

REPUBLIKA NG PILIPINAS  
SANGGUNIANG PANLUNGSOD  
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE  
FOURTEENTH SANGGUNIANG PANLUNGSOD NG ORMOC HELD  
AT THE SANGGUNIANG PANLUNGSOD SESSION HALL,  
ORMOC CITY HALL BUILDING  
ON JANUARY 10, 2019

PRESENT:

Vincent L. Rama,	(Acting City Vice-Mayor & Temporary Presiding Officer), SP Member, Majority Floor Leader
Mario M. Rodriguez,	SP Member, Presiding Officer "Pro-Tempore"
Tomas R. Serafica,	SP Member, Asst. Majority Floor Leader
Benjamin S. Pongos, Jr.,	SP Member
Eusebio Gerardo S. Penserga,	SP Member
Gregorio G. Yrastorza III,	SP Member
Nolito M. Quilang,	SP Member
John Eulalio Nepomuceno O. Aparis II,	SP Member
Lea Doris C. Villar,	Minority Floor Leader SP Member, Asst. Minority Floor Leader

ON OFFICIAL BUSINESS:

Esteban V. Laurente,	(Acting City Mayor), Ex-Officio SP Member, Chapter President, Liga ng mga Barangay ng Ormoc
----------------------	--

ON LEAVE:

Leo Carmelo L. Locsin, Jr.	City Vice Mayor & Presiding Officer
Jasper C. Yerro,	Ex-Officio SP Member, Chapter President, Panlungsod Pederasyon ng mga Sangguniang Kabataan ng Ormoc

**RESOLUTION NO. 2019-011**

**A RESOLUTION GRANTING AUTHORITY TO THE CITY MAYOR RICHARD I. GOMEZ, OR THE ACTING CITY MAYOR TO PROCEED WITH THE TERMINATION OF THE MEMORANDUM OF AGREEMENT (MOA) MADE AND ENTERED INTO BY AND BETWEEN TAI-PAN DEVELOPMENT INC. AND THE CITY GOVERNMENT OF ORMOC RELATIVE TO THE ORMOC CITY SHOPPING MALL, AND TO CARRY OUT SUCH MEASURES AS THE CITY MAYOR SHALL DEEM REASONABLE AND APPROPRIATE IN CONNECTION THERETO, INCLUDING BUT NOT LIMITED TO, THE FILING AND DEFENDING OF CASES IN THE COURTS.**

WHEREAS, this Fourteenth Sangguniang Panlungsod was in receipt of an Indorsement dated January 03, 2019 from the Office of the City Mayor, endorsing a request for the issuance of an authority for the City Mayor to cause the termination of the Memorandum of Agreement (MOA) dated December 8, 1995 with the Tai-Pan Development Incorporated relative to the Ormoc City Shopping Mall, further requesting that the authority include the collection of its monetary claims, and to recover possession and control of the premises of the Ormoc City Shopping Mall, including but not limited to:

- a. Sending out letters/notices/demand to such effect;
- b. Filing of judicial action(s) for the rescission of the Memorandum of Agreement, recovery of claims, and immediate relief through provisional remedies;



c. Filing of judicial action(s) for the ejectment of all unlawful occupants of the Ormoc City Shopping Mall;

d. Recovery of such other reliefs that may be deemed reasonable,

and further classifying the same as EXTREMELY URGENT;

WHEREAS, to recall a Memorandum of Agreement (MOA) was entered into by and between the City Government of Ormoc (as Owner) and TAI-PAN Development Incorporated (as Operator) dated December 8, 1995 relative to the purchase, lease, operation and transfer of the Ormoc City Shopping Mall, a copy of said MOA is hereto attached as Annex "A" and made an integral part hereof;

WHEREAS, at approximately one (1:00) o'clock in the morning of July 23, 2017, a fire broke out within the premises of Gaisano Capital Ormoc and thereafter causing massive damage to the building;

