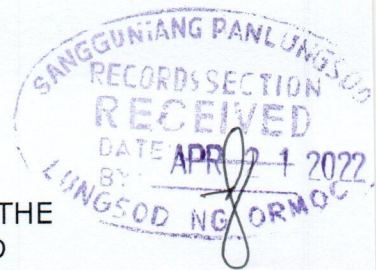


REPUBLIKA NG PILIPINAS
SANGGUNIANG PANLUNGSOD
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE
FIFTEENTH SANGGUNIANG PANLUNGSOD NG ORMOC HELD
AT THE SANGGUNIANG PANLUNGSOD SESSION HALL,
ORMOC CITY HALL BUILDING
ON APRIL 19, 2022

PRESENT:

| | |
|------------------------------|---|
| Tomas R. Serafica, | SP Member, Presiding Officer "Pro-Tempore" |
| Roiland H. Villasencio, | SP Member, Majority Floor Leader |
| Nolito M. Quilang, | SP Member, 1 st Asst. Majority Floor Leader |
| Eusebio Gerardo S. Penserga, | SP Member, 2 nd Asst. Majority Floor Leader |
| Jasper M. Lucero, | SP Member |
| Peter M. Rodriguez, | SP Member |
| Vincent L. Rama, | SP Member |
| Gregorio G. Yrastorza III, | SP Member |
| Lalaine A. Marcos, | SP Member |
| Esteban V. Laurente, | Ex-Officio SP Member, Chapter President, Liga ng mga Barangay ng Ormoc |
| Joan Marbie C. Simbajon, | Ex-Officio SP Member, Chapter President, Panlungsod na Pederasyon ng mga Sangguniang Kabataan ng Ormoc |

ON LEAVE:

| | |
|----------------------------|-------------------------------------|
| Leo Carmelo L. Locsin, Jr. | City Vice Mayor & Presiding Officer |
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RESOLUTION NO. 2022-107

**A RESOLUTION RESPECTFULLY REQUESTING THE
OMBUDSMAN TO INVESTIGATE THE ACTS AND
OMISSIONS OF THE MINES AND GEOSCIENCES
BUREAU (MGB) INTO THE STATE OF THE SAND AND
GRAVEL INDUSTRY IN ORMOC CITY, AND FOR THE
VIOLATIONS OF EBR AND YAKAL CONSTRUCTION**

WHEREAS, this Fifteenth Sangguniang Panlungsod was in receipt of an Indorsement dated April 01, 2022 from the Office of the City Mayor, endorsing a request for the issuance of a Resolution seeking the investigation by the Ombudsman into the matters raised in letter to Regional Director Carlos A. Tayag, CESE of Mines and Geosciences Bureau (MGB);

WHEREAS, the first concern is related to a letter dated March 16, 2022 (Ref. No. MGB-MMD-MTSS) from the Regional Director Carlos A. Tayag of the Mines and Geosciences Bureau (MGB) addressed to Mr. Ernesto B. Rizarri (EBR), where it discussed the stockpile findings by the MGB respecting to his establishment, as follows:

- a) Unaccounted stockpile;
- b) Description of volume of disposed materials do not match the description in the Special Permit for disposal; and
- c) Monthly reports indicate production and extraction of sand and gravel under a Special Permit to Dispose.

WHEREAS, notwithstanding the conclusion reached by the MGB, RD Tayag advised Mr. Rizarri that the matter is still subject to further investigation;

WHEREAS, a joint inspection was conducted by the MGB with the Department of Environment and Natural Resources (DENR) on January 13, 2020 and a report therein from the representatives of MGB and the DENR expressed that:

- "1. EBR has a huge raw stockpile at his stockyard in Brgy. Macabug, Ormoc City. But EBR has no existing ISAG permit since CY 2017 up to the present. This questions on the legality of the SAG/Quarry extraction activities of EBR.

x x x

3. Sand and Gravel (SAG) extraction and disposal without any valid permit/s in violation of Republic Act No. 7942 xxx and its Revised Implementing Rules and Regulations, DAPO 2010-21."

