



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

**PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2019-027¹**

04 June 2019



Re: DISCLOSURE OF THE NAMES OF THE UNIT OWNERS/MEMBERS OF A HOMEOWNERS' ASSOCIATION

Dear ,

We write in response to your request for advisory opinion seeking clarification on whether NPC Advisory Opinion No. 2018-011, which recognized the disclosure of unit numbers of members of a condominium association as allowable, is applicable as well to the scenario where the names of the homeowners and tenants occupying the property are requested by members of the Mahogany Place 3 Homeowners' Association, Inc. (the Association). The purpose of the request is for verification if the property in the subdivision is being used for commercial purposes.

We understand from a subsequent email communication that the use of a unit for any business activity for profit is prohibited under the Association's House Rules. We understand further that a neighboring unit owner of the subject unit suspected of engaging in commercial activity, the same allegedly being used as a satellite office without official permits, would like to file a case to determine if there is a violation of this policy. In preparation to pursuing his legal remedies, the property management is requested to provide the list of names of the unit owners and tenants therein.

Names of members of the Association as personal information; criteria for lawful processing; legal obligation to which the personal information controller is subject

The names of the members of the Association, their respective unit numbers, and the names of their tenants are considered as personal information. Section 12 of the DPA provides for the various criteria for lawful processing of personal information, which includes processing

¹ Tags: personal information; lawful processing; general data privacy principle; proportionality

that is necessary for compliance with a legal obligation to which the personal information controller is subject.²

In relation to the above, Section 7 of the Magna Carta for Homeowners and Homeowners' Associations³ (Magna Carta) provides:

“SEC. 7. Rights of a Member. - An association member has full rights: xxx

(b) to inspect association books and records during office hours and to be provided upon request with annual reports, including financial statements;”

In your case, the Association has a legal obligation to its members, rooted in Section 7 of the Magna Carta, to provide access to, and allow inspection of corporate records and documents. The DPA does not operate to curtail existing rights of members of a homeowners' association, specifically on inspection of association books and records, subject to existing laws and regulations on such matters.⁴

General data privacy principle; proportionality

The above notwithstanding, the pivotal issue is the determination of whether there is any other way the requesting member could verify if the property is being used for commercial purposes and pursue the appropriate legal remedies without necessarily having access to the personal information of the homeowners and tenants of the subject unit.

Pursuant to the general data privacy principle of proportionality, the processing of information shall be adequate, relevant, suitable, necessary, and not excessive in relation to a declared and specified purpose.⁵ Personal data shall be processed only if the purpose of the processing could not reasonably be fulfilled by other means.⁶

With this, the Association may act on the report or possible complaint of one member for a violation of the Association's House Rules without necessarily providing such member the names of the alleged violators of the House Rules.

Should an investigation, hearing, or any other process be conducted as part of the Association's dispute resolution, the same should follow due process requirements under existing laws and regulations, including the Articles of Incorporation and By-Laws of the Association. In such process, the details of the parties involved would then be necessarily disclosed at the most appropriate time.

We likewise reiterate NPC Advisory Opinion No. 2018-011 – that the more pertinent rules that shall govern your inquiry are the Revised Corporation Code of the Philippines, the Magna Carta, as well as the Articles of Incorporation and By-Laws of the Association. The above may provide more applicable information on the rights of members as to inspection and access to the Association's books and records.

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, § 12 (c) (2012).

³ An Act Providing for a Magna Carta for Homeowners and Homeowners' Associations, and For Other Purposes [Magna Carta for Homeowners and Homeowners' Associations], Republic Act No. 9904 (2010).

⁴ See: National Privacy Commission, NPC Advisory Opinion No. 2018-011 (Mar. 22, 2018).

⁵ Data Privacy Act of 2012, § 18 (c).

⁶ *Id.*

This opinion is rendered based on the information you have provided. Additional information may change the context of the inquiry and the appreciation of the facts.

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