



Republic of the Philippines
NATIONAL PRIVACY COMMISSION

**PRIVACY POLICY OFFICE
ADVISORY OPINION NO. 2020-036¹**

8 September 2020



Re: ACCESS TO LAND DOCUMENTS BY THE NATIONAL GRID CORPORATION OF THE PHILIPPINES

Dear 

We write in response to your letter received by the National Privacy Commission (NPC) which sought for assistance to direct the respective data protection officers (DPOs) of all local government units (LGUs) to assist with the request of the National Grid Corporation of the Philippines (NGCP) in securing land documents from LGUs where such lands are located in relation to the issue raised by these LGUs that complying with the NGCP request may constitute a violation of the Data Privacy Act of 2012 (DPA).²

We understand from your letter that the NGCP requested for assistance from the Department of the Interior and Local Government (DILG) to secure land documents, under the custody of the LGUs traversed by the NGCP's various transmission projects and existing transmission facilities nationwide.³ This is pursuant to NGCP's mandate, by virtue of a franchise granted under Republic Act (RA) No. 9511⁴, to deliver electricity generated by power plants to load centers and directly-connected customers and to ensure the quality and reliability of power transmission nationwide.

As disclosed further in NGCP's letter to DILG, the construction of transmission facilities requires the acquisition of land and land rights by way of negotiation or, if unsuccessful,

¹ Tags: land documents; government franchise; eminent domain; expropriation; mandate; NGCP; legal obligation; law; legal claims.

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 The letter of NGCP to DILG was attached by the latter in its letter to NPC as a supporting document.

⁴ An Act Granting the National Grid Corporation of the Philippines Franchise to Engage in the Business of Conveying or Transmitting Electricity Through High Voltage Backbone System of Interconnected Transmission Lines, Substations and Related Facilities, and For Other Purposes, Republic Act No. 9511 (2008).

expropriation. As a result, NGCP relayed to DILG that it is necessary for them to obtain documents that would identify the current owners and possessors of the land, such as but not limited to, tax declarations from the assessor's offices of the affected LGUs, zoning certifications from the city or municipal planning offices and certificates of title from the Register of Deeds of the affected LGUs. The said documents are indispensable in determining the owners of the affected lands, conducting and completing of parcellary survey which is a requisite before negotiation, and in filing an action for expropriation when the need arises.

However, some LGUs refused to issue the said documents to NGCP for concerns over being exposed to liability under the DPA. The certificates of title and tax declarations contain personal information such as the names and addresses of the owners and sensitive personal information such as the tax identification number (TIN). Consequently, NGCP is unable to proceed with some of its projects.

Lawful processing of personal and sensitive personal information; criteria; Sections 12 and 13

The DPA provides for the various criteria for processing personal and sensitive personal information (collectively, personal data) under Sections 12 and 13, respectively. Specifically applicable in this scenario are the following provisions, *to wit*:

“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: xxx xxx xxx

(c) The processing is necessary for **compliance with a legal obligation** to which the personal information controller is subject; xxx xxx xxx

(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**; xxx xxx xxx

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

(b) **The processing of the same is provided for by existing laws and regulations:**

xxx xxx xxx

(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.**”

We understand that NGCP has been granted by RA No. 9511 a franchise to operate, maintain and develop the country's state-owned power grid, and in relation thereto, to engage in the business of conveying or transmitting electricity to all consumers nationwide through a system of interconnected transmission lines, substations and related facilities.⁵ In addition,

⁵ R.A. No. 9511, § 1.

such law also granted NGCP the authority to engage in other activities that are necessary to support the safe and reliable operation of a transmission system of the country.⁶

To further implement the above mandates, the NGCP was also granted the right of eminent domain.⁷ The law provides that NGCP may acquire such private property as is actually necessary for the implementation of its franchise and insofar as it may be necessary for the construction, expansion and efficient maintenance and operation of the transmission and subtransmission systems, provided that the applicable law on eminent domain is observed.⁸

Given the foregoing mandates of NGCP under its franchise with the government, it is inevitable that some private properties may be affected by the transmission projects. It is thus necessary for NGCP to identify the current owners and possessors of the affected properties for its acquisition.

*Adherence to the general data protection principles;
proportionality; security measures*

While the requested documents, such as the certificates of title and tax declarations, are the best proof of ownership and sufficient basis for inferring possession over a parcel of land, respectively,⁹ which means that the said documents shall significantly facilitate the identification of the current owners and possessors of the affected properties, there is a need to evaluate whether releasing actual copies of the same is proportional to the purpose of identification of owners/possessors.

NGCP should consider whether it may be reasonable and acceptable for the respective Register of Deeds, the Assessors' Offices and the city or municipal planning offices of the affected LGUs to provide certifications/lists of names and contact details of the owners/possessors per official records instead, without necessarily releasing copies of the land documents.

This is in adherence to the principle of proportionality which requires that that the processing, which includes disclosure, of personal information must be limited only to the extent that is necessary to achieve the stated purpose and that there are no other effective means to achieve the same.

Nevertheless, we wish to emphasize that access to copies of the requested land documents may only be allowed if NGCP has duly justified and substantiated its lawful interest over the subject properties and that denial of said request shall cause NGCP's failure to comply with its legal obligations under its franchise with the Philippine government. Such determination and assessment should be duly documented. And in this scenario, the respective Registry of Deeds, the Assessors' Offices and the city or municipal planning offices may provide the requested documents to NGCP, relying on such evaluation vis-à-vis the NGCP's mandate.

We further reiterate that compliance with legal obligations and with provisions of other existing laws and regulations, as well as processing of sensitive personal information for the establishment or exercise of legal claims may be validly done and are not necessarily

⁶ *Id.*

⁷ *Id.* § 4.

⁸ *Id.*

⁹ *Abobon v. Abata*, G.R. No. 155830, August 15, 2012 and *Republic v. Metro Index Realty and Development Corporation*, G.R. No. 198585, July 2, 2012.

violations of the DPA. The provisions of applicable laws and regulations should be read together and harmonized with the DPA.

In Advisory Opinion No. 2018-083,¹⁰ it was emphasized that “the DPA is not meant to prevent government institutions from processing personal data when necessary to fulfill their mandates. Rather, it aims to protect the right to information privacy while ensuring free flow of information. What the DPA does is to promote fair, secure, and lawful processing of such information.”

Finally, the NGCP, as a personal information controller, is required to implement reasonable and appropriate safeguards for the protection of personal data against any unauthorized processing.

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.) RAYMUND ENRIQUEZ LIBORO
Privacy Commissioner

¹⁰ National Privacy Commission, NPC Advisory Opinion No. 2018-083 (Oct. 29, 2018).