WHEREAS, Section V of the aforementioned MOA requires payment of insurance premiums solely by the Operator and that based on the letter of the Government Service Insurance System (GSIS) to the City Administrator dated August 2, 2017, the City was informed that the building where Gaisano Capital of Ormoc was operating was not issued an insurance coverage for the period covering July 23, 2017 as no application for renewal of insurance coverage was received following the expiration of coverage on April 15, 2014;

WHEREAS, the Ormoc City Fire Marshall thru a Spot Investigation Report dated July 23, 2017 came out with a finding that the structure is noted as "totally burned" by reason of the fire, and therefore, considered as totally destroyed;

WHEREAS, by reason of foregoing, the City Mayor's Office thru an Endorsement dated September 18, 2017, had requested for authority from this Sanggunian to sign an attached copy of a "Notice of Termination of Memorandum of Agreement with Demand for Indemnification" (Notice), a copy of which is attached as Annex "B" hereto and made an integral part hereof;

WHEREAS, in said Notice grounds raised for the MOA termination and claims for indemnification were anchored on, first, the aforementioned failure of the Operator to renew the insurance coverage and, second, the extinguishment of the building by reason of the fire;

WHEREAS, however, a perusal of Section XX of the aforementioned MOA had shown that in the event of a dispute during the effectivity of the same between the Owner (City Government of Ormoc) and Operator (Tai-Pan Development, Inc.), the same shall be referred to the Arbitration Committee composed of the City Mayor or his representative, the Operator or his representative, a representative of the Sangguniang Panlungsod, a representative of a Non-Governmental Organization (NGO) and the City Legal Officer as Chairman, for which purposes a Committee was therefore constituted by virtue of Executive Order No. 16, Series of 2018 in order to address the issues raised in said Notice;

WHEREAS, in a letter dated January 3, 2019, City Legal Officer, Atty. Josephine A. Mejia-Romero explained that the Committee had failed to come to a resolution of the subject controversy that is mutually acceptable to the parties after having exhausted means towards an amicable settlement of their dispute, and Atty. Romero, therefore, recommended that LGU Ormoc shall undertake legal measures towards the rescission of the MOA and when necessary, address its claims to the Courts of general jurisdiction, copies of said legal opinion and Arbitration Committee Resolution are hereto attached as Annexes "C" and "D", respectively, and made integral parts hereof;



WHEREAS, upon close and thorough review of the same, this Sanggunian finds that for purposes of fully protecting the interests of the City, the request on the subject Indorsement is deemed to be necessary and meritorious, and further, that the manner chosen upon which the City's interests are to be pursued and protected, is determined to be proper and in order, rendering the request, therefore, deserving of this august Body's prompt and affirmative action;

WHEREFORE, on joint motion of SP Member Benjamin S. Pongos Jr., Chairman, Committee on Laws and Ordinances and SP Member Tomas R. Serafica, Chairman, Committee on Ways & Means, Public Properties & Economic Enterprise, jointly seconded by SP Members Tomas R. Serafica and Gregorio G. Yraostroza III; be it

RESOLVED, AS IT IS HEREBY RESOLVED, to pass a RESOLUTION GRANTING AUTHORITY TO THE CITY MAYOR RICHARD I. GOMEZ, OR THE ACTING CITY MAYOR TO PROCEED WITH THE TERMINATION OF THE MEMORANDUM OF AGREEMENT (MOA) MADE AND ENTERED INTO BY AND BETWEEN TAI-PAN DEVELOPMENT INC. AND THE CITY GOVERNMENT OF ORMOC RELATIVE TO THE ORMOC CITY SHOPPING MALL, AND TO CARRY OUT SUCH MEASURES AS THE CITY MAYOR SHALL DEEM REASONABLE AND APPROPRIATE IN CONNECTION THERETO, INCLUDING BUT NOT LIMITED TO, THE FILING AND DEFENDING OF CASES IN THE COURTS;

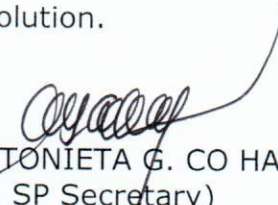
ADOPTED, January 10, 2019.

