitioner applied for a business permit, but was turned down as the enforcement decree had been amended allowing manufacturing businesses to operate only on roads at least 12m wide. Dongdaemun-gu stated the business would have been approved one month ago before the amendment, but that their hands were now tied.

It was like a lightning bolt had hit the petitioner out of the blue. The petitioner couldn't believe that things had gone awry


External view & internal investment facility of this civil petition architecture

after he had checked with Dongdaemun-gu beforehand. Would there be no relief?

Actions made based on faith placed in administrative offices should be protected.

According to Article 30 of the Livestock Products Sanitary Control Act and Article 29 of the Enforcement Decree of the same Act, business licenses can be applied for after the location and facilities have been set and installed. Thinking that if was better to be safe than sorry, the petitioner had asked the person in charge of business licensing in Dongdaemun-gu to make sure that he would be approved for business, given that he could only actually apply for a permit after leasing the place of business and installing all the required equipment. The petitioner had trusted what the officer had said and invested money in leasing and capital expenditure, but ended up being turned down when he applied for a permit. The lease cost, capital expenditure, interest on loans from the Small and Medium Business Corporation, etc., the damage if he could not get a business permit would be insurmountable.

The Supreme Court rules that actions based on confidence placed in administrative offices and their publicly stated opinions should be protected.
The institution in charge of the enforcement decree in question - Seoul Metropolitan Government - assisted the civil petitioner, stating that this case qualified for relief. The Anti-Corruption and Civil Rights Commission strongly advised Dongdaemun-gu to reconsider the petitioner's business license application. Dongdaemun-gu took our advice and granted a business permit to the petitioner.

We believe that it is only reasonable that administrative institutions take responsibility for businesses that are initiated by trusting the institution in question. This is also echoed by Supreme Court precedence.

IMPLICATIONS

Even if amended ordinances make it difficult to grant business permits in a certain location, if leasing contracts and capital expenditures have been made after checking with the government official in charge of approval and licensing before the amendment was made, and if the need for relief is recognized given the damage to the individual incurred by trusting administrative offices outweighs the public interest to be gained from the ordinance, business permits should be granted.

Business initiated based on regulations before amendment should be protected by establishing a transitional provision when amending laws and ordinances. Starting a business requires acquiring a location, facility and equipment, applying for a business permit, and other steps in the process. If there has been significant progress in starting the business based on pre-amended regulations, disallowing operations simply because applications for the permit was made ex post facto is not appropriate and businesses started by placing faith in administrative institutions should receive strong protection.

This case is related to Article 28 (Buildings Allowed to be Constructed within Type-2 General Residential Areas) of the Seoul Metropolitan Government Ordinance on Construction Approval, which stipulates that processing facilities may be permitted to operate on roads spanning at least 12 meters in width.

15 Active disclosure of administrative information that is helpful for the purpose of public interest and resident life

Even information about evaluations should be actively disclosed to the public if it helps out people's lives or is in the interest of the public good.

"I can't understand what's wrong about wanting information about the place I live. Please help so that information can be transparent."

"Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers"

This quote is from the Universal Declaration of Human Rights which was adopted in 1948 and was the first international document declaring information on human freedom. As expressed in the quote above, information is one of the major cornerstones of freedom.

This civil petitioner wanted information on the "Composite score and ranking of cities and counties" and the "Score and ranking by sector in cities and counties" which was a part of the 2017 City and County Comprehensive Evaluation Result for Gyeonggi-do Province where she lived. She put in a request and the answer was no.

The reason was that disclosing lower levels of total scores and ranking of cities and counties, and for each sector in cities and counties would make it difficult to achieve the purpose of the City and County Comprehensive Evaluation and would furthermore not help motivate civil servants. The civil petitioner asked the Anti-Corruption and Civil Rights Commission for assistance stating that she did know what was wrong

about asking for information because she wanted to know about the quality of administrative services provided in her jurisdiction of residence.

Information should be disclosed in line with the people's right to know and in order to revitalize local governments.

