



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2022-028¹

29 December 2022

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

**Re: REQUEST FOR COPIES OF TAX DECLARATION,
CERTIFICATE OF TITLE, AND TAX CLEARANCE OF REAL
PROPERTIES**

Dear [REDACTED]

We respond to your inquiry concerning the denial by the City Assessor of Talisay City of your request to obtain copies of tax declarations, certificates of title, and tax clearances (hereafter collectively referred to as, "Land Documents"), citing Republic Act No. 10173 also known as the Data Privacy Act of 2012 (DPA).²

We draw from your letter that you and your husband are the heirs of [REDACTED] [REDACTED] who were awarded three (3) parcels of land through the Comprehensive Agrarian Reform Program. In the course of the survey of the properties for the issuance of a Certificate of Land Ownership Award, you found out that they were registered/titled in the name of a certain [REDACTED]

You thus intend to file the appropriate case to dispute the registration of [REDACTED] (e.g., cancellation of title, annotation of *lis pendens*) which precipitated your request for the Land Documents and the consequent denial by the City Assessor.

*Processing that is necessary for the establishment of
legal claims; Section 13 (f)*

The DPA applies to all types of processing of personal information subject to certain qualifications.³ The disclosure of Land Documents is considered processing of personal information, and therefore must comply with the requirements under the DPA.

¹ Tags: cancellation of title, lis pendens, tax declaration, certificate of title, tax clearance, establishment of legal claims, Section 13 (f).

² An Act Protecting Individual Personal Information in Information and Communication Systems in the Government and the 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 Data Privacy Act of 2012, § 4.

The Land Documents contain various personal and sensitive personal information of the individual owner or administrator such as name, address, and taxpayer identification number (TIN).

Personal information, such as names and addresses, may be processed based on the various lawful criteria for processing under Section 12 of the DPA:

“SECTION 12. Criteria for Lawful Processing of Personal Information. – The processing of personal information shall be permitted only if not otherwise prohibited by law, and when at least one of the following conditions exists:

- (a) The data subject has given his or her consent;
- (b) The processing of personal information is necessary and is related to the fulfillment of a contract with the data subject or in order to take steps at the request of the data subject prior to entering into a contract;
- (c) The processing is necessary for compliance with a legal obligation to which the personal information controller is subject;
- (d) The processing is necessary to protect vitally important interests of the data subject, including life and health;
- (e) The processing is necessary in order to respond to national emergency, to comply with the requirements of public order and safety, or to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate; or
- (f) The processing is necessary for the purposes of the legitimate interests pursued by the personal information controller 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.”

On the other hand, a TIN is classified as a sensitive personal information⁴ as it is issued by government agencies peculiar to an individual. The law prohibits the processing of sensitive personal information and privileged information except in the following cases stated in Section 13 of the DPA, to wit:

“Section 13. Sensitive Personal Information and Privileged Information. – The processing of sensitive personal information and personal information shall be prohibited, except in the following cases:

- a) The data subject has given his or her consent, specific to the purpose prior to the processing, or in the case of privileged information, all parties to the exchange have given their consent prior to processing;
- b) The processing of the same is provided for by existing laws and regulations:

⁴ *Id.* 3 (1): SECTION 3 . Definition of Terms . — Whenever used in this Act, the following terms shall have the respective meanings hereafter set forth: x x x

(1) Sensitive personal information refers to personal information:

- (1) About an individual's race, ethnic origin, marital status, age, color, and religious, philosophical or political affiliations;
- (2) About an individual's health, education, genetic or sexual life of a person, or to any proceeding for any offense committed or alleged to have been committed by such person, the disposal of such proceedings, or the sentence of any court in such proceedings;
- (3) Issued by government agencies peculiar to an individual which includes, but not limited to, social security numbers, previous or current health records, licenses or its denials, suspension or revocation, and tax returns; and
- (4) Specifically established by an executive order or an act of Congress to be kept classified.