RESOLVED, FURTHER, that a copy of the final and signed Notice of Termination of Memorandum of Agreement with Demand for Indemnification be furnished to this Sanggunian for its information and files;

RESOLVED, FINALLY, to furnish copies of this resolution each to the City Mayor of Ormoc Richard I. Gomez, the City Administrator, Mr. Vincent L. Emnas; the City Legal Officer, Atty. Josephine A. Mejia-Romero; the City Treasurer's Office; the City General Services Office; TAI-PAN Development Inc., Gaisano Capital Group; the OIC-City Director, DILG; and other offices concerned for their information and guidance;

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the above resolution.

  
MARIA ANTONIETA G. CO HAT  
(OIC - SP Secretary)  
Supervising Administrative Officer

ATTESTED:

  
VINCENT L. RAMA  
(Acting City Vice-Mayor & Temporary Presiding Officer)  
Majority Floor Leader  
SP Member



11 Annex A 11

## MEMORANDUM OF AGREEMENT

KNOW ALL MEN BY THESE PRESENTS.

This Memorandum of Agreement made and entered into by and between:

The City Government of Ormoc, represented in this instance by its Honorable City Mayor **EUFROCINO M. CODILLA, SR.**, of legal age, married, and a resident of Ormoc City, hereinafter known as the "OWNER" as authorized by Sangguniang Panlungsod Resolution No. 95-79 dated October 5, 1995, copy of which is hereto attached as Annex "A";

- and -

**TAI-PAN DEVELOPMENT INCORPORATED**, a domestic corporation duly registered with the Securities and Exchange Commission and with principal place of business in Cebu City, and represented in this instance by its President/Manager **MR. EDMUND S. GAISANO**, of legal age, married and a resident of Cebu City, hereinafter known as the "OPERATOR";

### WITNESSETH:

WHEREAS, the establishment of the TAI-PAN Development Incorporated in Ormoc City will definitely spur economic growth, generate employment, and increase the income of the City;

WHEREAS, in the public, open and transparent bidding on September 15, 1995 at the Sangguniang Panlungsod Session Hall for the purchase, lease, operation, and transfer of the Ormoc City Shopping Mall, the TAI-PAN Development Incorporated surfaced as the winning bidder as shown by the Resolution of the Committee on Economic Enterprises hereto attached as Annex "B";

NOW, THEREFORE, for and in consideration of the foregoing premises, the parties hereto have agreed and do hereby agree as follows:

### BUILDING AND REIMBURSEMENT

Upon the signing of this MOA, the Operator shall reimburse the Owner of the actual cost of the building and its facilities amounting to **SEVENTY THREE MILLION FOUR HUNDRED SEVENTY EIGHT THOUSAND SIX HUNDRED SEVENTY NINE PESOS AND 59/100 (P73,478,679.59)** in a form of a Check (Phil. Banking Check No. 258131, Cebu Branch, Cebu City dated Sept. 15, 1995).

## II. RENOVATION, OPERATION OF THE SHOPPING MALL AND TERM

The Owner grants the Operator a rental free six months renovation period from the date of the signing of the MOA. The Operator shall operate the Shopping Mall for a period of twenty four (24) years which shall begin six (6) months after the signing of this MOA after which actual possession of the building shall automatically be turned over to the Owner.

## III. LAND LEASE, RENT AND RIGHT TO SUBLEASE THE BUILDING

The total land area which is subject of the lease by the Operator is 5,589 Sq. meters occupied by the old and the new buildings including the parking space surrounding the three (3) sides of the Shopping Mall.

The monthly rent of the land is P211.68 per square meter per month payable every first week of the month with an escalation rate of ten percent (10%) per year.

Upon the signing of this MOA, the Operator shall pay an advance rent for five (5) years for the lot in the amount of THREE MILLION NINE HUNDRED SIXTEEN THOUSAND SEVEN HUNDRED SEVENTY ONE PESOS AND 20/100 (P 3,916,771.20) also in a form of a Check (Phil. Bank Check No. 258132 dated Sept. 15, 1995).

The period for the lease of the land is COTERMINOUS with the term for the operation of the Shopping Mall.

