



REPUBLIC OF THE PHILIPPINES  
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT  
Francisco Gold Condominium II  
Edsa Cor. Mapagmahal St., Diliman  
Quezon City



**LEGAL SERVICE**

DILG OPINION NO. 5 S. 2011

MAR 11 2011

**HON. GELACIO R. MANALANG**

Mayor, City of Tarlac

Dear Mayor Manalang,

This has reference to your letter dated 24 February 2011 seeking this Department's opinion on several issues pertaining to the conversion of the City of Tarlac from a Component City into a Highly-Urbanized City.

In said letter, you declared that the Municipality of Tarlac was converted to its present status as a Component City of the Province of Tarlac by virtue of Republic Act No. 8593, which conversion was ratified by the affected residents in a plebiscite held on 18 April 1998. Subsequently, the previous administration moved for conversion into a highly urbanized city and was able to secure a Presidential Proclamation (940 dated 27 October 2005) entitled "CONVERTING THE CITY OF TARLAC FROM A COMPONENT CITY INTO A HIGHLY-URBANIZED CITY", signed by then President Gloria Macapagal-Arroyo. However, said conversion was not ratified by the affected residents in a plebiscite held on 18 February 2006.

On the basis of the non-ratification of the city's conversion, you would like to be clarified on the requirements for the conversion of a component city into a highly-urbanized city as well as the effects thereof in order to aid you in your bid for such conversion.

More particularly, you are seeking elucidation on the following issues:

1. Whether or not there is a limitation on the number of times that a component city may bid for conversion into an HUC;
2. Whether or not there is a prohibition on the number of times that a plebiscite may be conducted for the purpose of ratifying a city's conversion into an HUC. If, for instance, a component city lost in an HUC plebiscite, could it still hold another plebiscite and when? Could that city make use of the same Presidential Proclamation for the purpose of holding the second plebiscite or it would have to secure a new one?
3. Whether or not the minimum income requirement for conversion of a component city into an HUC remains at P50 million based on the 1991 constant price;

(2) *Compliance with the foregoing indicators shall be attested by:*

- (i) *The Secretary of finance as to the income requirement in the case of provinces and cities, and the provincial treasurer in the case of municipalities;*
- (ii) *The Administrator of the National Statistics Office (NSO) as to the population requirement; and*
- (iii) *xxx.*

In relation to this, SECTION 452 of the LGC and paragraph (a), Article 12, Rule II of the IRR state that the income and population requirements before a component city may be converted into a highly-urbanized city are P50,000,000.00 and 200,000, respectively. Said provisions have not been subject to amendment or revision as of date. Be that as it may, assistance of the DOF and the NSO would be sensible for your proper guidance in regard to the compliance with the requisites mentioned.

It is worthy to note that the 2000 constant price you mentioned in query number 4, as found in Republic Act 9009 (RA 9009) cannot be made applicable to the conversion of a component city into a highly-urbanized city for the reason that RA 9009 specifically applies only to the requirements for the conversion of a municipality or a cluster of barangays into a component city.

In reply to query numbers 6 and 8, paragraph 4 of Section 5, ARTICLE VI of the 1987 Constitution is explicit when it states that the Congress shall make a reapportionment of legislative districts based on the standards provided in the same section. Thus, the entitlement of a newly converted highly-urbanized city to a separate congressional seat, as well as its number of legislative seats must be provided for through a law duly enacted by Congress. Consequently, a component city does not automatically have a separate or additional legislative seat upon its conversion into a highly-urbanized city.

As regards question number 7, please be advised that this Department has already issued Legal Opinion Number 55, series of 2005, which substantially deals with the same issue on whether the registered voters of a newly converted highly-urbanized city are automatically prohibited from voting for elective provincial officials. A copy of said Legal Opinion is hereto attached for your reference.

Coming now to questions 1 and 2, you are seeking clarification as to the limitation on the number of times that a component city may bid for conversion into a highly-urbanized city and the likelihood that the same Presidential Proclamation may be used for the purpose of conducting a second plebiscite, after failure to ratify the conversion in an earlier plebiscite.



