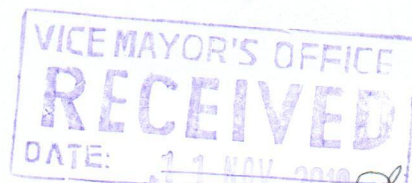
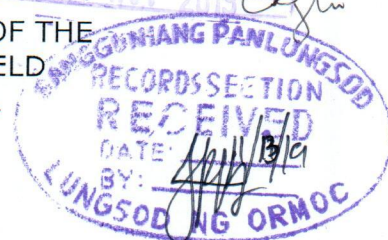


REPUBLIKA NG PILIPINAS
SANGGUNIANG PANLUNGSOD
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE
FIFTEENTH SANGGUNIANG PANLUNGSOD NG ORMOC HELD
AT THE SANGGUNIANG PANLUNGSOD SESSION HALL
ON NOVEMBER 04, 2019 IN LIEU OF
NOVEMBER 05, 2019



PRESENT:

Leo Carmelo L. Locsin, Jr.
Benjamin S. Pongos, Jr.,
Tomas R. Serafica,
Nolito M. Quilang,
Eusebio Gerardo S. Penserga,
Vincent L. Rama,
Gregorio G. Yrastorza III,
Lalaine A. Marcos,
Joan Marbie C. Simbajon,

City Vice Mayor & Presiding Officer
SP Member, Majority Floor Leader
SP Member, Presiding Officer "Pro-Tempore"
SP Member, 2nd Asst. Majority Floor Leader
SP Member
SP Member
SP Member
SP Member
Ex-Officio SP Member, Chapter President,
Panlungsod na Pederasyon ng mga Sangguniang Kabataan ng Ormoc

ON OFFICIAL BUSINESS:

Roiland H. Villasencio,

(O.B. - Quezon City),
SP Member, 1st Asst. Majority Floor Leader

Jasper M. Lucero,

(O.B. - Quezon City), SP Member

Peter M. Rodriguez,

(O.B. - Quezon City), SP Member

Esteban V. Laurente,

(O.B. - Quezon City), Ex-Officio SP Member,
Chapter President, Liga ng mga Barangay ng Ormoc

RESOLUTION NO. 2019-120

**A RESOLUTION GRANTING AUTHORITY TO THE CITY
MAYOR RICHARD I. GOMEZ OR THE ACTING CITY
MAYOR, FOR AND ON BEHALF OF LOCAL
GOVERNMENT UNIT OF ORMOC CITY (LGU-ORMOC),
AS VENDOR, TO SIGN THE DEED OF ABSOLUTE SALE
AND ACKNOWLEDGMENT RECEIPT IN FAVOR OF
MRS. GEMELYN P. HORCA AS VENDEE, FOR A PARCEL
OF LAND DENOMINATED AS LOT NO. 7, BLOCK 4 OF
THE SUBDIVISION PLAN, UNDER THE ORMOC CITY
GOVERNMENT EMPLOYEES HOUSING PROGRAM
LOCATED AT BARANGAY SAN ISIDRO, THIS CITY.**

WHEREAS, the City Mayor, Richard I. Gomez, through an Indorsement dated July 11, 2018, forwarded to this august Body for consideration the Deed of Absolute Sale and Acknowledgment Receipt of a specified parcel of real property under the Ormoc City Government Employees Housing Program located at Barangay San Isidro, Ormoc City, and further asking authority to grant City Mayor Richard I. Gomez to sign the same, a copy of the final Deed of Absolute Sale and Acknowledgment Receipt are hereto attached as Annexes "A" and "B" and made integral parts hereof;

WHEREAS, Mrs. Gemelyn P. Horca sent a letter dated June 08, 2018 to the Office of the City Mayor requesting for the issuance of the Land Title under her name covering a parcel of land awarded to her as a beneficiary of the Ormoc City Government Employees Housing Project in Brgy. San Isidro, this City, a copy of said letter is hereto attached as Annex "C" and made an integral part hereof;