The Operator of the building shall have the right to sub-lease the same during the term of operation but the Sub-Lessee shall be subject to all the terms and conditions of this MOA.

## IV. PARKING SPACE OF THE SHOPPING MALL

The parking area surrounding the Ormoc City Shopping Mall shall be used as parking space for motor vehicles. However, during special occasion, the Operator may use the same to conduct rallies, and benefit shows. It shall be under the control of the Operator but the Owner shall clear the area of sidewalk vendors within one month from signing of this MOA.

## V. INSURANCE AND DAMAGE

During the term of operation, the Ormoc City Shopping Mall shall be insured against fire, earthquake, flood, and other natural perils in the amount of SEVENTY FIVE MILLION PESOS (P 75,000,000.00) with the Government Insurance System (GSIS) upon signing of the Memorandum of Agreement. The payment of the premium shall be borne solely by the Operator with the Owner as the Insured.

In the event of total or partial damage, the Owner shall file the necessary claim with the GSIS and make appropriate representations thereto.



The proceeds of the insurance shall be put in a trust fund to be used solely for the reconstruction of the Shopping Mall in the event the same is partially or totally damaged by fire, earthquake, and/or any insured peril. Reconstruction of the Shopping Mall shall commence within six (6) months from the date the damage occurs.

Should said proceeds be insufficient to complete the reconstruction, the Owner shall put up the necessary funds to do so, at its own expense.

Upon completion of the reconstruction, this agreement, which was then suspended due to the damage of the insured property, shall resume to be in full force and effect with the suspended period restored until its termination.

Should future structural or permanent improvements be put up by the Operator, the same shall be insured with the GSIS, the value of which shall be ascertained by the GSIS and the Owner.

Such additional improvements shall be subject to the above-mentioned terms and conditions.

#### VI. REPAIRS AND MAINTENANCE

All further repairs, maintenance and improvements of the Ormoc Shopping Mall covering the old and the new buildings including the facilities thereof shall be at the expense of the Operator except the cost for the reconstruction of the damage mentioned in condition No. V, par. 3 hereof.

#### VII. IMPROVEMENTS

During the term of operation, the Operator may introduce major and permanent improvements such as restaurants and theaters, to the Ormoc City Shopping Mall subject to existing city ordinances, the New Building Code and its implementing rules and regulations.

Improvements such as generator, air conditioner, cash vault, dumbwaiter, and all other mechanical and electrical improvements which can be removed without defacing the building can be removed by the Operator after the expiration of the term of operation of the Shopping Mall and lease of the land. The escalator, transformer, sprinklers and fire alarm system and all structural or permanent improvements shall belong to the Owner.

#### VIII. AIR CONDITIONING SYSTEM

Air conditioning system shall be installed by the Operator at its own expense for all the shopping areas of the Shopping Mall within six

(6) months from the signing of the MOA.

IX. INTERIOR DECORATION, PAINTING OUTSIDE, INSTALLATION OF ESCALATOR, TRANSFORMER AND GENERATOR, ELECTRICAL SYSTEM AND WARRANTY AGAINST CLAIMS.

The Operator shall undertake at his own expense the interior decoration and outside painting of the Shopping Mall and the installation of the generator. But the installation of the two units escalators, sprinkler and fire alarm system, and transformer shall be at the expense of the Owner.

The electrical facilities in the basement and mezzanine floor of the new building of the Ormoc Shopping Mall are already existing. But the electrical facilities of the 3rd and 4th floor of the new building and the whole of the old building shall be installed by the Operator at his own expense.

Warranty against claims is assured by the Owner, in that there are no claims for contractor's, materialmen's and worker's liens against the said buildings. For this purpose, the Owner shall furnish the Operator with copies of the requisite waiver or release of claims from such persons.

X. PAYMENT OF REAL PROPERTY TAXES FOR LOT AND THE BUILDING AND ASSESSMENT ON THE IMPROVEMENTS OF THE BUILDING

The Operator shall pay for the real property taxes on the building, if due.

XI. PAYMENT OF ALL BUSINESS TAXES AND INCOME TAXES

All business and income taxes that are due, arising from the operation of the Ormoc City Shopping Mall shall be paid in Ormoc City.

