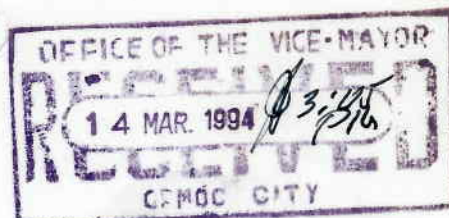




REPUBLIKA NG PILIPINAS
SANGGUNIANG PANLUNGSOD
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE SIXTH
SANGGUNIANG PANLUNGSOD NG ORMOC HELD AT THE HONORABLE
PLACIDO ENECIO SESSION HALL, SANGGUNIANG PANLUNGSOD
BUILDING ON MARCH 10, 1994



PRESENT:

Hon. Benjamin F. Tugonon,
Hon. Sotero M. Pepito,
Hon. Celso P. Adolfo,
Hon. Sixto T. Pongos,
Hon. Benjamin B. Lladoc,
Hon. Mariano Y. Corro,
Hon. Nestor C. Penserga,
Hon. Claudio P. Larrazabal,
Hon. Jose C. Alfaro, Jr.,
Hon. Alfredo F. Capahi,
Hon. Fernando P. Parrilla,
Hon. Angelyn R. Paca,

Vice-Mayor & Presiding Officer,
Majority Floor Leader, Kagawad

Kagawad
Kagawad
Kagawad
Kagawad
Kagawad
Kagawad
Kagawad
Kagawad
Kagawad
Kagawad
Kagawad



ABC President, Ex-Officio, Kagawad
SK Fed. Pres., Ex-Officio, Kagawad

ABSENT:

Hon. Jose B. Conejos, (Force Leave), Asst. Maj. Flr. Leader, Kagawad

RESOLUTION NO. 45

A RESOLUTION DISAPPROVING ORDINANCE NO. 01 S. 1994 OF THE
BARANGAY COUNCIL OF BARANGAY CAN-UNTOS, THIS CITY,
ENTITLED "AN ORDINANCE IMPOSING TOLL FEES ON ALL TRUCK
HAULERS OF SAND, GRAVEL AND OTHER MINING AGGREGATES
PASSING THROUGH BARANGAY ROADS OF BARANGAY CAN-UNTOS,
ORMOC CITY.

WHEREAS, this august Body is in receipt of Resolution No. 02 s.
1994 of the Barangay Council of Can-untog, this city, embodying Ordinance
No. 01 s. 1994 entitled "An Ordinance imposing Toll Fees on all truck
haulers of Sand, Gravel and other Mining Aggregates passing through
barangay roads of Barangay Can-untog, Ormoc City";

WHEREAS, the City Legal Officer through 3rd Indorsement dated 2
March 1994 has the following comments:

- 1) Ordinance No. 1 s. 1994 of Barangay Can-untog is
unconstitutional for being a class legislation. The said
ordinance is discriminatory against truck haulers of sand,
gravel and other mining aggregates only. How about truck
haulers of other goods, which may frequently pass the
roads of Brgy. Can-untog? Art. III, Sec. 2 of the
Constitution provides:

"No person shall be deprived of life, liberty, or
property without due process of law, nor shall any person
be denied the equal protection of the laws."

- 2) Said Ordinance in reality levies a fee on the sand gravel and other mining aggregates being hauled by the truck which is beyond its taxing powers as provided under Sec. 133 of the Local Government Code quoted hereunder:

"Sec. 133. Common Limitation in the Taxing Powers of Local Government Units. - Unless otherwise provided herein, the exercise of the taxing powers of provinces, cities, municipalities, and barangays shall not extend to the levy of the following:

X X X X

- e) Taxes, fees and charges and other impositions upon goods carried into in or out of, or passing through, the territorial jurisdictions of local government units in the guise of charges for wharfage, tolls for bridges or otherwise, or other taxes, fees or charges in any form whatsoever upon such goods or merchandise."

WHEREAS, the Sixth Sangguniang Panlungsod ng Ormoc through a communication dated 18 February 1994 addressed to the Sangguniang Barangay of Brgy. Can-untog inquired as to whether a public hearing was conducted by the said Sangguniang Barangay prior to the approval of said ordinance considering that this ordinance imposes toll fees, but unfortunately, as of this date, no reply was received by this august Body from the said Barangay;

NOW, THEREFORE, on motion of Kagawad Mariano Y. Corro, Chairman, Committee on Laws and Ordinances, severally seconded by Kagawad Claudio P. Larrazabal, Alfredo F. Capahi and Jose C. Alfaro, Jr; be it

RESOLVED, AS IT IS HEREBY RESOLVED, to disapprove Ordinance No. 1. s. 1994 of the Barangay Council of Can-untog, this city, entitled "An Ordinance imposing Toll Fees on all truck haulers of Sand, Gravel and Other Mining Aggregates passing through barangay roads of Brgy. Can-untog, Ormoc City.", in the view of the reasons stated above.

ENACTED, March 10, 1994.

RESOLVED, FURTHER, to furnish copies of this resolution each to His Honor, the City Mayor, the City Administrator, the Honorable ABC President, the DILG-ACSO Officer and the Honorable Punong Barangay of Brgy. Can-untog, -all in Ormoc City;

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the foregoing resolution.


BENJAMIN TUGONON
Vice-Mayor & Presiding Officer

Res. No. 45

ATTESTED:


OSCAR M. LASAM
City Secretary

APPROVED:


EUFROCINO M. CODILLA, SR.
City Mayor

3/15/94
(Date)

/magch 94
/dsk:R94-1