- Provided, That such regulatory enactments guarantee the protection of the sensitive personal information and the privileged information: Provided, further, That the consent of the data subjects are not required by law or regulation permitting the processing of the sensitive personal information or the privileged information;
- c) The processing is necessary to protect the life and health of the data subject or another person, and the data subject is not legally or physically able to express his or her consent prior to the processing;
 - d) The processing is necessary to achieve the lawful and noncommercial objectives of public organizations and their associations: Provided, That such processing is only confined and related to the bona fide members of these organizations or their associations: Provided, further, That the sensitive personal information are not transferred to third parties: Provided, finally, That consent of the data subject was obtained prior to processing;
 - e) The processing is necessary for purposes of medical treatment, is carried out by a medical practitioner or a medical treatment institution, and an adequate level of protection of personal information is ensured; or
 - f) The processing concerns such personal information as is necessary for the protection of lawful rights and interests of natural or legal persons in court proceedings, or **the establishment, exercise or defense of legal claims**, or when provided to government or public authority.” (emphasis supplied)

It appears that your request to the Assessor for copies of the Land Documents is necessary for your intended legal action. As such, your request qualifies as processing or disclosure for the establishment of a legal claim under Section 13 (f) of the DPA.

In [NPC Advisory Opinion No. 2019-013](#) we stated that:

[A]s long as the requestor may properly establish x x x that the document is necessary to the establishment, exercise or defense of a legal claim, the assessor’s office may grant the request from persons other than the registered owner without the latter’s consent. This is subject to the existing policies, regulations, and procedures of the assessor’s office relative to the release of such document, i.e., payment of fees, etc.⁵

In the case of *BGM vs. IPP*, citing NPC 17-018 dated 15 July 2019,⁶ the National Privacy Commission’s (NPC) further elucidated on the following matters:

- Processing as necessary for the establishment of legal claims under Section 13 (f) does not require an existing court proceeding. The ruling provided that: “To require a court proceeding for the application of Section 13 (f) to this instance would not only be to disregard the distinction provided in the law but the clear letter of the law as well. After all, the very idea of “establishment ... of legal claims” presupposes that there is still no pending case since a case will only be filed once the required legal claims have already been established;”
- Only the necessary personal data should be processed under Section 13 (f) for establishing legal claims: “The DPA should not be seen as curtailing the practice of law in litigation. Considering that it is almost impossible for Congress to determine beforehand what specific data is “necessary” or may or may not be collected by lawyers for purposes of building a case, applying the qualifier “necessary” to the second instance in Section 13 (f)

⁵ National Privacy Commission, NPC Advisory Opinion No. 2019-013 (April 1, 2019).

⁶ National Privacy Commission, EA and TA v. EJ, EE and HC, NPC Case No. 17-018, available at <https://www.privacy.gov.ph/wp-content/uploads/2022/04/NPC-17-018-EA-and-TA-v-EJ-Decision-2019.07.15-.pdf>.

therefore, serves to limit the potentially broad concept of “establishment of legal claims” consistent with the general principles of legitimate purpose and proportionality;” and

- Processing of personal information for the protection of lawful rights and interests of natural or legal persons in court proceedings or the establishment, exercise or defense of legal claims are considered as legitimate interests under Section 12 (f): “Although Section 13(f) applies to sensitive personal information while the information involved in this case is just personal information, the protection of lawful rights and interests under Section 13(f) by the Respondent is considered as legitimate interest pursuant to Section 12(f) of the DPA. This section provides that it is lawful to process personal information if it is necessary for the purposes of the legitimate interests pursued by the personal information controller 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.”⁷

In addition, the term “establishment” may include activities to obtain evidence by lawful means for prospective court proceedings.⁸ As can be gleaned in the facts provided, your request for copies of the Land Documents is necessary for your intended legal actions.

We note that [NPC Advisory No. 2017-02](#), which was mentioned in the letter request, is not applicable in this instance. The Advisory only involves requests for personal data sheets of government personnel.

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.

Please be guided accordingly.

Very truly yours,

(Sgd.)
FRANKLIN ANTHONY M. TABAQUIN IV
Director IV, Privacy Policy Office

⁷ National Privacy Commission, BGM vs. IPP [NPC 19-653] (Dec. 17, 2020) (pages 6-8), available at [NPC-19-653-BGM-vs-IPP-Decision-FINAL-Pseudonymized-21Dec2020.pdf \(privacy.gov.ph\)](#) (last accessed 6 January 2023).

⁸ National Privacy Commission, NPC Advisory Opinion No. 2021-36 (Sept. 23, 2021) citing National Privacy Commission, NPC 19-653 (Dec. 17, 2020).