

DSWD OPINION NO. 02 S. 2024

DRN: LS-L-LO-23-11-91285-C

MEMORANDUM

FOR : **ATTY. KARINA ANTONETTE A. AGUDO**
Director IV, Administrative Service

FROM : **THE ASSISTANT SECRETARY FOR GENERAL**
ADMINISTRATION AND SUPPORT SERVICES GROUP AND
CONCURRENT OFFICER-IN-CHARGE, Legal Service

SUBJECT : **LEGAL OPINION ON THE PROPOSED RENEWAL OF THE**
MEMORANDUM OF AGREEMENT BETWEEN DSWD AND THE
CITY GOVERNMENT OF PASAY

DATE : **29 DECEMBER 2023**

This pertains to your MEMORANDA¹ dated 20 October 2023 and 21 December 2023, relative to the proposed renewal of the Memorandum of Agreement² dated **06 April 2000** ("**2000 MOA**") between the Department of Social Welfare and Development ("**DSWD**") and the City Government of Pasay ("**Pasay City**").

Based on the information provided by the Administrative Service (AS), by virtue of the 2000 MOA, the DSWD allowed Pasay City to use approximately 500 square meters of land located at the former Nayon ng Kabataan, NAIA Road, Pasay City for the purpose of construction, maintenance and operation of a Social Development Center ("**SDC**") for street children and disadvantaged clients. The right of DSWD to allocate and allow Pasay City to use this parcel of land was derived from **Presidential Proclamation No. 350, series of 1968**³ which reserved said lot to the Social Welfare Administration⁴ (now DSWD) for orphanage site purposes. However, on 18 September 2018, when DSWD applied for the issuance of Special Patent/Original Certificate of Title at the Department of Environment and Natural Resources ("**DENR**"), an investigation was conducted and DENR discovered on 11 April 2019 that the **same lot**⁵ is covered by **Transfer Certificate of Title No. 142158**⁶, registered in the name of the Manila International Airport Authority ("**MIAA**"), covering **20,576 sq.m.** of Brgy. Villamor Air Base, Pasay City.

¹ Annex A

² Annex B

³ "Reserving a Parcel of Land of the Private Domain Situated in the City of Pasay, Island of Luzon, for Orphanage Site Purposes of the Social Welfare Administration. Excluding from the Manila International Airport a certain parcel of land embraced in the said airport situated in the City of Pasay, Island of Luzon, and reserve the same, subject to private rights, if any there be, for orphanage site purposes under the administration of the Social Welfare Administration"

⁴ Republic Act No. 5416. "Section 8. Abolition of the Social Welfare Administration. —Welfare Administration is hereby abolished, and the personnel, records, documents, supplies, equipment, priorities and existing balance of appropriations thereof are hereby transferred to the Department of Social Welfare. xxx."

⁵ Identified as Lot 3270-B-3-A-2-U, of the subdivision plan SWO-00-001755

⁶ Annex C

Thus, your request for legal opinion on whether the DSWD may renew the 2000 MOA between the Department and Pasay City, taking into consideration that the SDC stands on a lot that is registered under the name of lot owner, MIAA.

The Legal Service respectfully submits that the Department may opt to renew the MOA. We shall discuss this in *seriatim*.

1. **Renewal of the MOA with Pasay will avoid disruption in the delivery of social services provided by the SDC**

As mentioned, the 2000 MOA paved way for the construction and operation of the Pasay City's Social Development Center (SDC), which is a 24-hour residential care facility aiming to address the needs and provide essential support for street children and disadvantaged clients. Without the MOA, the operations and services of the SDC may be disrupted.

2. **DSWD, through AS, to continue asserting its ownership over the land pursuant to Proclamation No. 350. s.1968**

Proclamation No. 350, dated 22 February 1968, signed by Pres. Ferdinand E. Marcos, provides:

*"By virtue of the powers vested in me by law, I, FERDINAND E. MARCOS, President of the Philippines, do hereby **exclude from the Manila International Airport** a certain parcel of land embraced in the said airport situated in the City of Pasay, Island of Luzon, and reserve the same, subject to private rights, if any there be, **for orphanage site purposes under the administration of the Social Welfare Administration**, which parcel of land is more particularly described as follows: xxx." (Emphasis and Underscoring supplied)*

The described parcel of land includes the 500 square meters of land where Pasay's SDC for street children and disadvantaged clients is located and being operated.

In connection thereto, may we reiterate the Legal Service's opinion in a MEMORANDUM dated 18 September 2019, to wit:

*"The Proclamation No. 350 has the force and effect of law until and unless it is revoked by a subsequent proclamation or upon declaration of a court of competent jurisdiction. At present, we are not aware of any proclamation or court decree revoking Proclamation No. 350. Thus, we believe that the **DSWD may lawfully contest the title of MIAA over the subject land by filing an appropriate action before the court.**" (Emphasis and Underscoring supplied)*

Thus, we submit that the renewal of the 2000 MOA is proper as it will also serve as our assertion of the DSWD's right of ownership over the subject parcel of land.

Nevertheless, in the renewal of the MOA with Pasay City, it is recommended that the following conditions provided therein:

- a. It must be stated therein that the DSWD has disclosed to Pasay City that there is an ongoing controversy between the DSWD and MIAA over the ownership of the parcel of land, and that Pasay City acknowledges such and shall abide by any Order that may be issued by a proper authority in relation thereto; and
- b. It is recommended that the term or period of the MOA should be **limited to one-year**, subject to its renewal as necessary, in view in the existing dispute over the property where the SDC is located.

Please be informed that the foregoing legal opinion, is based solely on the information provided by your office, and may vary based on additional information or document/s or when the facts are changed or elaborated. Should you need further guidance on the matter, LS will be available for consultation.

Kindly fill out the attached Customer Feedback Form and return the same to the Legal Service.

For your consideration. Thank you.


ATTY. GINA V. WENCESLAO

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