WHEREAS, the City Legal Officer sent a letter dated July 05, 2018 to the Office of the City Mayor communicating the request of Mrs. Gemalyn P. Horca for the Honorable Mayor to sign as Vendor the attached Deed of Absolute Sale and Acknowledgment Receipt of payment for Lot No. 7, Block 4 of the Ormoc City Government Employees Housing Project located in Brgy. San Isidro, Ormoc City to allow her to transfer the title of the land in her favor, pointing out the averment of the latter that she is the beneficiary of the Ormoc City Government Employees Housing Program and that she has already paid the amortization thereof in full, a copy of the said letter is hereto attached as Annex "D" and made an integral part hereof;

WHEREAS, the City Government of Ormoc is the owner of a parcel of land situated in Barangay San Isidro, Ormoc City, evidenced by Transfer Certificate of Title No. T-39914, issued by the Register of Deeds of Ormoc City, which is more particularly bounded and described as follows:

"A parcel of land (Lot Seven (7), Block 4, of the subdivision plan, Pcs-08-000521-D, being a portion of Lot 5362-A, B & C (LRC) Psd-236950 and Lot 5362-D-2, Psd-08-006278 LRC Rec. No. 1750) situated in the Barangay of San Isidro, City of Ormoc, Island of Leyte. Bounded on the xxx xxxx containing an area of ONE HUNDRED FOUR (104) SQUARE METERS, more or less, in the name of the City Government of Ormoc"

WHEREAS, Mrs. Gemalyn P. Horca is a regular employee of the Local Government Unit of Ormoc City assigned at the Business Permits, Licensing and Franchising Office of the City;

WHEREAS, the aforementioned lot was awarded to one Jocelyn G. Soliva last March 28, 2008 and was thereafter waived by the later to Mrs. Gemalyn P. Horca by virtue of an affidavit dated February 09, 2011 which was noted by then City Administrator Dennis Y. Capuyan, copies of the said Certificate of Award and Affidavit of Waiver are hereto attached as Annexes "E" and "F" respectively, and made integral parts hereof;

WHEREAS, the transfer of said Lot to Mrs. Gemalyn P. Horca was acknowledged by then City Administrator Dennis Y. Capuyan through an Affidavit of Consent, a copy of the Affidavit is hereto attached as Annex "G" and made an integral part hereof;

WHEREAS, in an opinion dated October 23, 2019 issued by the City Legal Office, the latter notes that Mrs. Horca has already paid in full the subject lot and has consistently been paying taxes on account of the assessments made by the City and despite the alleged impropriety of the transfer, the Office interposes no objection to the request for the issuance of a Resolution granting authority to the City Mayor to sign the Deed of Absolute Sale and Acknowledgment Receipt in favor of Mrs. Gemalyn P. Horca and others who were similarly situated, a copy of said opinion is hereto attached as Annex "H" and made an integral part hereof;

WHEREAS, through a Certification issued by the Office of the City Accountant dated July 02, 2018, Mrs. Gemalyn P. Horca, has fully settled her lot loan obligation in the total amount of TWENTY-FIVE THOUSAND TWENTY-SEVEN PHILIPPINE PESOS AND FIFTY CENTAVOS (PHP 25,027.50);

WHEREAS, there is a need for authority of the City Mayor or the Acting City Mayor to enter into and sign the Deed of Absolute Sale pursuant to the provisions of Republic Act No. 7160, otherwise known as the Local Government Code of 1991;

WHEREAS, Section 22(c) of Republic Act No. 7160, otherwise known as the Local Government Code of 1991, states that no contract may be entered into by the local chief executive on behalf of the local government unit without prior authorization by the Sanggunian concerned;

WHEREAS, an authority for the City Mayor to enter into and sign the Deed of Absolute Sale and Acknowledgment Receipt for and on behalf of the Local Government Unit is not only necessary but also indispensable;

WHEREAS, upon close and thorough review, this Sanggunian finds that the Deed of Absolute Sale and Acknowledgment Receipt is not contrary to law, contract, public policy and morals and that the vendee is found to have been fully compliant with the submission of the supporting documents in relation to his request and so therefore, most deserving of this august Body's full support and affirmative action to the same;

WHEREFORE, on motion of SP Member Benjamin S. Pongos, Jr. Chairman, Committee on Laws and Ordinances, severally seconded by SP Members Tomas R. Serafica, Vincent L. Rama, Gregorio G. Yrastorza III, Lalaine A. Marcos and Joan Marbie C. Simbajon; 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, FOR AND ON BEHALF OF LOCAL GOVERNMENT UNIT OF ORMOC CITY (LGU-ORMOC), AS VENDOR, TO SIGN THE DEED OF ABSOLUTE SALE AND ACKNOWLEDGMENT RECEIPT IN FAVOR OF MRS. GEMELYN P. HORCA AS VENDEE, FOR A PARCEL OF LAND DENOMINATED AS LOT NO. 7, BLOCK 4 OF THE SUBDIVISION PLAN, UNDER THE ORMOC CITY GOVERNMENT EMPLOYEES HOUSING PROGRAM LOCATED AT BARANGAY SAN ISIDRO, THIS CITY;

ADOPTED, November 04, 2019.