Article 3 of the Information Disclosure Act stipulates the principle of disclosure stating that "any information kept and managed by public institutions shall be disclosed to the public in an active manner, as prescribed by this Act, to ensure people's right to know." Non-disclosure grounds set forth in Article 9.1 of the Information Disclosure Act as exceptions should be interpreted strictly. Therefore, it calls into question whether Gyeonggi-do's reason for non-disclosure qualifies as exceptions outlined in Article 9.1.

What more is that Gyeonggi-do has in the past disclosed the results of the City and County Comprehensive Evaluation on its official website from 2012 to 2016. Much like how wounds need to be exposed for remedies to be applied, the local government had decided back then that making evaluation results public and transparent would encourage people to take more interest and participate in administration and would help breathe life into local governmental initiatives.

The Anti-Corruption and Civil Rights Commission recommended that the information be disclosed as requested by the civil petitioner and Gyeonggi-do decided to repeal its non-disclosure decision and make the information public.

Of course, Gyeonggi-do may be embarrassed about some of the information and indexes which may also be painful memories on its part and may not particularly want to disclose this information. However, these are objective facts and if they can ensure the people's right to know and are beneficial for the public good, Gyeonggi-do should disclose even the embarrassing parts and learn from its failures.

IMPLICATIONS

Even if disclosing the evaluation results is deemed to make achieving the evaluation purpose difficult, if it is unclear whether the information falls under the criteria for non-disclosure and if the information can actually benefit the people in their daily lives and is in the interest of the public, disclosing the information should be strongly considered.

Thus, information about the quality of administrative services does not constitute grounds for non-disclosure and is in line with the people's right to know. Therefore, this information should be actively disclosed.

This case is related to Article 3 (Principles of Disclosing Information) of the Official Information Disclosure Act, which stipulates that principle that information disclosure is the principle unless the information falls under non-disclosure categories.

16 Special provision of public rental housing to tenants of supplemental facilities of buildings including basements

Even if a person has lived in the furnace room in the basement, if it is a legitimate house, he/she should qualify as a recipient for special provision of public rental housing.

"They're saying that my home where I've always lived in is not a house. I've lost my home overnight. Where am I supposed to go? I feel cheated and am bitter."

Anyone would feel disgruntled if they are suddenly told that their comfortable home is not a house. But this actually happened in reality. The civil petitioners were tenants of a house newly added to the public housing district building project.

The tenants provided with compensation for relocation expenses in accordance with the Land Compensation Act, but was disqualified for special provision of public rental housing by the Korea Land & Housing Corporation (the Corporation), which stated that they had not lived in a legitimate house.

The reason was that because the houses most of these tenants lived in were basement rooms and therefore were not classified as houses on the building ledger. The Corporation claimed that they could not recognize the tenants' dwellings as legitimate houses because furnace rooms, warehouses, and other supplementary structures are not recorded as "houses" on the building ledger. Supplementary structures refer to facilities, shelters, warehouses, parking spaces, etc. that are required to use or

manage a building.

The Anti-Corruption and Civil Rights Commission began in earnest to get an accurate picture of the situation given that the civil petitioners might be left without a place to live.

Interpretations should be made based on national laws, not internal guidelines of public institutions.

After deregulation in 1996 regarding construction laws, supplementary structures did not have to register for change of use to be used as the main building, and in 1999, the notification process was simplified so that detailed change in usage of supplementary structures being used as houses did not require revisions to building ledger records.

The Anti-Corruption and Civil Rights Commission came to the conclusion that this meant that the civil petitioners' homes could be seen as legitimate houses even if the supplementary structures were not stated as such on the building ledger.

The special provision of public rental housing initiative is regulated by the Rules Related to Public Housing, which is a ministerial ordinance of the Ministry of Land, Infrastructure, and Transport, and the legitimacy of building structures should be decided based on construction laws. However, the Corporation based its decision on the Guidelines on the Establishment of Relocation and Livelihood Measures. The Corporation had recognized tenants of "houses" as listed under the use purpose on building ledgers as eligible for special provision of public rental housing, in contrast with regulations that take precedence. We decided that this should clearly be corrected.