CONCLUSION/DETERMINATION

X X X

8. The MGB-RO8 should issue Show Cause Letters to Land Owners directing them to submit their explanations why no legal sanctions will be charged against them for their involvement in the extraction of Sand and Gravel and other loose and unconsolidated materials within their private lots. x x x"

WHEREAS, with foregoing and attendant circumstances, it is clear that a considerable amount of time has lapsed since the excessive stockpile was determined by the city in October 2020 and illegal extraction was ascertained by the MGB in January 2020. It is also apparent that Mr. Rizarri's permit to extract minerals expired in 2008/2009, and yet his stockpile has increased from 78,000 cubic meters to 110,000 cubic meters. This, even after Mr. Rizarri claims to have disposed of 29,552 cubic meters of sand and gravel from 2019 to 2020;

WHEREAS, the illegal acts of Mr. Rizarri are apparent and unarguable based on records and facts on file with the Mines and Geosciences Bureau (MGB);

WHEREAS, the second concern pertains to Miss Violeta Codilla, the owner of Yakal Construction which does business in Ormoc City;

WHEREAS, on July 12, 2021, a barge docked at the Yakal Port in Barangay Macabug, Ormoc City was apprehended carrying about 1,500 cubic meters of gravel. Criminal cases for theft of minerals were filed with the Ormoc City Prosecution Office against the captain and employees of the barge, to include Violeta Codilla who was named as the buyer of the items subject of the offense. To date, the cases are pending with the Municipal Trial Court in Cities in Ormoc City;

WHEREAS, the Inspection Report rendered by the ENRO states that the delivery receipts for about 1,300 cubic meters of gravel relied on the accused were issued beyond the validity of the ISAG permit;

WHEREAS, of the remaining aggregates in the criminal cases, no delivery receipts were issued at all;

WHEREAS, the foregoing circumstances clearly establish a prima facie violation of Section 103 of Republic Act 7942, as declared in Section 53;

WHEREAS, Section 15, Paragraph (1) of Republic Act 6770 also known as 'The Ombudsman Act of 1989' mandates the Ombudsman to:



"(1) Investigate and prosecute on its own or on complaint by any person, any act or omission of any public officer or employee, office or agency, when such act or omission appears to be illegal, unjust, improper or inefficient. It has primary jurisdiction over cases cognizable by the Sandiganbayan and, in the exercise of this primary jurisdiction, it may take over, at any stage, from any investigatory agency of Government, the investigation of such cases;

WHEREAS, Section 15, Paragraph (3) of the abovementioned law also mandates the Ombudsman to:

"(3) Direct the officer concerned to take appropriate action against a public officer or employee at fault or who neglect to perform an act or discharge a duty required by law, and recommend his removal, suspension, demotion, fine, censure, or prosecution, and ensure compliance therewith; or enforce its disciplinary authority as provided in Section 21 of this Act: provided, that the refusal by any officer without just cause to comply with an order of the Ombudsman to remove, suspend, demote, fine, censure, or prosecute an officer or employee who is at fault or who neglects to perform an act or discharge a duty required by law shall be a ground for disciplinary action against said officer".

WHEREAS, this Sanggunian joins the City Executive in seeking the help of the Ombudsman to investigate the seeming inaction of the MGB on the issues raised;

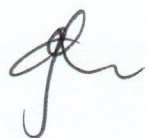
WHEREFORE, on joint motion of SP Member Jasper M. Lucero, Chairman, Committee on Good Government and Oversight and SP Member Lalaine A. Marcos, Chairman, Committee on Environment, Natural Resources and Energy Conservation, jointly seconded by SP Members Joan Marbie C. Simbajon and Esteban V. Laurente; be it

RESOLVED, AS IT IS HEREBY RESOLVED, to pass A RESOLUTION RESPECTFULLY REQUESTING THE OMBUDSMAN TO INVESTIGATE THE ACTS AND OMISSIONS OF THE MINES AND GEOSCIENCES BUREAU (MGB) INTO THE STATE OF THE SAND AND GRAVEL INDUSTRY IN ORMOC CITY, AND FOR THE VIOLATIONS OF EBR AND YAKAL CONSTRUCTION;

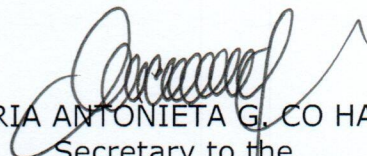
ADOPTED, April 19, 2022.

RESOLVED FURTHER, to furnish copies of this resolution one each to the City Mayor Richard I. Gomez; the City Administrator; the City Legal Officer; the Ombudsman; the City Local Government Operations Officer-DILG; and other offices concerned;

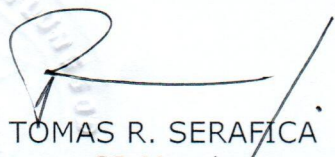
CARRIED by Eight (8) Affirmative Votes with Two (2) Inhibitions registered, by SP Member Nolito M. Quilang and Roiland H. Villasencio.



I HEREBY CERTIFY to the correctness of the above resolution.


MARIA ANTONIETA G. CO HAT
Secretary to the
Sangguniang Panlungsod

ATTESTED:


TOMAS R. SERAFICA
SP Member
Presiding Officer "Pro-Tempore"