RESOLVED, FURTHER, that a copy of the final notarized Deed of Absolute Sale and Acknowledgment Receipt be submitted 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 Mejia-Romero; the Register of Deeds, Ormoc City; the City Assessor; Mrs. Gemelyn P. Horca; COGEA; the City Local Government Operations Officer-DILG; and other concerned offices for their information and guidance.

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the foregoing resolution.


MARIA ANTONIETA G. CO HAT
Secretary to the
Sangguniang Panlungsod

ATTESTED:


LEO CARMELO L. LOCSIN, JR.
City Vice Mayor & Presiding Officer

DEED OF ABSOLUTE SALE

Annex "A"

KNOW ALL MEN BY THESE PRESENTS:

That the City Government of Ormoc, a local government unit duly organized and existing under the laws of the Republic of the Philippines, with office address at the New Ormoc City Hall, Aunubing St., Brgy. Cogon Combado, Ormoc City, Leyte, Philippines, herein represented by the Honorable Mayor RICHARD I. GOMEZ, MBA, of legal age, Filipino, married, and resident of Ormoc City, as authorized by the Sangguniang Panlungsod per Resolution No. _____ dated _____ 2018, is the registered owner of a certain parcel of land particularly described as follows:

"A parcel of land (Lot 7, Block 4 of the subdivision plan, Pos-08-000521-D, being a portion of Lots 5362-A, B and C (LRC) Psd-236950 and Lot 5362-D-2, Psd-08-006278 LRC Rec. No. 1750), situated in the Barangay of San Isidro, City of Ormoc, Island of Leyte. Bounded on the xxx xxxxxx containing an area of ONE HUNDRED FOUR (104) SQUARE METERS xxx xxx in the name of City Government of Ormoc"

That for an in consideration of the sum of TWENTY FIVE THOUSAND TWENTY SEVEN PESOS AND FIFTY CENTAVOS (Php25,027.50), to me in hand and paid to my complete and utter satisfaction by GEMELYN P. HORCA, of legal age, Filipino, married, and a resident of Brgy. San Isidro, Ormoc City, we do hereby SELL, TRANSFER, CEDE, AND CONVEY, absolutely and unconditionally, the abovedescribed parcel of land unto the said GEMELYN P. HORCA, her heirs, successors-in-interest and assigns free from any and all liens and encumbrances whatsoever.

IN WITNESS WHEREOF, I have hereunto set my hand this ____ day of _____, 2018 at Ormoc City, Philippines.

THE CITY GOVERNMENT OF ORMOC
Vendor
By:

RICHARD I. GOMEZ, MBA
City Mayor

SIGNED IN THE PRESENCE OF:

REPUBLIC OF THE PHILIPPINES)
CITY OF ORMOC)S.S.

ACKNOWLEDGEMENT

BEFORE ME, a Notary Public for an in the City of Ormoc, personally appeared RICHARD I. GOMEZ, with his competent evidence of identity _____ and acknowledged to me to be the same person who executed the foregoing instrument and that the same is his free act and voluntary deed.

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

Doc. No. _____
Page No. _____
Book No. _____
Series of 2018 _____

ACKNOWLEDGEMENT RECEIPT

Annex "B"

PhP25,027.50

RECEIVED from GEMELYN P. HORCA the sum of TWENTY FIVE THOUSAND TWENTY SEVEN PESOS AND FIFTY CENTAVOS (PhP25,027.50) in Philippine currency, representing full payment of: A parcel of land (Lot 7, Block 4 of the subdivision plan, Pos-08-000521-D, being a portion of Lots 5362-A, B and C (LRC) Psd-236950 and Lot 5362-D-2, Psd-08-006278 LRC Rec. No. 1750), situated in the Barangay of San Isidro, City of Ormoc, Island of Leyte. Bounded on the xxx xxx xxx containing an area of ONE HUNDRED FOUR (104) SQUARE METERS xxx xxx. Covered by TCT No. T-39914 in the Office of the Registry of Deeds for the City of Ormoc.

