



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
REGION XIII (CARAGA REGION)
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DILG RO XIII
FILE

October 23, 2014

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DILG - REGION XIII
RELEASED
DATE: OCT 24 2014
TIME: 9:50
BY: A. Pratil

HON. ALLAN II B. ECLEO
Municipal Mayor
San Jose, Dinagat Islands

Dear Mayor Ecleo:

This refers to your request for legal opinion relative to the appropriate action by the local government on structures/buildings built in areas zoned as open space/danger zone as per Housing Land Use and Regulatory Board (HLURB) classification of shorelines *vis a vis* recommendation by the Provincial Assessor's Office of the province to assess the existing buildings/structures constructed in the same open space for purposes of taxation.

The Local Government Code of 1991 (R.A. 7160) provides for the scope of taxing powers of the municipalities (Sec. 142), tax on business (Sec. 143), payment of business taxes (Sec. 146), fees and charges (Sec. 147), fees for sealing and licensing of weights and measures (Sec. 148), fishery rentals, fees and charges (Sec. 149), and situs of tax (Sec. 150). The same Code also provides for general provisions for real property taxation (Secs. 197 to 200) and appraisal and assessment of real property (Secs. 201 to 225). Particularly, Secs. 201 and 217 state:

"Sec. 201. Appraisal of Real Property. – All real property, whether taxable or exempt, shall be appraised at the current and fair market value prevailing in the locality where the property is situated. The Department of Finance shall promulgate the necessary rules and regulations for the classification, appraisal, and assessment of real property pursuant to the provisions of this Code."

"Sec. 217. Actual Use of Real Property as Basis for Assessment. – Real property shall be classified, valued and assessed on the basis of its actual use regardless of where located, whoever owns it and whoever uses it."

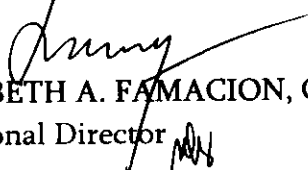

In your letter, we noted that the subject existing buildings/structures are used either for residential or commercial purposes. Such that, we opine that business as well as real property taxes and special levies on real property on these subject buildings and structures may be assessed. It is the actual use of the subject properties which is the basis of assessment.

We hope to have satisfactorily addressed your concern. This opinion is rendered without prejudice to the decisions that competent higher authorities and the courts may subsequently decree. You may also opt to pose a query on the matter with the Department of Finance as mentioned above.

Please course through your request for legal opinion in the future through your MLGOO or DILG Provincial Office. You may also ask your Provincial Legal Office to assist you in legal matters.

Thank you and God bless!

Very truly yours,


LILIBETH A. FAMACION, CESO IV
Regional Director 

cc:

125719277614
PD Domingo E. Bulabog
DILG-PDI