As such, the Anti-Corruption and Civil Rights Commission recommended that the Corporation designate the tenants as qualifiers for special provision of public rental housing and that the Guidelines on the Establishment of Relocation and Livelihood Measures that limits the interpretation of "houses" as those listed on building ledgers should be revised as it was contrary to higher ranking regulations.

The Corporation acceded to the Anti-Corruption and Civil Rights Commission's recommendation and designated not just the civil petitioners, but 30 others who had not filed a petition as qualifiers for public rental housing. It is fortunate that this case helped more working class people acquire a home to live in. This case taught us that the state should always implement policies from the vantage point of its "working class people" and be considerate.

IMPLICATIONS

Even if a residence is not actually a house but a supplementary structure such as a basement to the main building, if the main parts of the supplementary structure are legitimate houses in accordance with construction laws, the residents should be acknowledged as eligible for special provision of public rental housing.

Furthermore, given the frequency of civil complaints triggered by internal guidelines and rules that are irrational and run against applicable laws that take precedence, internal guidelines at each organization that either are in violation of superior laws or are the result of abusing official authority should be overhauled in order to minimize the inconveniences experienced by the people.

This case is related to Article 3 (Definitions) of the Guidelines on the Establishment of Relocation and Livelihood Measures, which stipulates residential structures approved for use under the Construction Act as "temporary dwellings".

17 Recognition of foreign private institute instructors' qualification to subscribe to the national pension

Even if a foreign instructor is registered as a business income earner, they should qualify to apply to the national pension if their employee status is recognized.

"I worked as an employee at a private institution in Korea, not as a self-employed person. I thought there would be no reason I couldn't sign up for the national pension."

In Korea, anyone 18 years old (Korean age) and above can subscribe to the national pension regardless of income or age. A total of approximately 22 million people are subscribers, which amounts to half the population. However, tutors, academy instructors, chauffeurs, and other special employment workers are in the blind spot when it comes to subscribing to the national pension. These workers are categorized as self-employed people, despite the fact that they work for a specific organization in reality.

This civil petitioner is a foreigner working as an English instructor at academy A. While working under an employment contract signed with the CEO of the academy, the civil petitioner found out that he was not covered by insurance at the academy. It didn't make sense to him that despite his employment contract, salary statements, passport, and visa that he was not a workplace-based insured person. He submitted an application for qualification review with the National Pension Service (the Service). The Service stated that he did not qualify because he was a business income earner (individual service provider). The civil petitioner came to the Anti-Corruption and Civil Rights Commission asking to rectify the unfairness.

The civil petitioner was a foreigner, but still confidently expressed his claim.

The civil petitioner's bold stance about the inconvenience and unfairness of the situation was extremely memorable. We found that the petitioner had been filing as a business income earner. However, the CEO of the academy had arbitrarily been withholding income taxes as business income, not earned income. The Supreme Court has ruled that "one's status as an employee should not be dismissed out of hand based simply on whether payments were base salary or fixed salary, whether earned income taxes were withheld, and whether the person is recognized as an employee with regards to social welfare programs, because when it comes to earned income tax withholdings and social welfare programs, the employer could potentially make proprietary decisions by abusing their economically superior status."

An important testimony was also acquired during our inquiry. According to the agent of the academy's business owner, the civil petitioner is a "fixed term employee" who works under the guideline of 30 hour classes during the five weekdays and therefore is paid KRW 2.1 million on the 10th of every month.

That means that the petitioner classifies as an "employee" under Article 3.1.1 of the National Pension Act and Article 23 of the Enforcement Decree of the same Act, since he workers at least 60 hours per month. It was only logical that the petitioner be seen as an employee rather than a self-employed worker since he was paid regularly on a designated day of each month, would receive one month's pay as severance pay when the twelve-month contract period was fulfilled, and received 10 days paid leave every year.