Done in Ormoc City, Philippines _____, 2018.

THE CITY GOVERNMENT OF ORMOC
By:

RICHARD I. GOMEZ, MBA
City Mayor

SIGNED IN THE PRESENCE OF:

REPUBLIC OF THE PHILIPPINES)
CITY OF ORMOC)S.S.

ACKNOWLEDGEMENT

BEFORE ME, a Notary Public for an in the City of Ormoc, personally appeared RICHARD I. GOMEZ, with his competent evidence of identity _____ and acknowledged to me to be the same person who executed the foregoing instrument and that the same is his free act and voluntary deed.

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

Doc. No. _____
Page No. _____
Book No. _____
Series of 2018 _____

June 8, 2018

Annex "C"

MAYOR RICHARD I. GOMEZ, MBA
City Mayor's Office
LGU Ormoc

Dear Mayor Gomez:

Greetings!

I am **Gemelyn P. Horca**, a regular employee assigned at the Business Permits, Licensing and Franchising Office of the City.

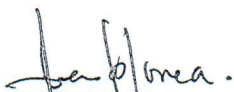
I am the beneficiary of Lot No. 7, Blk. 4 of the Ormoc City Government Employees Housing Project located in Brgy. San Isidro, having acquired the same from Jocelyn G. Soliva, the original awardee, who waived the lot to me in an Affidavit of Waiver dated February 9, 2011. The validity of the waiver was confirmed by the then City Administrator and Chairman of the Housing Committee Dr. Dennis Y. Capuyan through a Certification dated March 8, 2011. The tax declaration on the property was transferred to my name on March 10, 2011. I have likewise shouldered the amortization payments on the lot from March 2011 and have fully paid for the same as of June 2018 per Certification from the Office of the City Accountant dated June 6, 2018.

We have built and established our family home on the above lot, but as of today, the title of the lot (TCT No. T-39914) is still in the name of the City Government of Ormoc. In this regard, I would like to request your kind signature on the attached Deed of Absolute Sale and Acknowledgement Receipt, so that I may be able to finally transfer the title of the land to my name and secure our ownership of the family home.

I pray for your kind and positive consideration.

Thank you and more power to yourself and your administration.

Sincerely,



GEMELYN P. HORCA
Administrative Assistant III
Business Permits, Licensing and Franchising Office

Annex "D"



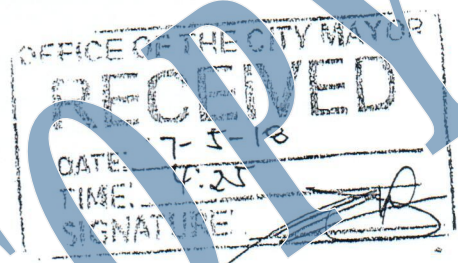
Republic of the Philippines
OFFICE OF THE CITY LEGAL OFFICER
Ormoc City, Leyte

05 July 2018

MA. VICTORIA LYRA P. DELA CERNA RRT, MBA-HA, MPA
City Govt. Asst. Dept. Head I
City Mayor's Office
LGU-Ormoc City

Re: Request of Gemelyn P. Horca

Dear Ms. Dela Cerna:



In the interest of full disclosure, the undersigned informs the CMO that the Assistant City Legal Officer is brother-in-law to the requesting party and has thus inhibited himself from any participation in this Office's opinion on this request.

