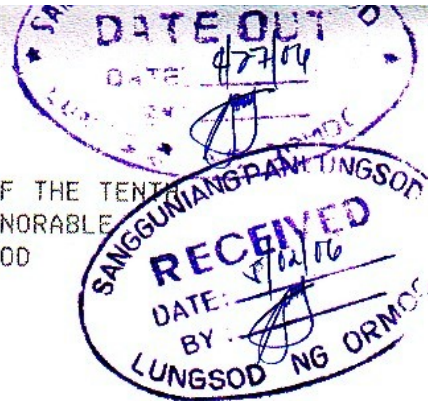


REPUBLIKA NG PILIPINAS  
SANGGUNIANG PANLUNGSOD  
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE TENTH  
SANGGUNIANG PANLUNGSOD NG ORMOC HELD AT THE HONORABLE  
PLACIDO ENECIO HALL, SANGGUNIANG PANLUNGSOD  
BUILDING ON APRIL 26, 2006 IN LIEU

PRESENT:

Hon. Nepomuceno P. Aparis I,	Vice Mayor & Presiding Officer
Hon. Jose S. Serafica,	City Councilor, Minority Floor Leader
Hon. Manuel T. Fiel,	City Councilor, Assist. Minority Floor Leader
Hon. Eduardo P. Tan,	City Councilor
Hon. Mariano Y. Corro,	City Councilor
Hon. Fe S. Lladoc,	City Councilor
Hon. Gregorio A. Yrastorza, Jr.	City Councilor
Hon. Sotero M. Pepito,	City Councilor
Hon. Cheryl A. Arcuino,	Ex-Officio City Councilor, SK Federation President

ABSENT:

Hon. Claudio P. Larrazabal,	(Special Leave),	City Councilor, Majority Floor Leader
Hon. Jose C. Alfaro, Jr.,	(Sick Leave),	City Councilor
Hon. Ruben R. Capahi,	(Special Leave),	City Councilor
Hon. Emeterio Y. Larrazabal, Jr.,	(Sick Leave),	Ex-Officio City Councilor, Chapter President, Liga ng mga Barangay ng Ormoc

RESOLUTION NO. 2006-094

A RESOLUTION RESPECTFULLY REQUESTING THE COMMISSION ON  
AUDIT THROUGH THE HONORABLE CHAIRMAN GUILLERMO N.  
CARAGUE TO LIFT COA'S CALAMITY AID 2000 DISALLOWANCE,  
IN THE LIGHT OF THE SUPREME COURT DECISION TO THE  
EFFECT THAT RECIPIENTS OF ALLOWANCES AND BONUSES  
DISALLOWED BY COA NEED NOT REFUND THE SAME IF RECEIVED  
IN GOOD FAITH (MOLEN, ET AL VS. COA, G.R. NO. 150222,  
MARCH 18, 2005)

WHEREAS, on March 29, 2006, this Sanggunian, through the Honorable Vice Mayor & Presiding Officer, received an Indorsement from the City Accountant, Rosalinda S. Muyuela, requesting to "discuss with payroll clerk the amount to be deducted from your salary (every 16 - 30 payroll period) until the disallowance (referring to COA'S Calamity Aid Disallowance) is fully paid.

WHEREAS, the disallowed Calamity Aid 2000 was received by the officials & employees of the City Government of Ormoc, under the following circumstances/facts, to wit:

- a) On December 4, 2000, then City Mayor Eufrocino M. Codilla, Sr. requested the Sangguniagn Panlungsod ng Ormoc for the passage of a Resolution declaring Ormoc City under the state of Calamity. (Attached is a photocopy of said request marked as Annex "A"); that in compliance to said request, the Sanggunian on December 7, 2000 adopted Resolution No. 2000-214, entitled: "A RESOLUTION DECLARING ORMOC CITY UNDER STATE OF CALAMITY DUE TO THE EXTENT OF THE DAMAGE CAUSED BY TYPHOON "TOYANG", a photocopy of which is hereto attached, and marked as ANNEX "B";