XII. LEASE CONTRACT OF THE MERCURY DRUG CORPORATION

Upon the signing of this MOA, the Owner shall continue receiving the monthly rental from the Mercury Drug Corporation for a period of six (6) months. Thereafter, the Operator shall receive the monthly rental until the expiration of the existing contract of Mercury Drug with the City Government of Ormoc.



### XIII. EMPLOYMENT OF ORMOC CITY RESIDENTS

The Operator commits itself to giving priority employment opportunities to Ormoc City residents in the operation of the Shopping Mall provided that they are qualified.

### XIV. PERFORMANCE BOND

In lieu of posting a performance bond which will guarantee the faithful compliance to the terms and conditions of this MOA by the Operator, the Operator agrees that in the event of a failure on the Operator's part to comply with any provision of this MOA and such failure is not resolved in the Arbitration Committee, the Owner has the right to preterminate the MOA by giving 60 days notice to the Operator.

### XV. FORTUITOUS EVENT

In case of fortuitous events such as but not limited to flood, storm, war, earthquake fire and other natural perils, that shall make the operation of the Shopping Mall impossible, effectivity of the terms and conditions of the MOA shall be suspended and shall resume when the Shopping Mall shall again be operational.

### XVI. OPTION TO RENEW

After the expiration of the term for operation of the Shopping Mall and the lease of the land, both parties may renew the MOA and the Land Lease contract under terms and conditions mutually agreed upon.

### XVII. RIGHT OF FIRST REFUSAL

Should the Owner decide to sell the lot and the building, the same should first be offered to the Operator in writing. And in the event that valid written offers by third persons are received by the Owner, the Operator reserves the right to equal such offers.

### XVIII. APPROVAL OF CITY COUNCIL

The Owner shall obtain the approval and ratification of this Agreement by the City Council within fifteen (15) days from execution of this Agreement and shall furnish the Operator with a copy thereof.

### XIX. REGISTRATION OF AGREEMENT

This Memorandum of Agreement shall be registered by the Operator at its own expense at the Register of Deeds of Ormoc City, to bind third (3rd) parties, within thirty (30) days from execution of this Agreement.



XX. SETTLEMENT OF DISPUTES

In the event a dispute arises during the effectivity of this MOA between the Owner and the Operator, the same shall be referred to the Arbitration Committee composed of the City Mayor or his representative, the Operator or his representative, a representative of the Sangguniang Panlungsod, a representative of a Non-Governmental Organization (NGO) and the City Legal Officer as Chairman.

Should the Owner and the Operator fail to arrive at a compromise agreement in the Arbitration Committee, the dispute shall be endorsed to the proper court for appropriate action.

IN WITNESS WHEREOF, We hereunto affix our signatures this \_\_\_\_\_ day of \_\_\_\_\_, 1995 at Ormoc City, Philippines.

City Government of Ormoc  
Represented by:

Hon. EUFROCINO M. CODILLA, SR.  
City Mayor

TAI-PAN DEVELOPMENT INC.  
Represented by:

MR. EDMUND S. GAISANO  
President/Manager

SIGNED IN THE PRESENCE OF:

Hon. Benjamin R. Tugonon  
Vice-Mayor  
Witness

Ms. Cynthia Nierras  
Regional Director DTI, Region 8  
Witness

Buenaventura Go-Soco  
Regional Director, NEDA, Region 8  
Witness

Atty. Roberto Abejero  
Regional Director DILG, Region 8  
Witness

Mr. Manuel Pascual  
President Chinese Chamber of Commerce  
Witness

Mr. Ben Ong  
President Ormoc Filipino Retailers Association  
Witness



REPUBLIC OF THE PHILIPPINES)  
CITY OF ORMOC )

In the City of Ormoc, this \_\_\_\_\_ day of \_\_\_\_\_, 1995,  
personally appeared before me, TAI-PAN DEVELOPMENT INCORPORATED,  
represented by its President/Manager, MR. EDMUND S. GAISANO  
with C. T. C. No. \_\_\_\_\_ Issued at \_\_\_\_\_  
on \_\_\_\_\_ and the City Government of  
Ormoc represented by its City Mayor EUFROCINO M. CODILLA, SR. with  
C. T. C. No. \_\_\_\_\_ Issued at \_\_\_\_\_  
on \_\_\_\_\_ known to me and  
to be the same persons who executed the foregoing instrument and acknow-  
ledged the same to be their free voluntary act and deed.