Mrs. Horca requests the signature of the Honorable Mayor as Vendor on the attached Deed of Absolute Sale and Acknowledgement Receipt of payment for Lot No. 7, Blk. 4 of the Ormoc City Government Employees Housing Project located in Brgy. San Isidro to allow her to transfer the title of the land in her favor. Mrs. Horca avers that she is a beneficiary of the Ormoc City Government Employees Housing Program and that she has paid the amortization thereof in full. The request contains the following supporting attachments:

1. TCT No. T-39914, a parcel of land (Lot 7, Block 4 of the subdivision plan, Pos-08-000521-D xxx), situated in the Barangay of San Isidro, xxx containing an area of ONE HUNDRED FOUR (104) SQUARE METERS xxx in the name of CITY GOVERNMENT OF ORMOC;
2. Certificate of Award in the name of Jocelyn G. Soliva dated 28 March 2018 and Affidavit of Waiver executed by the same in favor of Mrs. Horca dated 09 February 2011;
3. Affidavit of Consent executed by then City Administrator Dr. Dennis Y. Capuyan dated 02 March 2011 acknowledging the grant of the subject lot to Mrs. Horca and consenting to the construction of the residential building thereon;

GEMELYN P. HORCA
ADMINISTRATOR

4. Certification from the Chairman, Government Housing Committee dated 08 March 2011, that Mrs. Horca is the newly bona fide beneficiary of the subject lot;
5. Certifications from the Office of the City Accountant dated 06 June 2018 and 02 July 2018 detailing the amortization payments of Mrs. Horca and certifying further that the lot loan has been fully paid as of June 2018;
6. Affidavit executed by Mrs. Horca dated 04 July 2018, undertaking to shoulder all taxes and fees necessary for the transfer of the title of the property to her name;
7. Notice of Assessment of Real Property, Tax Declaration, Tax Clearance, Sworn Statement of the True Current and Fair Market Value of Real Properties of the subject lot, in the name of the City and under the administration of Mrs. Horca.

An examination of the foregoing documents shows that Mrs. Horca was made beneficiary of the abovementioned housing project with the acknowledgement and consent of the City. The Certifications from the Office of the City Accountant likewise indicates that she has fully paid her amortizations on the lot.

In view of the foregoing, the undersigned finds that Mrs. Horca has fully complied with her obligations toward the City in relation to the subject property, and thus poses no objection to the grant of the request. It is recommended that an SP resolution be secured for the Authority of the Mayor to sign the attached Deed of Absolute Sale and Acknowledgement Receipt.

For the consideration of the CMC.

Thank you.

Very Truly Yours,


ATTY. JASPER M. LUCERO
City Legal Officer


CERTIFIED TRUE COPY

Republic of the Philippines
GOVERNMENT HOUSING COMMITTEE
Ormoc City

Annex "E"


CERTIFICATION

THIS IS TO CERTIFY that GEMELYN P. HORCA is a newly bonafide beneficiary of Lot No. 7, Blk. 4 with an area of 104.00 square meters located at City Government Housing.

As per Affidavit of Waiver executed by Jocelyn G. Soliva dated February 9, 2011. Any award of this particular lot done prior to February 9, 2011 has already been cancelled.

THIS CERTIFICATION is issued upon request of GEMELYN P. HORCA for titling of his/her lot.

Done this 8th day of March, 2011 at Ormoc City, Leyte, Philippines.


DR. DENNIS Y. CAPUYAN
City Administrator
Chairman, Housing Committee

Republic of the Philippines)
City of Ormoc S.S.


Annex "F"

AFFIDAVIT
(waiver)

I, **JOCELYN G. SOLIVA**, of legal age, Filipino, married and resident of District 21, San Nicolas St., Ormoc City, having been duly sworn to in accordance with the law do hereby depose and say:

That I am the holder of a lot located at Block 4, Lot 7, Government Housing Subdivision, Tent City, Brgy. San Isidro, Ormoc City.

That since I am still not interested in constructing a house in the said lot, for that reason, I hereby waive the said lot to **GEMELYN P. HORCA**.


JOCELYN G. SOLIVA
Affiant
Res. Cert. No. 06245075
Issued at Ormoc City
Date: 01/11/11

Noted :


DENNIS Y. CAPUYAN
City Administrator
Chairman, Housing Committee

SUBSCRIBED AND SWORN to before me this 9th day of February 2011 at Ormoc City, Philippines.


GORGONIA F. PINEDA-ENCINA
1ST ASST. CITY PROSECUTOR

Republic of the Philippines)
City of Ormoc) S. S.

Annex "G"

AFFIDAVIT OF CONSENT

DENNIS Y. CAPUYAN, Chairman, Housing Committee and City Administrator, Ormoc City, under oath depose and say:


1. That GEMELYN P. HORCA through a Housing Loan Agreement entered into by between the latter and the City of Ormoc was granted a lot particularly described as LOT 7 BLOCK 4 with an area of 104 sq.meters at Tent City, Ormoc City.
2. That in order to authorize the construction of the building intended for residential purpose, the affiant hereto consent the construction of the same within the limits of the law and/or in accordance with the applicable laws.
3. That this affidavit of consent is purely intended for the purpose for which this affidavit is executed.

