

REPUBLIKA NG PILIPINAS
TANGGAPAN NG SANGGUNIANG PANLUNGSOD
LUNGSOD NG BAKOLOD

-000-

CITY ORDINANCE NO. 09-16-798
December 5, 2016

AN ORDINANCE TEMPORARILY CLOSING THE PORTION OF RIZAL STREET FROM BONGBONGS TO FR. MAURICIO FERRERO STREET, OCCUPYING THE SPACE OF THREE (3) METERS ONLY INCLUDING THE GUTTER FOR PURPOSES OF HOLDING A "PAMASKUA PARA SA BARANGAY 12" FROM DECEMBER 5, 2016 TO JANUARY 1, 2017, PER REQUEST OF BARANGAY 12, DOCKETED AS SP CORRESPONDENCE NO. 09-16-0573-B, SUBJECT TO CERTAIN CONDITIONS.

Be it ordained by the Sangguniang Panlungsod of Bacolod, in session assembled, that:

Section 1 – The portion of Rizal Street from Bongbongs to Fr. Mauricio Ferrero Street, occupying the space of three (3) meters only including the gutter is hereby temporarily closed for purposes of holding a "Pamaskua Para sa Barangay 12" from December 5, 2016 to January 1, 2017, per request of Barangay 12, docketed as SP Correspondence No. 09-16-0573-B, subject to certain conditions, to wit:

1. That it is intended only for the livelihood of the constituents of Barangay 12;
2. To secure temporary permit with the City with regards to the operations of "Pamaskua Para sa Barangay 12";
3. No lease/fees will be collected;
4. The area will not exceed three (3) meters including the gutter;
5. The Barangay Council should provide personnel to help in the traffic management of the area.
6. The Barangay Council is in-charge of the assignment of area to their constituents.

Section 2 – This ordinance shall take effect upon its approval.

CARRIED BY THE VOTE OF:

Affirmative :

Councilors :

Ricardo L. Tan, Caesar Z. Distrito, Cindy T. Rojas, Elmer T. Sy,
Ana Marie V. Palermo, Wilson C. Gamboa, Jr., Dindo C. Ramos,
Bartolome N. Orola, Sr., Claudio Jesus Raymundo A. Puentevella,
Sonya M. Verdeflor, Noli B. Villarosa.

Negative :

None.

Official Leave :

Councilor Renecito S. Novero.

Absent : None.

Author : Councilors Wilson C. Gamboa, Jr. and Dindo C. Ramos.

Passed : December 5, 2016 (23rd Regular Session of the 9th Council).

Comments : Passed.
Councilor Em L. Ang was not around when this ordinance was passed.

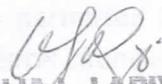


EL CID M. FAMILIARAN
Vice Mayor
Presiding Officer

ATTESTED:

ATTY. VICENTE C. PETIERRE III
Secretary to the Sanggunian

By:

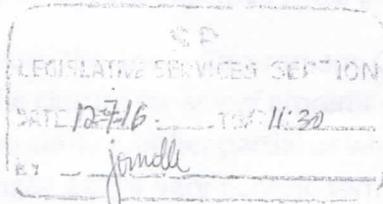


CELIA L. LABIYO
Stenographic Reporter IV

APPROVED: December, 2016.

EVELIO R. LEONARDIA
City Mayor

CLL/CGT/jbz



Absent : None.

Author : Councilors Wilson C. Gamboa, Jr. and Dindo C. Ramos.

Passed : December 5, 2016 (23rd Regular Session of the 9th Council).

Comments : Passed.
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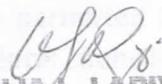


EL CID M. FAMILIARAN
Vice Mayor
Presiding Officer

ATTESTED:

ATTY. VICENTE C. PETIERRE III
Secretary to the Sanggunian

By:



CELIA L. LABIYO
Stenographic Reporter IV

APPROVED: December, 2016.

EVELIO R. LEONARDIA
City Mayor

CLL/CGT/jbz

SP
LEGISLATIVE SERVICES SECTION
DATE 12-7-16 TIME 11:30
BY jandell



Republic of the Philippines
OFFICE OF THE CITY MAYOR
Bacolod City

RECEIVED
12-16-16 4:40
DATE TIME
A2

December 16, 2016

HON. VICE MAYOR EL CID M. FAMILIARAN
and HONORABLE MEMBERS OF THE
SANGGUNIANG PANLUNGSOD
Bacolod City

HON. ELCID M. FAMILIARAN
OFFICE OF THE VICE MAYOR
BACOLOD CITY
16 DEC 2016
DATE: _____ TIME: 4:45 pm
RECEIVED BY: _____

Subject: **Veto of City Ordinance No. 09-16-798, series of 2016**

Your Honors,

This has reference to the above stated Ordinance which the undersigned respectfully communicates and conveys his Veto to your Honorable Office.