In response thereto, allow us first to quote the pertinent provisions of the Local Government Code of 1991 (LGC) and its IRR which govern the procedure for converting a component city into a highly-urbanized city, to wit:

A) LGC

*"SECTION 451. **Cities, Classified.**- A city may either be component or highly urbanized: Provided, however, That the criteria established in this Code shall not affect the classification and corporate status of existing cities.*

*Independent component cities are those component cities whose charters prohibit their voters from voting for provincial elective officials. Independent component cities shall be independent of the province."*

*"SECTION 453. **Duty to Declare Highly Urbanized Status.**- It shall be the duty of the President to declare a city as highly urbanized within thirty (30) days after it shall have met the minimum requirements prescribed in the immediately preceding Section, upon proper application therefor and ratification in a plebiscite by the qualified voters therein." (Emphasis Supplied)*

B) Paragraph (b), ARTICLE 12, RULE II, IRR

1. *Resolution. The interested component city shall submit to the Office of the President a resolution of its Sanggunian adopted by a majority of all of its members in a meeting duly called for the purpose, and approved and endorsed by the city mayor. Said resolution shall be accompanied by certifications as to income and population.*
2. *Declaration of Conversion. Within thirty (30) days from receipt of such resolution, the President shall, after verifying that the income and population requirements have been met, declare the component city as highly-urbanized.*
3. *Plebiscite. Within one hundred twenty (120) days from the declaration of the President or as specified in the declaration, the COMELEC shall conduct a plebiscite in the city proposed to be converted. Such plebiscite shall be preceded by a comprehensive information campaign to be conducted by the COMELEC with the assistance of national and local government officials, media, NGOs, and other interested parties.*

Undoubtedly, the foregoing provisions do not contain any limitation as to the number of times that a component city may request for conversion into a highly-urbanized city. When the law does not distinguish, then no such distinction shall be made in its implementation and interpretation. For that reason, as long as the concerned component city complies with the requirements laid down in the relevant provisions of the LGC and its IRR, said component city, through its sanggunian may file an application for conversion into a highly-urbanized city before the Office of the President.

Finally, as to the question on whether a Presidential Proclamation converting a component city into a highly-urbanized city may be used as the basis for a second plebiscite after the conversion was not ratified in an earlier plebiscite, we answer in the negative.

In accordance with the rules referred to above, the process of conversion of a component city into a highly-urbanized city is put into operation upon the enactment of a resolution by the concerned sanggunian, to be submitted to the Office of the President, attesting to the compliance with the requisites of income and population. The President, after verifying that the said requirements have been met, shall declare the component city as highly urbanized.

Thereafter, within one hundred twenty (120) days from the declaration of the President, the COMELEC shall conduct a plebiscite in the city proposed to be converted, to determine the will of the residents of the component city concerned.

In the event that the conversion is ratified in the plebiscite, the newly converted highly-urbanized city becomes independent of the province where it is geographically located.

However, the LGC and its IRR are silent as to the effect of non-ratification of the conversion after the conduct of a plebiscite in the affected city.

The only legal conclusion nonetheless is that failure to ratify the conversion is a clear rejection by the registered voters of the proposed measure for the component city's conversion into a highly-urbanized city. Accordingly, the Presidential Proclamation declaring said city as a highly-urbanized city cannot be used any longer in conducting a second plebiscite. This is due to the fact that the said conversion as embodied in that particular Presidential Proclamation has been denounced by majority of the registered voters in that component city.

In addition thereto, the rules provide for a period of 120 days from the presidential declaration within which the plebiscite must be conducted by the COMELEC. After the plebiscite has been conducted within the said period, the Presidential Proclamation is deemed to have been carried into effect, whether the result of such plebiscite is an approval or a rejection by the people.

Therefore, in case the component city still would like to be converted into a highly-urbanized city after non-ratification in the plebiscite, there is a need to once more determine compliance with the requisites for conversion of a component city into a highly-urbanized city, and to file for a new application for conversion with the Office of the President in accordance with the LGC and its IRR.

This rule ought to be applied in the case of your component city, the City of Tarlac, which was proclaimed as a highly-urbanized city by then President Glòria Macapagal-Arroyo by virtue of Proclamation No. 940 dated 27 October 2005 (a copy of which was not furnished this Department). Subsequently, the outcome of the plebiscite conducted on 18 February 2006 yielded a negative feedback from the registered voters of said city. Accordingly, the plebiscite conducted on 18 February 2006 already gave effect to Presidential Proclamation No. 940 as the final step in Tarlac City's conversion into a highly-urbanized city. What was not carried into effect by the non-ratification was the city's conversion into a highly-urbanized city,



and not the Presidential Proclamation itself which already served its purpose after the conduct of the plebiscite.

Be that as it may, this Department holds that the City of Tarlac is not precluded from filing a new application for conversion into a highly-urbanized city with the Office of the President, upon compliance with the income and population requirements under the law.

We hope we have addressed your concerns accordingly.

Very truly yours,

**ATTY. JESUS B. DOQUE IV**

Director

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