IN WITNESS WHEREOF, I hereby affixed by signature this 2nd day of March 2011 in Ormoc City.


DR. DENNIS Y. CAPUYAN

Subscribed and sworn to before me this 2nd day of March 2011 in Ormoc City.

DOC. NO. 4665
PAGE NO. 51
BOOK NO. Expt 1
Series 2011


ATTY. DEMOSTHENES F. TUGONON
Notary Public
Until December 31, 2012
PTR No. 3108353 Jan. 4, 2011
IBP OR LEYTE 808836 Jan. 4, 2011
Roll No. 20986
TIN NO. 150297018

OFFICE OF THE CITY LEGAL OFFICER

Ormoc City, Leyte



23 October 2019

ATTY. BENJAMIN S. PONGOS, JR.
 SP Member
 Sangguniang Panlungsod
 LGU Ormoc

Re: Request for Opinion in relation to the request for issuance of Resolution by the Sangguniang Panlungsod giving the City Mayor authority to sign the Deed of Sale in favor of Mrs. Gemelyn P. Horca

Dear SP Member Pongos:

1. The undersigned, before tackling the issues at hand, wishes to note of the existence of a Legal Opinion previously rendered by then City Legal Officer, Atty. Jasper M. Lucero.
2. This Office would like to reiterate the subsequent acts made by the City, as pointed out by Atty. Lucero in his Legal Opinion, after the alleged irregular transaction to wit:
 - a. The City, through the consent given by the then City Administrator dated 02 March 2011, has allowed Mrs. Horca to occupy the lot and construct a residential structure thereon;
 - b. The City, as acknowledged by the City Accountant's Office in Certifications dated 06 June 2018 and 02 July 2018, has received the payments made by Mrs. Horca on the lot loan for the subject property.
 - c. The City, through the City Assessor's Office and other relevant offices, has issued a Notice of Assessment of Real Property, Tax Declaration, Tax Clearance, and Sworn Statement of the True Current and Fair Market Value of the Real Properties of the subject lot, in the name of the City and Mrs. Horca's administration.
 - d. The City, through the Certification of the then Chairman, Government Housing Committee dated 08 March 2011, has acknowledged and recognized Mrs. Horca as the bona fide beneficiary of the subject lot.
3. After further review of the relevant documents submitted, this Office is of the conclusion that the City can no longer assail the validity of the transfer of the lot to Mrs. Gemelyn P. Horca. While estoppel will not lie against the City but, in circumstances where certain acts of the government will amount to serious injustice to individuals, it can and should be used against the government.
4. It is worthy to stress at this point that Mrs. Horca has already paid in full the subject lot and has consistently been paying taxes on account of the

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

OFFICE OF THE CITY LEGAL OFFICER

Ormoc City, Leyte

assessments made by the City. Furthermore, Mrs. Horca has already constructed a permanent structure in the said lot with the honest belief that the Certification issued by the City Administrator, who was also then the Chairman of the Housing Committee, was a valid act of the latter.

5. Thus, to ask Mrs. Gemelyn Horca to return the lot and to remove her house displacing her and her family, due to the alleged impropriety of the transfer, after she paid for all her loan amortizations and her honest reliance of the authority of the Chairman of the Housing Committee consenting for the waiver that Mrs. Soliva executed in favor of Mrs. Horca, would amount to serious injustice, which this office would wish to avoid.
6. The undersigned then interposes no objection to the request for the issuance of a Resolution granting authority to the City Mayor to sign the Deed of Absolute Sale and Acknowledgement Receipt in favor of Mrs. Gemelyn Horca and others who were similarly situated.
7. This comment/opinion is hereby being rendered based on the documents submitted without prejudice to contrary opinion from competent authorities or ruling of proper court.

For the City Legal Officer:

Most Respectfully,


ATTY. ANNE VERNADICE A. AREÑA
Assistant City Legal Officer

WITH CONFORMITY:


ATTY. JOSEPHINE A. MEJIA-ROMERO
City Legal Officer