Given these circumstances, the Anti-Corruption and Civil Rights Commission relayed the civil petitioner's complaints to the Service. The civil petitioner got what he hoped for. In the end, the petitioner's qualification as a workplace-based insured person was recognized.

In most cases, it is difficult for people working for an academy to voice their opinions. But this civil petitioner's confidence in exercising his rights despite being a foreigner was impressive and gave the Anti-Corruption and Civil Rights Commission a lot to think about.

IMPLICATIONS

Even if an employee's wage is filed as business income, if the employee actually works under an employment contract and receives regular pay each month, then he/she should be classified as an employee and therefore considered eligible to subscribe to the national pension.

When determining the employee status of freelance private institution instructors, other practical elements about the working relationship besides just appearances should be factored in, such as whether the work is provided in return for wages and whether he/she is supervised by or receives orders from the employer.

This case is related to Article 8 (Workplace-Based Insured Persons) of the National Pension Act, which stipulates that an employee aged between 18 and under 60 shall become workplace-based insured.

18 Return of wrongfully paid health insurance premiums due to a delay in recognizing the subjects of industrial injuries

Even if the statute of limitations has run out, premiums paid without legal obligations should be refunded.

"I simply thought that I myself had to pay it. If my inquiries had been adequately answered, this would not have happened in the first place."

Severe traffic accident injuries can cause lifelong pain. This was the case for this civil petitioner. The civil petitioner had lost both his legs in a car accident while working in 2003. He had endured the pain and finished treatment, but that is when problems occurred. He had received hospitalized treatment covered by health insurance, but the National Health Insurance Corporation stated that the petitioner had violated the Road Traffic Act and charged the petitioner with KRW 3,753,000 the Corporation had paid as ill-gotten gains.

However, during that time the car accident was recognized as an industrial accident. The petitioner asked Korea Workers' Compensation and Welfare Service whether he had to repay the ill-gotten gains, but didn't get a sufficient answer and ended up paying the amount in full.

Later on, he realized that he was not obligated to pay. He filed a refund claim with the Korea Workers' Compensation and Welfare Service, but the Corporation had refused stating that the statute of limitations had run out. The civil petitioner who has sustained a lifelong injury desperately wanted to get this money back.

The fact that the civil petitioner was going through treatment at that time needs to be considered.

He made an inquiry to Korea Workers' Compensation and Welfare Service about ways of resolving this issue, but was told that the statute of limitations in accordance with the Industrial Accident Compensation Insurance Act had expired and there was nothing they could do. And in response to the fact that the civil petitioner's earlier inquiries about whether he had to pay had not been properly dealt with, the Service stated that it was impossible to check because they did not have a log of the telephone calls.

Looking at the circumstances before and after this incident, it is obvious that the petitioner would not have made payments to the National Health Insurance Corporation or even if he had made payments, would have requested a refund by claiming industrial accident medical care expenses. Most importantly, we decided that it would have been extremely difficult for the petitioner after having both legs amputated and going through a despairing time with treatment, to accurately be aware of his legal rights and deal with the ill-gotten gain payments.

It is clear that the statute of limitations for requesting the payments to be returned has expired.
However, the payments were the Corporation's obligation from the beginning and would not have been made by the petitioner if his inquiries had been answered. In addition, the petitioner's difficult circumstances of losing both legs in car accident while on the job had to be considered.

The Anti-Corruption and Civil Rights Commission advised that refunding the amount paid by the civil petitioner would be wise. The Corporation accepted this recommendation and the situation was resolved.
We hope that this provides a beacon of light to the petitioner.

IMPLICATIONS

Even if the statute of limitations and the petitioner's right to receive medical care insurance benefits have expired, if he has made payments there were not required of him and would not have paid if proper notification was provided, the relevant institution should actively consider returning those payments by authority to the worker.

Thus, when it is clear that the civil petitioner was wronged because the administrative institution was at fault, the institution should rectify the issue by ex officio without the petitioner having to make a complaint or file a lawsuit, and this is the very definition of active administration for the people.

