
PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2024-008¹

09 July 2024

[REDACTED]
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**Re: DISCLOSURE OF PUBLIC DOCUMENTS RELATIVE TO A
LOCAL GOVERNMENT UNIT'S PURCHASE OF REAL
PROPERTIES.**

Dear [REDACTED]

We respond to your request for an Advisory Opinion on the propriety of disclosing several documents relative to the purchase of two (2) real properties by the City of San Pedro, Laguna (the "LGU").

You state that you received a request from a citizen and taxpayer of the LGU asking for copies of the following documents:

- 1) Authority to enter into a Contract of Sale from the Sangguniang Panlungsod;
- 2) Determination of the Purchase Price from the Assessment Committee;
- 3) Notarized Deed of Sale between the City Government and the Owner-Sellers;
- 4) Certificate of availability of funds from the City Budget Officer;
- 5) Official voucher relative to the purchase and copies of checks issued in the names of the Owner-Sellers;
- 6) Certificate from National Agencies issued for this purpose; and
- 7) Other related documents submitted to the Commission on Audit.

Recognizing that some of the documents contain personal and sensitive personal information (collectively, "personal data"), you seek guidance from the National Privacy Commission (NPC) on the following concerns: (1) Whether the request may be granted even if the aforementioned documents contain personal and sensitive personal information; and (2) The manner and parameters in which the processing may be conducted, if allowed.

¹ Tags: Public documents, scope of the DPA, freedom of information.

*Access to public documents; scope of the DPA;
Freedom of Information.*

The Data Privacy Act of 2012 (DPA)² acknowledges that certain public documents containing personal data are outside its scope, thus:

SEC. 4. *Scope.* – This Act applies to the processing of all types of personal information and to any natural and juridical person involved in personal information processing including those personal information controllers and processors who, although not found or established in the Philippines, use equipment that are located in the Philippines, or those who maintain an office, branch or agency in the Philippines subject to the immediately succeeding paragraph: *Provided,* That the requirements of Section 5 are complied with.

This Act does not apply to the following:

- (a) Information about any individual who is or was an officer or employee of a government institution that relates to the position or functions of the individual, including:
 - (1) The fact that the individual is or was an officer or employee of the government institution;
 - (2) The title, business address and office telephone number of the individual;
 - (3) The classification, salary range and responsibilities of the position held by the individual; and
 - (4) The name of the individual on a document prepared by the individual in the course of employment with the government.³ (emphasis supplied)

Furthermore, NPC Advisory No. 2017-02 provides for factors that must be considered by a government agency or office when resolving a request for access to public documents, *viz.:*

1. The information requested falls under matters of public concern;
2. The individual requesting for personal data has declared and specified the purpose of his or her request;
3. The declared and specified purpose is not contrary to law, morals, public policy; and
4. The personal data requested is necessary to the declared, specified, and legitimate purpose.⁴

Relative to requests for disclosure of public documents emanating from government agencies, Executive Order No. 02⁵ recognizes the right of the people to have access to information, official records, and to documents and papers pertaining to official acts, transactions, or

² An Act Protecting Individual Personal Information in Information and Communication Systems in the Government and Private Sector, Creating for this Purpose a National Privacy Commission, and for Other Purposes [Data Privacy Act of 2012], Republic Act No. 10173, (2012).

³ Emphasis supplied.

⁴ National Privacy Commission, NPC Advisory No. 2017-02 (3 April 2017).

⁵ Office of the President, Operationalizing in the Executive Branch the People’s Constitutional Right to Information and the State Policies to Full Public Disclosure and Transparency in the Public Service and Providing Guidelines Therefor, Executive Order No. 2 [EO No. 2] (July 23, 2016).

decisions, which are in the possession or under the custody of the government and relating to matters of public concern. Nevertheless, EO No. 2 clarifies that it is not without limitation as it recognizes certain exceptions in its application as enshrined in the Constitution, existing laws, or jurisprudence.

Based on the foregoing, the disclosure of documents to the requester relative to the purchase of real properties may be allowed pursuant to EO No. 2 since the information contained in these documents involve matters of public concern. Likewise, the personal data of public officers which are included in these documents can also be disclosed in light of Section 4 (a) of the DPA.

However, we note that while the requested documents may be disclosed, it must only be to the minimum extent of collection, access, use, disclosure or other processing necessary to the purpose, function, or activity concerned.⁶ Accordingly, there is a need to balance, on a case-to-case or per document basis, the right to information of the public and the right to data privacy of government personnel.

Thus, where the documents or forms contain personal data of the government officer or employee which is no longer of public concern, government agencies as personal information controllers (PICs) may redact such personal data prior to the release of such documents.⁷

Legitimate interest; general data privacy principles.

As to the personal data of private individuals which may be part of the data requested, you may rely on Section 12 (f) of the DPA. Such provision permits the processing of personal information when it is necessary for the purpose of the legitimate interests pursued by the PIC or by a third party or parties to whom the data is disclosed, except where such interests are overridden by fundamental rights and freedoms of the data subject which require protection under the Philippine Constitution.

Section 3(a) of NPC Circular No. 2023-074⁸ defines legitimate interest as any actual and real interest, benefit, or gain that a personal information controller (PIC) or third party may have in or may derive from the processing of personal information. However, processing based on a legitimate interest may only be relied upon when it involves processing of personal information and not when it involves sensitive personal information.

Please note that the determination of whether legitimate interest is established rests upon the PIC. The case of *MAF vs. Shopee*⁹ is highly instructive on this matter, *viz.*:

In determining if legitimate interest is established, the following must be considered:

- (1) The purpose of the specific processing activity must be specific, such that it is clearly defined and not vague or overbroad;
- (2) The purpose of the specific processing activity must not be contrary to laws, morals, or public policy following the principle of legitimate purpose; and

⁶ Rules and Regulations Implementing the Data Privacy Act of 2012, Republic Act No. 10173, § 5 (a)(1) (2016).

⁷ National Privacy Commission, NPC Advisory Opinion No. 2019-026 (24 April 2019).

⁸ National Privacy Commission, Guidelines on Legitimate Interest, NPC Circular No. 2023-07, (13 December 2023).

⁹ National Privacy Commission, *MAF v. Shopee Philippines, Inc.* [NPC 21-167] (22 September 2022).

- (3) The interest established must be declared to the data subject prior to the processing or at the next practical opportunity, following the principle of transparency and the right of the data subject to be informed.

The processing must also comply with the general data privacy principles of transparency, legitimate purpose, and proportionality. Particularly applicable to your concern is the principle of proportionality which requires PICs to assess the proportionality of the information processed, and the ways and means of processing. This means that that PIC shall only grant access to such information that is adequate, relevant, suitable, necessary, and not excessive in relation to the declared and specified purpose.

Since the public documents requested may contain personal data of private individuals, the PIC shall determine whether the data requested is proportional to the purpose of the requester.

Please be advised that this Advisory Opinion was rendered based solely on the information you have provided. Any extraneous fact that may be subsequently furnished us may affect our present position. Please note further that our Advisory Opinion is not intended to adjudicate the rights and obligations of the parties involved.

For your reference.

Very truly yours,

(Sgd.)

FRANKLIN ANTHONY M. TABAQUIN, IV

Director IV, Privacy Policy Office