This instrument consists of seven (7) pages including this page on  
which this acknowledgment is written duly signed by the parties thereto and  
the instrumental witnesses on each and every page thereof.

WITNESS MY HAND AND SEAL on the date and place first above  
written.

CLETO L. EVANGELISTA, JR.  
City Legal Officer  
Notary Public until Dec. 31, 1995  
PTR No. 830749, 1-6-95 Ormoc City  
IBP No. 338456, 1-13-95 Ormoc City

Doc. No.  
Page No.  
Book No.  
Series of 1995





Republic of the Philippines  
**OFFICE OF THE CITY MAYOR**  
Ormoc City, Leyte

(date)

**NOTICE OF TERMINATION OF MEMORANDUM OF AGREEMENT  
WITH DEMAND FOR INDEMNIFICATION**

**GAISANO CAPITAL GROUP**

Gaisano Capital Building, Gen. Maxilom Avenue  
North Reclamation Area, Cebu City

Attention: **Atty. Cheryl Bevin L. Tan**  
**Corporate Legal Counsel**

Atty. Tan:

This is in reference to the Memorandum of Agreement (MOA) between the City Government of Ormoc (as Owner) and TAI-PAN Development Incorporated (as Operator) dated 8 December 1995, in relation to the fire that occurred within the premises of Gaisano Capital Ormoc at approximately 0100H/23 July 2017.

This is to inform you that the aforementioned MOA is TERMINATED for the following reasons:

1. Section V of the aforementioned MOA, requiring payment of insurance premiums solely by the Operator. Based on the letter of the GSIS to the City Administrator dated 02 August 2017, the City was informed that the building where Gaisano Capital of Ormoc was operating was not issued an insurance coverage for the period covering 23 July 2017 as no application for renewal of insurance coverage was received following the expiration of coverage on 15 April 2014. The failure of the Operator to comply with the aforementioned provision of the MOA is treated by the City as a significant/substantial breach warranting rescission/cancellation/termination thereof pursuant to Art. 1191 of the Civil Code.
2. Per Art. 1655 of the Civil Code, the total destruction of the object of the lease due to a fortuitous event extinguishes the lease. Relevant herein is the Spot Investigation Report dated 23 July 2017 re the Gaisano Capital fire on the same date rendered to the Ormoc City City Fire Marshal, the structure is noted as "totally burned." Applying the abovementioned provision of the Civil Code to the uncontested findings of fact of the Ormoc City Fire Station, the City finds that the building that was object of the lease has been destroyed, resulting to the extinguishment of the lease.

Further, this serves to inform you of our DEMAND for indemnification as follows:

1. Seventy Five Million Pesos (Php75,000,000.00) for the loss of the building owned by the City, representing the amount that would have been received by the City Government had the structure been insured based on the MOA;
2. Thirty Four Million Seven Hundred Thirty Thousand Three Hundred Seven One Pesos and Ninety Two Centavos (Php34, 730, 371.92) representing income lost to the City



3. One Million Pesos more or less representing exemplary damages for the wanton and capricious disregard to perform the obligations of the MOA and to deter others from doing the same to the City.

You are hereby requested to promptly inform the undersigned of any action taken upon this Notice.

For your information and guidance.

Very Truly Yours,

**RICHARD I. GOMEZ**  
City Mayor

DEMO COPY

# OFFICE OF THE CITY LEGAL OFFICER

Ormoc City, Leyte



3 January 2019

**MAYOR RICHARD I. GOMEZ**  
Ormoc City

**RECEIVED**

DATE: 1-3-19

TIME: 10:00

SIGNATURE: *[Signature]*

**THRU: MA. VICTORIA LYRA P. DELA CERNA**  
City Mayor's Office

Re: LEGAL OPINION ON THE LETTER OF THE GAISANO CAPITAL  
CORPORATE TEAM DATED DECEMBER 3, 2018

## References:

1. Referral dated 19 December 2018 requesting comment;
2. Letter of Atty. Baldomero Estenzo, Camille E. Bono and Teachie Felina O. Norombaba.