This case is related to Article 112 (Prescription) of the Industrial Accident Compensation Insurance Act, which states that entitlement to insurance benefits that are not exercised within three years shall become extinctive by prescription.

19 Recognition of medical care expense based on neighborhood guarantees

Even if businesses are temporarily closed or completely shut down, people should be able to claim medical care expenses if their employment status can be verified by neighborhood guarantees or other means.

"I am in physical pain from pneumoconiosis I got working at a coal mine. That businesses site closed down, so it's hard to prove that I got pneumoconiosis from working there."

There was a time when our country relied on fossil fuels. Countless people worked at coal mines and their efforts propped up the mining industry that shined a light on Korea. However, the workers sometimes sustained lifelong pain. Long hours spent in the mines gave them occupational diseases such as pneumoconiosis because of the coal and rock dust that accumulated in their lungs.

This civil petitioner worked as a pitman in a coal mine for about 13 years, from 1966 to 1979. He found out afterwards that he also had a lung condition (pneumoconiosis), but the company he worked for had already shut down. So the civil petitioner enlisted the help of two of his colleagues who had worked with him at the coal mine as neighborhood guarantors and applied for medical care expense reimbursement.

However, the Korea Workers' Compensation and Welfare Service (the Service) returned his application without even processing it, stating that one of the two guarantors did not have a work record and therefore could not verify whether the worker had actually done dust work designated by an ordinance of the Ministry of Employment and Labor.

The civil petitioner was emotionally hurt and

asked the Anti-Corruption and Civil Rights Commission for help out of desperation. We promised to do everything to bring about a good result and initiated an investigation.

The colleagues of the civil petitioner from 40 years ago attest to the petitioner's employment status.

We calmly went through the facts and found that guarantor A clearly testified that the petitioner had worked at the coal mine, and so did guarantor B. The petitioner's attending physician also stated that the petitioner's condition was clearly pneumoconiosis and gave a diagnosis that the petitioner needed precision examination or treatment.

The petitioner's wife also worked as at a coal mine beginning early into their marriage. The wife also stated that most of their fellow workers who worked at the coal mine didn't know about the benefits and either died or were struggling with diseases in a hospital, adding strength to the testimony.

Article 33 of the Enforcement Decree of the Industrial Accident Compensation Insurance Act requires a confirmation document of having been a dust worker to be submitted when claiming medical care expenses for pneumoconiosis if the business owner cannot attest to the fact due to temporarily closed or shut down of business. Declining to even accept a medical care application and demanding that another neighborhood guarantor that meets the requirements be brought in is excessive and does not conform to the law.

The Anti-Corruption and Civil Rights Commission decided that the civil petitioner's employment record at a dust work site was verifiable and recommended that the Service re-examine its decision of denying the application. The Service listened to the Commission's recommendation and decided to initiate a fact verification process with regards to the medical care expense claim.

Those who worked in coal mines are the backbone of what made today's Korea possible. The physical pain they live with is a testament to the hardships back then. This is the very reason why reasonable basis cannot be disregarded, albeit the lack of sufficient evidence. We hope the petitioner gets well soon.

IMPLICATIONS

Even if it's difficult to prove that the petitioner worked at a dust job because the business site temporarily or completely shut down, if the previous work status can reasonably be verified based on verification forms using guarantee or the neighborhood, medical diagnosis, and other proof (pictures, etc.), reimbursing medical care expenses should be strongly reviewed.

Because the Incident happened decades ago, active efforts are needed to provide relief for socially disenfranchised persons by actively proving the causal relationship between the work and disease and finding the old colleagues to get statements.

This case is related to Article 33 (Documents Required when Claiming Medical Care Expenses for Pneumoconiosis) of the Enforcement Decree of the Industrial Accident Compensation Insurance Act, which requires the claimant to provide an employment record from the business owner in order to get reimbursed for pneumoconiosis (an occupational disease) medical care expenses.

20 Improvement of safety qualification standards for children's playgrounds within public housing areas

If accidents occur frequently, safety standards should be strengthened even if a playground meets the safety qualification standards.