The following are the reasons upon study by the Office of the City Legal Officer which the undersigned adopts, to wit -

I. VOID FOR VAGUENESS

It may be noted that the temporary closure of the public road, or the partial or whole use thereof, is permitted by the Local Government Code as delegated authority given to the local councils. To quote the pertinent provision of Sec. 21(d) of R.A. 7160 -

SECTION 21. Closure and Opening of Roads. - x x x

(d) Any city, municipality, or barangay may, by a duly enacted ordinance, temporarily close and regulate the use of any local street, road, thoroughfare, or any other public place where shopping malls, Sunday, flea or night markets, or shopping areas may be established and where goods, merchandise, foodstuffs, commodities, or articles of commerce may be sold and dispensed to the general public.

Prescinding from the Local Government Code, the subject ordinance does not specify that the closure for any of aforementioned purposes let alone the specific use of the road closure, either partial or whole, except that it is for the "Pamaskua Para sa Barangay 12", a very generic term or phraseology that may render the Ordinance to any application other than what is authorized under the aforesaid provision of R.A. 7160. The void-for-vagueness doctrine holds that a law is facially

invalid if men of common intelligence must necessarily guess at its meaning and differ as to its application¹.

**II. CONTRARY TO THE SOCIAL WELFARE CLAUSE
OF THE LOCAL GOVERNMENT CODE IN RELATION
TO THE BALANCING OF INTEREST RULE.**

It is (of) public knowledge and common awareness that during the advent (Christmas) holidays enormous vehicular and pedestrian traffic congest the main roads of Bacolod City. This Ferrero Street which is the main entry and egress to one big shopping mall and same street closely adjacent to the Bacolod City Public Plaza will all the more be congested by this month-long activities of the "Pamascua Para sa Barangay 12". There is thus the paramount consideration of the welfare of the people especially in preserving their comfort and convenience mandated under Section 16 of the Local Government Code (R.A. 7160) as against the benefit of only a few although how lofty may be their intention. Under this unwavering principle in governance, proved by the incontrovertible fact of the massive traffic and congestion in the aforesaid area during the holiday season as precedingly determined, we cannot be unmindful of the applicability of the "Balancing of Interest" that requires that a determination must first be made whether the necessary safeguarding of the public interest involved may be achieved by some other measure less restrictive of the protected freedom².

Thus by the authority vested upon the undersigned by R.A. 7160, in particular Section 55 thereof and Article 108 of its Implementing Rules and Regulations, it is hereby respectfully submitted to your Honorable Office the Veto of City Ordinance No. 09-16-798, series of 2016 as attached hereto accompanied by this official Veto correspondence.

Very truly yours,


ATTY. EVELIO R. LEONARDIA
City Mayor

¹ Sps. Romualdez vs. COMELEC, G.R. No. 167011, December 11, 2008

² Soriano vs. Laguardia, G.R. Nos. 164785 and 165636, March 15, 2010, (dissenting opinion of Carpio, J.)



CITY LEGAL OFFICE
BACOLOD CITY
REC'D BY: *[Signature]*
DATE: DEC 9 2016
TIME: 1:46 pm

Republic of the Philippines
OFFICE OF THE CITY MAYOR
Bacolod City

ENDORSEMENT

December 9, 2016

Respectfully endorsing to **ATTY. JOSELITO BAYATAN**, City Legal Officer, the photocopy of the City Ordinance No. 09-16-798 December 5, 2016, re: Pamaskua Para sa Barangay 12 from Dec. 5, 2016 to Jan. 1, 2017 using sidewalk and gutters of Rizal St. from Bongbong's to Fr. Mauricio Ferrero St.

For immediate legal opinion.

[Signature]
ATTY. EDWARD JOSEPH C. CUANSING
Secretary to the Mayor

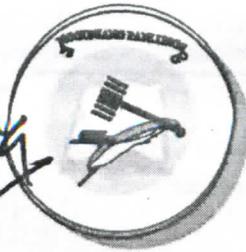
Encl. a/s

Republic of the Philippines
SANGGUNIANG PANLUNGSOD
CITY OF BACOLOD

Hon. Wilson C. Gamboa, Jr.

City Councilor

Chairman, Committee on History, Culture and Arts
Chairman, Committee on Ways and Means



[Handwritten signature]

INDORSEMENT

December 02, 2016

Respectfully indorsed to the Sangguniang Panlungsod, through Atty. Vicente Petierre III, Secretary to the Sanggunian **THE 2010 CORRESPONDENCE 010-958-A ALSO REFERRING TO THE "BARANGAY RESOLUTION NUMBER 16-215 SERIES OF 2016 OF BARANGAY 12 ENTITLED A RESOLUTION REQUESTING THE APPROVAL OF HON. EVELIO LEONARDIA AND THE SANGGUNIANG PANLUNSD MEMBERS THE PERMISSION IN FAVOR TO BARANGAY 12 TO OCCUPY THE SPACE FROM THE GUTTER BESIDES BONGBONGS MTO FR. FERRERO ST. TO HOLD A DIVISORIA PARA PAMASCUA SA BARANGAY ON DECEMBER 1, 2016 TO JANUARY 1,2017"** for inclusion in the agenda of the SP Regular Session on December 05, 2016. (last SP Correspondence 09-16-573A)

[Handwritten signature of Wilson C. Gamboa, Jr.]

