



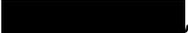
Republic of the Philippines
NATIONAL PRIVACY COMMISSION

**PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2019-042¹**

17 October 2019



Re: TAX DECLARATION

Dear ,

We write in response to your letter which sought clarification on the release of the certified clear and complete copies of tax declarations of certain real properties.

We understand that a certain law firm requested for the abovementioned documents on behalf of its clients (herein referred to as "Spouses") in relation to your letter to the Spouses dated April 3, 2019 wherein you stated that the subject property of the Spouses appears to overlap with portions of several other titled real properties also declared for tax purposes, and that the Spouses may settle the matter of conflict of ownership in a court of proper jurisdiction.

The law firm claims that in order for the Spouses to fully appreciate the situation and to guide them in taking the proper course of action, they are requesting for the copies of the respective tax declarations of the properties which overlaps with the subject property.

You now ask the following:

1. Whether the request of the law firm will require the consent of the several affected declared owners/ data subjects whose names and last known addresses are printed on the face of the tax declarations; and
2. Regardless of the consent of the data subjects, does the City of Antipolo, through the Office of the City Assessor, still need to enter into a data sharing agreement with the law firm and their clients before processing their request.

¹ Tags: tax declarations; scope; lawful processing; data privacy principles; consent; data sharing agreement

Scope of the Data Privacy Act of 2012; lawful criteria for processing

The Data Privacy Act of 2012² (DPA) applies to all types of processing of personal information subject to certain qualifications.³ The disclosure of documents containing personal or sensitive personal information (collectively, personal data) is considered processing. The law sets certain parameters under which personal data may be processed in a manner that is consistent with the general data privacy principles.

The Office of the City Assessor may rely on any of the provisions of Sections 12 and 13 of the DPA which provides the criteria for lawful processing of personal and sensitive personal information, respectively.⁴ These sections clarify that consent of the data subject is just one of the possible basis for processing. For instance, the DPA provides that processing of personal information is permitted if necessary to fulfill functions of public authority which necessarily includes the processing of personal data for the fulfillment of its mandate.⁵

Personal information controllers (PICs), such as the City of Antipolo, should make its own determination of the proper basis for the disclosure, depending on the nature of the personal data being processed.⁶ They should evaluate whether the release of information is necessary for the fulfillment of its duties under existing laws and regulations.

Due consideration should also be given to the information requested and whether it is relevant and material to the declared purpose of the requesting party. In this case, the Spouses are requesting information to guide them in taking the proper cause of action. The Office of the City Assessor previously communicated to the Spouses the seeming overlap of portions of the subject property and other declared properties belonging to other owners and the possible need to settle conflicts of ownership.

Data sharing; data sharing agreement

Data sharing is allowed when it is expressly authorized by law and adequate safeguards are in place, including adherence by the parties thereto to the general principles of transparency, legitimate purpose, and proportionality.⁷

Relative to this, the NPC issued NPC Circular No. 16-02 which sets out guidelines for data sharing agreements involving government agencies. Section 1 of the Circular provides:

“SECTION 1. General Principle. To facilitate the performance of a public function or the provision of a public service, a government agency may share or transfer personal data under its control or custody to a third party through a data sharing agreement: Provided,

² An Act Protecting Individual Personal Information in Information and Communications 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 *Id.* § 4.

⁴ See: National Privacy Commission, NPC Advisory Opinion No. 2019-39 (Sept. 3, 2019).

⁵ *Id.* § 12(e); See also § 13(f).

⁶ *Id.*

⁷ Rules and Regulations Implementing the Data Privacy Act of 2012, Republic Act No. 10173, § 20 (a) (2016).

that nothing in this Circular shall be construed as prohibiting or limiting the sharing or transfer of any personal data that is already authorized or required by law."

Considering that the request for copies of the tax declarations is in relation to or necessary for compliance with a legal obligation of the Spouses with the Office of the City Assessor, or may be based also on the fulfillment of the functions of your office as a public authority, whereby both instances are considered as lawful bases for processing of personal information under the DPA, the said request may be granted without necessarily executing a data sharing agreement between and/or among the parties concerned.

This opinion is based solely on the limited information you have provided. Additional information may change the context of the inquiry and the appreciation of facts. This opinion does not adjudicate issues between parties nor impose any sanctions or award damages.

For your reference.

Very truly yours,

(Sgd.) IVY GRACE T. VILLASOTO
OIC-Director IV, Privacy Policy Office

Noted by:

(Sgd.) RAYMUND ENRIQUEZ LIBORO
Privacy Commissioner and Chairman