Dear Mayor Gomez:

1. The letter dated December 3, 2018 sent by the Gaisano Capital Group of Companies through counsel was referred to this office for comment. The communication relays the following points:
  - a. The proceeds allegedly released by the GSIS to the LGU Ormoc be placed in a trust fund and released to them;
  - b. Reconstruction of the mall by the LGU Ormoc;
  - c. Delivery of the amount of Php 84,147,257.73 representing the difference between the GSIS Insurance Proceeds and the amount advanced by the Tai-pan under the Memorandum of Agreement dated December 3, 1995 (hereinafter referred to as the MOA);
  - d. Delivery of the amount of P4,219,297,716.63 representing the damages due to loss of income;
  - e. Suspension of the Memorandum of Agreement between the LGU Ormoc and the Tai-pan.
2. The foregoing are issues that are intimately related to and are in direct contrast to the position taken by the LGU Ormoc as raised in Arbitration Committee formed pursuant to Article XX of the MOA. Attached is a copy of the said letter from your office to Atty. Jasper M. Lucero as Chairman of the Arbitration committee, the contents of which are made integral parts hereof.
3. The foregoing has also been addressed by this office in an opinion rendered by Atty. Burt J. Pades, the pertinent portion of which is quoted hereunder:

New Ormoc City Hall, Aunubing St., Cogon, Ormoc City  
(053) 255-7295 loc. 1010 ++ clo.ormoc@gmail.com



## OFFICE OF THE CITY LEGAL OFFICER

Ormoc City, Leyte

### "RECOMMENDATION(S):

Given the failure of the parties to arrive on an agreement mutually acceptable to them after having exhausted means towards an amicable settlement of their dispute, it is recommended that the LGU Ormoc undertake legal measures towards the rescission of the Memorandum of Agreement dated December 8, 1995 and, when necessary, address its claims to the Courts of general jurisdiction.

It is further recommended that the matter be referred to the Sangguniang Panlungsod to secure the authority for the City Mayor to cause the termination of the Memorandum Agreement and collection of its monetary claims, and to recover possession and control of the premises of the Ormoc City Shopping Mall, including but not limited to:

- a. Sending out letters/ notices/ demand to such effect;
  - b. Filing of judicial action(s) for the rescission of the Memorandum of Agreement, recovery of claims, immediate relief(s) through provisional remedies;
  - c. Filing of judicial action(s) for the ejectment of all unlawful occupants of the Ormoc City Shopping Mall;
  - d. Recovery of such other reliefs as may be deemed reasonable."
4. Clearly, the matters subject of the communication of Gaisano Capital Group of Companies pertain to issues raised by the LGU Ormoc. Any action thereon will be prejudicial to the interests of the City Government, especially since it has taken a position contrary to that presented by the Gaisano. Until the issues are resolved with finality and the claims of LGU Ormoc are satisfied, it is the opinion of this office that any demand by and from Gaisano or any of its representatives, be denied and effectively refuted.
5. This opinion is rendered without prejudice to contrary opinion from competent authorities and/or ruling of proper court and/ or supervening event(s) or circumstances.
6. For the consideration of the City Mayor.