- b) On December 8, 2000, then City Mayor Codilla, requested the Sangguniang Panlungsod ng Ormoc for the passage of a resolution authorizing the City Accountant to charge against the five percent (5%) Calamity Fund the amount of Eleven Million Two Hundred Seventy Thousand Pesos (P11,270,000.00) as Calamity Aid to be given to regular and casual employees of the Local Government Unit of Ormoc City, a photocopy of said request marked as Annex "C" is hereto attached; that the Sanggunian on December 14, 2000 adopted Resolution No. 2000-217, entitled: "A RESOLUTION AUTHORIZING THE CITY ACCOUNTANT TO CHARGE AGAINST THE FIVE PERCENT (5%) CALAMITY FUND THE AMOUNT OF ELEVEN MILLION TWO HUNDRED SEVENTY THOUSAND PESOS (P11,270,000.00) AS CALAMITY AID TO BE GIVEN TO REGULAR, PLANTILLA CASUAL AND EMERGENCY CASUAL EMPLOYEES OF THE LOCAL GOVERNMENT UNIT OF ORMOC CITY", a photocopy of which is hereto attached and marked as ANNEX "D"; that aforesaid Res. No. 2000-217 was only adopted after an opinion was rendered by then City Legal Officer Cleto L. Evangelista, Jr. as to the legality of utilizing a portion of the Calamity Fund as Calamity Aid to the officials & employees of the City Government of Ormoc. (A photocopy of the legal opinion is hereto attached and marked as ANNEX "E";
- c) On December 14, 2000, then City Mayor Codilla, Sr. issued Memorandum Circular, the subject of which was: "GRANT OF CALAMITY AID TO CITY GOVERNMENT OFFICIALS AND EMPLOYEES INCLUDING EMERGENCY LABORERS." (A photocopy of said Memorandum Circular is hereto attached and marked as ANNEX "F".)

WHEREAS, the aforesaid antecedent circumstances/facts clearly show that the employees of the City Government of Ormoc received the CALAMITY AID in utmost GOOD FAITH;

WHEREAS, On November 6, 2001, the Office of the City Auditor of Ormoc, issued, NOTICE OF DISALLOWANCE (No. 01-101-001) for the reason that "Utilization of the calamity fund is not for public purpose, as contained in the 1st Indorsement dated October 17, 2001 from the COA Regional Director hereto attached). A photocopy of aforementioned Notice of Disallowance is hereto attached and marked as ANNEX "G", and photocopy of the 1st Indorsement of COA Regional Director is likewise attached and marked as ANNEX "H";

WHEREAS, AFOREMENTIONED notice of Disallowance (No. 01-101-001) dated November 6, 2001 was only received by the Office of the City Accountant of Ormoc on October 14, 2002, at which time some of the officials and employees of the City Government of Ormoc who were recipient of the Calamity Aid were no longer connected with it, hence could not be apprised of the disallowance;

WHEREAS, on November 12, 2002, Ms. Edna A. Apurillo, State Auditor IV, COA, of Ormoc City, sent to the City Government of Ormoc, an Audit Observation with a request for a comment thereon, to which then City Mayor Carmelo J. Locsin on November 27, 2002, made his comments thereto, a copy of which is hereto attached and marked as ANNEX "I";

WHEREAS, the Supreme Court in the case of Molen, et al vs. COA (G.R. No. 150222, March 18, 2005) quoting De Jesus v. Commission on Audit, has ruled that: "GOOD FAITH WAS THUS CONSIDERED BY THE COURT IN HOLDING THAT THE RECIPIENTS OF THE ALLOWANCES AND BONUSES DISALLOWED BY THE COA NEED NOT REFUND THE SAME". (Attached and marked as ANNEX "J" is a machine copy of the Decision of the Supreme Court in the case of Molen, et al vs. COA, G.R. No. 150222, March 18, 2005)



FOREGOING PREMISES CONSIDERED, and invoking the ruling of the Supreme Court in the aforementioned case of Molen, et al, as the receipt of the Calamity Aid by the City Government Employees of Ormoc was done in UTMOST GOOD FAITH, on MASS MOTION of the Body; be it


RESOLVED, AS IT IS HEREBY RESOLVED, to pass a RESOLUTION RESPECTFULLY REQUESTING THE COMMISSION ON AUDIT THROUGH THE HONORABLE CHAIRMAN GUILLERMO N. CARAGUE, TO LIFT COA'S CALAMITY AID 2000 DISALLOWANCE, IN THE LIGHT OF THE SUPREME COURT DECISION TO THE EFFECT THAT RECIPIENTS OF ALLOWANCES AND BONUSES DISALLOWED BY COA NEED NOT REFUND THE SAME IF RECEIVED IN GOOD FAITH (MOLEN, ET AL VS. COA, G.R. NO. 150222, MARCH 18, 2005);

ADOPTED, April 26, 2006

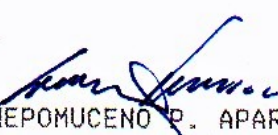
RESOLVED, FURTHER, to furnish copies of this resolution each to Honorable Chairman, Commission on Audit, Quezon City, The Director, COA Regional Office No. VIII, Candahug, Palo, Leyte, City Auditor of Ormoc, Honorable City Mayor of Ormoc City, City Accountant of Ormoc, City Administrator of Ormoc, and all others concerned;

CARRIED UNANIMOUSLY

I HEREBY CERTIFY to the correctness of the foregoing resolution.

  
JOEL S. DUERO  
OIC - Secretary to the SP  
(Loc. Leg. Staff Officer V)

ATTESTED:

  
NEPOMUCENO P. APARIS I  
Vice Mayor & Presiding Officer