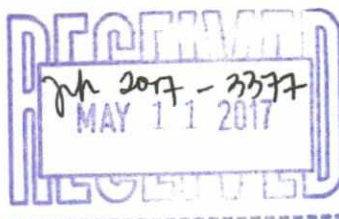


HERMOSURA
NAVARRO
& SISON
ONGSIAKO



10 May 2017

3F Tower One and Exchange Plaza
Ayala Triangle, Ayala Avenue
Makati City 1226 Philippines
Tel +632 908 3979
Fax +632 548 5327

MS. NATIVIDAD Y. BERNARDINO
OIC, Regional Director
DEPARTMENT OF ENVIRONMENT & NATURAL RESOURCES
MIMAROPA Region
1515 L & S Building, Roxas Boulevard
Ermita, Manila 1000

DENR - R - IV - D	
OFFICE OF THE	
REGIONAL EXECUTIVE DIRECTOR	
DOC. NO.	
RECEIVED	RELEASED
BY: <i>Joe</i>	BY:
DATE: MAY 12 2017	DATE:
TIME: <i>PM</i>	TIME:

Dear Ms. Bernardino:

We received your letter to Mr. Javier Hernandez dated April 10, 2017 and April 11, 2017.

In your letter, you stated that "upon verification made by the technical staff of the office, xxx it was ascertained on the one hand that the technical description of the map supposedly embracing FLAg-T area of TKPI are indeed erroneous. When plotted against the land classification map, the said area is largely offshore of Bacuit Bay. On the other hand, the proposed amendment of technical descriptions submitted by Engr. Veneracion overlapped with the portion of Lot 285, Cad 1037-D of El Nido Cadastre, which notably is in the agriculture (A & D) zone. In any case, and considering the reported technical discrepancies, the FLAg- T granted to TKPI on December 2005 may be cancelled as the tenure in question supposedly covering a forest land will not apply to agricultural land of the public domain."

We hereby submit our comment to the letter.

**I. THE LAND COVERED BY TKPI'S
FLAg-T CANNOT LEGALLY BE
ALIENABLE AND DISPOSABLE AS
IT HAS AN AVERAGE SLOPE OF 43°**

*5-18-17 MUA
LF 17 05-0723p486
Taytay Pal.*

1.1. Engineer Nestor Veneracion, a licensed Geodetic Engineer, conducted "Topographic Survey and Tree Survey" of the FLAg-T area actually occupied by TKPI. A copy of the "Topographic and Tree Survey" is attached as Annex "A" hereof.

1.2. In the "Topographic Survey and Tree Survey," Engineer Veneracion factually found that the FLAg- T area actually occupied by TKPI has an average slope of 43°.

LP1192

*lot 104 lot 105
5/17/17 5/18/17
11:36am*

1.3. Section 15 of Presidential Decree ("PD") 705 or the Revised Forestry Code of the Philippines commands that *"no land of the public domain eighteen percent (18%) in slope or over shall be classified as alienable and disposable."*

In fact, Section 15 of PD 705 goes on to say that *"land eighteen percent (18%) in slope or over which have been declared as alienable and disposable shall be reverted to the classification of forest land."*

1.4. Your Office's classification of the FLAg-T area actually occupied by TKPI as alienable and disposable contravenes the explicit command of PD 705.

1.5. It was in fact though the advice of the Protected Area Office (PAO) of the El Nido-Taytay Managed Resource Protected Area (ENTMRPA) that TKPI applied for a FLAg-T more than a decade ago PRECISELY because the area occupied by TKPI is forest land and not susceptible of outright disposition, which your Office has improvidently done.

II. THERE ARE 4,300 TREES TAGGED BY ENGINEER VENERACION IN HIS TREE TAG SURVEY IN THE FLAg-T AREA OCCUPIED BY TKPI, WHICH IS A MERE 3.2 HECTARES. THIS IS THE MOST ELOQUENT PROOF THAT THE AREA IS FOREST LAND NOT ALIENABLE AND DISPOSABLE AGRICULTURAL LAND.

2.1 As stated, Engineer Nestor Veneracion conducted a "Topographic Survey and Tree Survey." TKPI attaches hereto as Annex "B" to "B-4" five pages of the Tree Survey conducted by Engineer Veneracion.

2.2 The Tree Survey shows Engineer Veneracion tagged 4, 300 trees on the 3.2 hectares subject of TKPI's FLAg-T occupied area. Each tag specifies the type or species of tree to which is was affixed ; the trunk diameter and the crown diameter.