HON. WILSON C. GAMBOA, JR.
Sangguniang Panlungsod Member
Vice-chairman Committee of Transportation
and Traffic Management



Republic of the Philippines
OFFICE OF THE VICE MAYOR
Bacolod City

2nd Floor, New Government Center
Tel. #: (034) 433-9011 loc. 222, 216
Telefax: (034) 708-8200

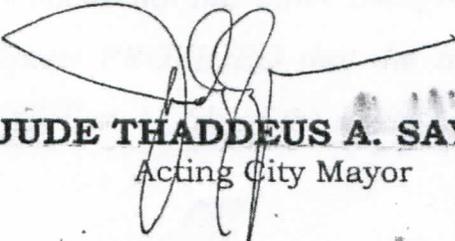


010 138 A
HON. JUDE THADDEUS A. SAYSON
Vice Mayor

INDORSEMENT

November 30, 2010

Respectfully indorsed to the Sangguniang Panlungsod through Atty. Nilo Alejandrino, SP Secretary, the herein Endorsement of Atty. Joselito T. Bayatan, City Legal Office of the Bacolod City Legal Office, Re: Resolution No. 147, Series of 2010 relative to the request for permission of Brgy. 12 to occupy the space along corner San Juan-Rizal Street down to Fr. Mauricio Ferrero Street for lease to interested lessees for Pamaskwa sa Barangay during the Christmas Season, for appropriate action and inclusion in the Agenda of SP Regular Session on December 1, 2010.



JUDE THADDEUS A. SAYSON
Acting City Mayor

1171

12-01-10



REPUBLIC OF THE PHILIPPINES
City of Bacolod
OFFICE OF THE CITY LEGAL OFFICER



ENDORSEMENT
NOV 26 2010

Respectfully indorsed to **Hon. Jude Thaddeus A. Sayson, Acting Mayor**, the herein **request for legal opinion** on the request for permission in favour of Brgy. 12 to occupy the space along corner San Juan-Rizal Streets down to Fr. Mauricio Ferrero Street for lease to interested lessees for Pamaskwa sa Barangay during the Christmas Season, *with a comment that this office interposes no objection to the grant of such request PROVIDED that the same be carried out in accordance with Section 21 (d) of the Local Government Code (R.A. 7160), to wit:*

(d) Any city, municipality, or barangay may, **by a duly enacted ordinance**, temporarily close and regulate the use of any local street, road, thoroughfare, or any other public place where shopping malls, Sunday, flea or night markets, or shopping areas may be established and where goods, merchandise, foodstuffs, commodities, or articles of commerce may be sold and dispensed to the general public.

ATTY. JOSELITO T. BAYATAN
 City Legal Officer

1171
 12-01-10

11-24

[Handwritten signature]



Republic of the Philippines
OFFICE OF THE CITY MAYOR
Bacolod City

CIRL # 1-2010-14
CITY LEGAL OFFER
BACOLOD CITY
REC'D BY: Marilan
DATE: 11/26/2010
TIME: 6:40 am

November 25, 2010

ATTY. JOSELITO T. BAYATAN
City Legal Officer
City Legal Office
Bacolod City

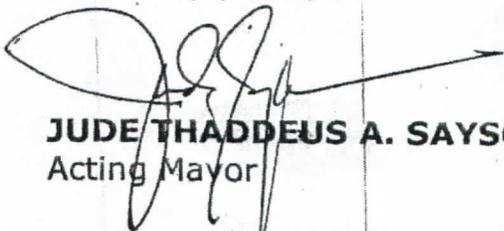
Dear Atty. Bayatan:

Attached please find a copy of Resolution No. 147, Series of 2010 of Barangay 12, Re: Resolution requesting the approval of Hon. Evelio R. Leonardia, City Mayor and the Sangguniang Panlungsod Members, the permission in favour of Barangay 12 to occupy the space along corner San Juan-Rizal Streets down to Fr. Mauricio Ferrero Street for lease to interested lessees for Pamaskwa sa Barangay During Christmas Season.

In as much as I want to accommodate the request of the Barangay Officials of Barangay 12, I am referring this matter first to your office for your legal opinion.

Thank you very much.

Very truly yours,


JUDE THADDEUS A. SAYSON
Acting Mayor

1171
12-01-10