"My daughter got a 3cm long scar on her chin. She's only five years old. Improvements must be made so that children don't get hurt."

A parent is devastated when their children get hurt. Scars or bruises on a child more precious than life itself, leaves an even bigger scar on a parent. That is why safety of children's playgrounds or baby products need to be prioritized.

This civil petitioner lives in a public house supplied by the Korea Land & Housing Corporation (the Corporation). Her daughter fell from a thematic child's play facility installed at the playground within the apartment complex.

The petitioner demanded that preventative measures be put in place, but the Corporation refused, stating that the facility met safety certification standards and that there were no issues. The petitioner thought the response insincere and asked the Anti-Corruption and Civil Rights Commission to strengthen playground safety certification standards in order to help prevent more children from getting hurt by putting in appropriate measures and stop these structures from being installed in the first place.

With the mindset that your own child is playing there…

Imagine how the injured child's parent feels. We decided to check out whether the facility was actually dangerous or whether the accident had been due to the child's mistake.

Children`s Playgrounds

On inspection, the play facility was extremely slippery. The steel had been painted and anti-slip tape had been used, but if one slipped, the coarse surface of the anti-slip take could actually cause abrasions.

The degree of the slope was also uneven. A user can easily expect what is going to happen if the slope is consistent, but that was not the case. The space was crowded and the location of the handle was also inappropriate. There needs to be sufficient space for the user to grasp the handles and help keep balance while moving through, but the area was small and the handles were not situated appropriately to make it easy for children to reach for. We deemed that this was the cause of the fall.

The entrance was also made out of ladders at almost right angles and sky bridge ladders, where children even more than 36 months old could lose their balance, slip and hit the structure. Lastly, ponding or other measures should prevent children from slipping, but this was only applied partially to the structures and in some areas the structure was getting rusty.

According to the Facility and Technology Standards for Children's Playgrounds, the name and contact number of the facility manager, information about what to do if accidents occur, emergency contact numbers, etc. should be openly displayed to promote user's safety. However, the signboard at the playground only stated who the managing organization was and lacked any other information such as what to do if accidents occur, emergency contact numbers, etc.

When the Anti-Corruption and Civil Rights Commission pointed this out, the Corporation protested once again saying that the playground met the safety certification criteria. Some more active investigation was needed.

The Anti-Corruption and Civil Rights Commission inspected the playground with the Korean Agency for Technology and Standards that implements playground safety certification, and found that there were no issues in accordance with current safety certification standards.

Next, we looked at the safety certification criteria related to risk factors associated with each structure. We found that there were no separate safety certification criteria for the playground passageway (platform) which was where most accidents occurred. If safety accidents repeatedly occur or there is possibility that it might, the standards should be improved to enhance the safety of the users, which is this case are children.

The Anti-Corruption and Civil Rights Commission recommended that the required safety measures be put in place as soon as possible to prevent other child accidents. Furthermore, the Commission stated to the Korean Agency for Technology and Standards the necessity of improving the safety certification criteria to reflect the various child playgrounds by type and age of users.

We received a letter from the civil petitioner. Her sentiment was that of any other parent out there.

"I asked for help because I thought wronged when the people in charge made it seem like this was just a malignant civil complaint, when all I wanted to do was improve the playground to make it safe. There was no institution that took the children's side. Thank you so much for helping replace a dangerous playground."

IMPLICATIONS

Even if a children's playground passes the safety certification criteria, if there are frequent accidents at the playground, the issues regarding the standards should be analyzed and reviewed to make immediate and active safety improvements.

The safety of children's facilities cannot be stressed enough and therefore, even if a facility is in line with safety standards, actual accidents happening on site should trigger fundamental re-examinations of the safety standards from the user's perspective.

This is a case related to 4.1 of the Facility and Technology Standards for Children's Playgrounds (Ministry of Public Administration and Security Notification No. 2017-1) which regulated the safety levels of children's playgrounds.

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