2.3 Verily, a 3.2 hectares area with 4, 300 trees on it is forest land and not agricultural land.

III. THE EXISTING LAND USE CLASSIFICATION MAP OF THE DENR FOR PALAWAN LIMITED THE ALIENABLE AND DISPOSABLE PORTION OF BLOCK VI OF CADLAO ISLAND TO 81 HECTARES. YOUR OFFICE APPEARS TO HAVE ALREADY BESTOWED ALIENABLE

**AND DISPOSABLE
CLASSIFICATION STATUS IN
BLOCK VI OF CADLAO TO 109.5
HECTARES, MANIFESTLY IN
EXCESS OF THE 81 HECTARES.**

3.1. The land use classification map of the DENR for Palawan shows that the DENR Central ONLY classified and limited to 81 hectares the alienable and disposable land in Block VI of Cadlao.

3.2. Engineer Veneracion, going over public records for Block VI of Cadlao Island, consisting of titles and tax declarations, plotted the technical descriptions culled from titles and tax declaration and he made a "Sketch Consolidation Plan," Annex "C" hereof.

3.3. The Sheet Consolidation Plan shows your Office has already bestowed alienable and disposable status or classification to 109.5 hectares, MANIFESTLY IN EXCESS of the 81 hectares in the Land Use Classification Map.

3.4. The difference between the 109.5 hectares and limit of 81 hectares by way of alienable and disposable land are accounted for mainly by the free patents and original certificates of title your Office improvidently issued on February 2, 2015.

3.5. The excess your Office issued over and above the limit of 81 hectares overlaps TKPI's actually occupied FLAg-T area of 3.2 hectares, which as stated has an average slope of 43 percent and has 4,300 trees and which the PAMB advised TKPI to apply for a FLAg-T as it is forest land.

**IV. TKPI HAS BEEN IN OPEN,
EXCLUSIVE CONTINUOUS,
UNINTERRUPTED AND
NOTORIOUS POSSESSION OF THE
3.2 HECTARES OF FOREST LAND
WITH RESPECT TO WHICH YOUR
OFFICE AFFIXED ERRONEOUS
TECHNICAL DESCRIPTION.
ISSUANCE OF PATENT THERETO
TO ANOTHER PERSON, WHO HAS
NO POSSESSION WHATSOEVER,
AND TO FOREST LAND AT THAT, IS
TO SET THE LEAST, IMPROVIDENT.**

4.1. A certain Amado Dajao was TKPI's predecessor-in-interest to the 3.2 hectares in Block VI of Cadlao Island.

4.2. On 7 August 1997, Dajao executed a "Waiver of Rights," Annex "D" hereof, assigning his *"right and interests over a portion of public forest land with improvement"* to TKPI.

4.3. Since 7 August 1997, TKPI has been in open, exclusive, continuous, uninterrupted and notorious possession of the 3.2 hectares. It fenced the area and placed guard to secure the property since then until now.

4.4. Precisely because it was a "public forest land" near the sea, TKPI applied for and was issued a "Special Use Permit (Bathing Establishment) by the Provincial Environment and Natural Resources Office" on November 6, 1998, Annex "E" hereof.

4.5. Upon the advice of the PAO, TKPI applied for a "Forest Land Use Agreement for Tourism Purposes (FLAg-T)" which the Regional Executive Director for Region IV-B Vicente Paragas issued, Annex "F" hereof, and which was based on a "Map Showing the Area Covered by Forest Land Use Agreement for Tourism Purposes (FLAg-T)" No. DENR-IV-MIMAROPA-12302030-0010 of TKPI, Annex "G" hereof.

The Map clearly shows the connect area now being occupied by TKPI.

That the technical description is erroneous, as found now, is of no moment, because the same is clearly an error of your Office which supplied the technical descriptions.

4.6. The fact remains undisputed and un rebutted that :

4.6.1. The area has an average slope of 43°.


4.6.2. The 3.2 hectares has 4,300 trees.

4.6.3. TKPI has open, exclusive, continuous, uninterrupted, and notorious possession of the area which is fenced and secured by guards.

4.7 It is a mystery that free patents were supposedly issued to another person on February 2, 2015 over the area TKPI has been occupying and has been in possession of since 1997 as NO ONE IS RESIDING THEREON, NOT EVEN THE GRANTEE OF THE SUPPOSED FREE PATENT AND THERE WAS NO OCULAR INSPECTION CONDUCTED OR NOTICE POSTED ON THE PROPERTY which are , among others , legal requirements for the issuance of free patent.

Conformably with the foregoing, TKPI disputes the intended cancellation of its FLAg- T and should this Office persist, TKPI shall resort to ANY and ALL LEGAL REMEDIES to vindicate and protect its interest, whether they be civil, criminal or administrative.

Very truly yours,



ROBERTO T. ONGSIAKO