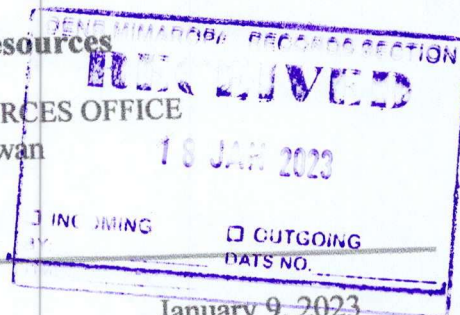




Republic of the Philippines
Department of Environment and Natural Resources
MIMAROPA Region
PROVINCIAL ENVIRONMENT AND NATURAL RESOURCES OFFICE
Bgy. Sta. Monica, Puerto Princesa City, Palawan
Telfax No. (048) 434 - 8791
Email Add: penropalawan@denr.gov.ph



January 9, 2023

MEMORANDUM

TO : The Community Environment and Natural Resources Officer
Roxas, Palawan

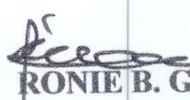
FROM : The Provincial Environment and Natural Resources Officer

SUBJECT : **LEGAL OPINION/CLARIFICATION RE: IMPLEMENTATION OF THE ORDER DATED 27 DECEMBER 2017 AMENDING THE FLAGT NO. DENR IV-MIMAROPA-11302030-0002 IN THE NAME OF EMELIE L. BESAGA IN BGY. PORT BARTON, SAN VICENTE, PALAWAN**

Forwarded is the Memorandum from Atty. Jazmin D. Altea relative to your request for legal opinion/clarification re: implementation of the Order dated December 27, 2017 amending the FLAGT No. DENR-IV-MIMAROPA-11302030-0002 in the name of Emelie L. Besaga in Barangay Port Barton, San Vicente, Palawan.


For information and guidance.

For the PENR Officer:


RONIE B. GANDEZA
OIC-Chief, Technical Services Division
In-Charge, Office of the PENRO

TSD/File *kkva
Doc. Ref. No. 2022-11434

cc: JED

DENR-PALAWAN
PENRO-RECORDS
RELEASED
By 
Date **11 JAN 2023** CN. **22-11434**



November 29, 2022

MEMORANDUM


FOR : The Provincial Environment and Natural Resources Officer

ATTENTION : The Community Environment and Natural Resources Officer- Roxas, Palawan

FROM : Atty. Jazmin D. Altea
Attorney III

SUBJECT : **LEGAL OPINION/ CLARIFICATION RE: IMPLEMENTATION OF THE ORDER DATED 27 DECEMBER 2017 AMENDING FLAGT NO. DENR IV-MIMAROPA-11302030-0002 IN THE NAME OF EMELIE L. BESAGA IN BGY. PORT BARTON, SAN VICENTE, PALAWAN**

DENR PENRO
PALAWAN RECORDS
RECEIVED

BY: 
DATE: 12-6-2022 22-11434

This has reference to the Memorandum dated October 27, 2022 of the Community Environment and Natural Resources Office – Roxas, Palawan (CENRO Roxas) requesting for legal advice in the above-mentioned subject in relation to the letter dated October 21, 2022 from Atty. Ryan P. Acosta, in behalf of his client, Luzviminda Acosta, requesting for the immediate implementation of the Order dated December 27, 2017 of the then OIC-Regional Executive Director of the DENR MIMAROPA Region.

Specifically, the legal opinion of this Office is sought on whether there is a need to wait for an amended FLAgT consistent with its metes and bounds before complying with the Order dated December 27, 2017.

Upon inquiry to the Chief of Legal Division of DENR MIMAROPA Region, she mentioned that there is still a need to wait for the amended FLAgT consistent with the metes and bounds and for the cancellation of the previous one issued to Ms. Emilie Besaga. As of now, the Regional Office is still on the process of cancellation and issuance of a new FLAgT to Ms. Emilie Besaga.

However, the undersigned is of the opinion that the CENRO Roxas may still comply with the Order dated December 27, 2017 of then OIC-RED, in implementing the Decision of the Office of the President as affirmed by the Supreme Court in G.R. No. 194061, without having to await for the amended FLAgT of Emilie Besaga consistent with its metes and bounds.

In the Memorandum dated January 6, 2022 issued by the Director of Legal Affairs Service, it was determined that the prevailing Decision to be implemented is the Decision of the Secretary of DENR dated August 6, 2006. The dispositive portion of which reads:

“WHEREFORE, PREMISES CONSIDERED, the Orders, dated December 1, 2003 and July 26, 2004, of the Regional Executive Director for DENR-MIMAROPA are hereby REVERSED and it is hereby directed that the Special Land Use Permit (Bathing Establishment), now FLAgT of Appellee Emilie Besaga be AMENDED to cover only Lot 4513 and let the Special Land Use Permit Application of Appellant Luzviminda Acosta be



GIVEN DUE COURSE to cover Lot Nos. 4512 and 4514, subject to the provisions of DENR Administrative Orders No. 28, Series of 2004.

SO ORDERED. (Emphasis supplied)”

To elaborate, there are only two (2) things that should be done for the full implementation of the Decision: (1) *Amend the FLaGT of Appellee Emilie Besaga to cover only Lot 4513 and (2) Let the Special Land Use Permit Application of Appellant Luzviminda Acosta be GIVEN DUE COURSE to cover Lot Nos. 4512 and 4514, subject to the provisions of DENR Administrative Order (DAO) No. 2004-28.*¹

Considering that both (1) and (2) are independent of each other and can be done simultaneously, the undersigned is of the opinion that the CENRO Roxas may initially assess and evaluate the application requirements of Spouses Acosta, subject to the requirements and procedures laid down under DAO 2004-28, for their application to be given due course. This does not necessarily mean that their application will be immediately granted. Their compliance with the necessary requirements is still subject to evaluation of the PENRO and the Regional Office in accordance with the provision of DAO 2004-28. It is to be noted that the grant of FLaGT is not a right but just a privilege given to the applicant. Hence, it may or may not be granted depending on the compliance of the applicant to the requirements under DAO 2004-28.

In view of the foregoing and to expedite the implementation of the subject Decision, for the meantime, the undersigned advises the CENRO of Roxas to assess, evaluate and process the application of Luzviminda Acosta on Lots 4512 and 4514 and process the same for it to be given due course. Once the FLaGT of Emilie Besaga has been fully cancelled and issued a new one consistent with the technical description in Lot 4513, the CENRO Roxas may issue a Notice to Vacate or secure the assistance of the LGU to remove Ms. Emilie Besaga in the subject land. The purpose of the removal of Ms. Emilie Besaga in Lots 4512 and 4514 is not to place Spouses Luzviminda Acosta in the subject land, but to claim the subject land for being a part of the public domain.

For your information and guidance.


ATTY. JAZMIN D. ALTEA

¹ Memorandum dated January 6, 2022 citing the Decision of the Secretary of DENR dated August 6, 2006 is hereto attached as Annex "A";