Most Respectfully,

**JOSEPHINE A. MEJIA-ROMERO**  
City Legal Officer

*Doc. file sent through electronic mail to [lguormoccmo@gmail.com](mailto:lguormoccmo@gmail.com) (Jan 3, 2019, Gaisano Claim)*

New Ormoc City Hall, Aunubing St., Cogon, Ormoc City  
(053)255-7395 loc. 1010 ++ [clo.ormoc@gmail.com](mailto:clo.ormoc@gmail.com)

Annex D



Republic of the Philippines  
**ARBITRATION COMMITTEE**  
Local Government Unit of Ormoc

EXCERPT FROM THE MINUTES OF THE MEETING  
OF THE ORMOC-TAIPAN ARBITRATION COMMITTEE  
HELD AT HOTEL DON FELIPE, ORMOC CITY  
ON SEPTEMBER 19, 2018

PRESENT:

Atty. Jasper M. Lucero	Chairman, CGO - Taipan Arbitration Committee - City Legal Officer
Mr. Vincent L. Emnas	Member - City Administrator
Mr. Ricarte M. Santos	Member - Rep. of Taipan Dev. Inc.
Atty. Baldomero C. Estenzo	Counsel for Taipan
Atty. Camille E. Baño	Counsel for Taipan
Atty. Teachie Felina O. Norombaba	Counsel for Taipan

ABSENT:

Atty. Benjamin S. Pongos Jr.	Member – SP Member
Atty. Josephine Mejia-Romero	Member – President, Occidental Leyte Bar Association

**RESOLUTION NO. 2018-04**

WHEREAS, pursuant to Section XX, of the MOA between LGU-Ormoc City (CGO) and Tai-pan Development Inc. (Taipan) executed in 1995, the parties agreed that in the event of a dispute that arises during the effectivity of the MOA, the same shall be referred to the Arbitration Committee composed of the City Mayor or his representative, the Operator or his representative, a representative of the Sanggunian Panlungsod, a representative of a Non-Government Organization and the City Legal Officer as the Chairman, and should the owner and operator fail to arrive at a compromise agreement, the dispute shall be endorsed to the proper court for appropriate action.

WHEREAS, a dispute arises when the LGU-Ormoc City sent a notice to arbitrate seeking to the termination of the MOA due to violation of the provisions of the MOA by Operator for non-payment of the insurance premium and the destruction of the building subject of the MOA.

WHEREAS, an ORMOC-TAIPAN ARBITRATION COMMITTEE was created composed of ATTY. JASPER M. LUCERO, City Legal Officer as the Chairman, MR. VINCENT EMNAS, representative of the Mayor, RICARTE SANTOS, representative of the Operator, ATTY. BENJAMIN PONGIS JR., representative of the Sanggunian, and ATTY. JOSEPHINE M. ROMERO, a representative of Occidental Leyte Bar Association, an NGO, tasked to hear and mediate the parties for purposes of arriving at a compromise agreement.

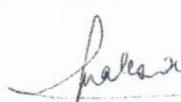


WHEREAS, after several conferences for the parties to come up with an amicable settlement of their dispute, they could not arrive at a compromise agreement, the Arbitration is terminated;


NOW THEREFORE, for and in view of the foregoing, this ARBITRATION COMMITTEE hereby resolve as it is hereby resolved that as the LGU-Ormoc City and Tai-pan Development Inc. failed to arrive at a compromise agreement, the dispute shall now be endorsed to the proper court for proper action pursuant to Section XX of the MOA.


RESOLVED FINALLY that, after having failed to arrive at a compromise agreement, the City Government of Ormoc-Taipan Arbitration Committee is formally dissolved.

Done this 19<sup>th</sup> day of September 2018, in Ormoc City, Leyte, Philippines.

  
**MARINETTE A. SOLIBAGA**  
Secretariat

APPROVED:

  
**ATTY. JASPER M. LUCERO**  
Chairman, CGO-Taipan Arbitration Committee  
City Legal Officer

  
**MR. VINCENT LEMNAS**  
Member, CGO-Taipan Arbitration Committee  
Representative of the City Mayor

  
**MR. RICARTE SANTOS**  
Member, CGO-Taipan Arbitration Committee  
Representative of Taipan Development Incorporated

— absent —  
**Atty. Benjamin S. Pongos Jr.**  
Member, CGO-Taipan Arbitration Committee  
Representative of Sanguniang Panlungsod (SP)

— absent —  
**Atty. Josephine Mejia-Romero**  
Member, CGO-Taipan Arbitration Committee  
Representative of NGO - Occidental Leyte Bar Association