



Legal Opinion (LO) No.:	2020 - 14
Date:	19 October 2020

MS. SUSAN C. RAMIREZ
 OIC-Regional Director
Regional Office No. II
Commission on Audit
 Regional Government Center,
 No. 1 Dalanimammo cor. Pavvurulun St.,
 Carig Sur, Tuguegarao City

SUBJECT: Request for Interpretation of Provision of Typhoon Endorsement

Dear **Ms. Ramirez:**

This refers to your letter dated 03 September 2020 requesting for an interpretation of a certain provision of the insurance policy entered into by the Commission on Audit (COA), Regional Office No. II (RO2) with the Government Service Insurance System (GSIS).

The factual antecedents are as follows:

“x x x As an antecedent, the COA RO2 had obtained an insurance coverage of all its provincial Satellite Auditing Offices (PSAO) Buildings and properties with the GSIS, as mandated by applicable rules and regulations. Part of such insurance policy is a casualty insurance which covers loss or damage caused by typhoon and other natural or man-made calamities.

Item 5 of the Special Condition of Typhoon Endorsement states:

*It is understood and agreed that the Insured shall bear the first 2% of the **actual value of the affected item/s** under this endorsement on any one Typhoon occurrence the duration and extent of which shall be limited to 168 consecutive hours. (Highlight supplied)*

With the onslaught of the Typhoon “Ompong” which battered the northern part of Luzon, part of the PSAO-Cagayan Building was damaged and we submitted a claim to the GSIS. The total amount

of the insurance claim submitted was P917,880.35 which represents the actual cost of damage. However, the GSIS had offered us with only P278,143.10, computed after deducting, among others, the typhoon deduction amounting to P516,974.71. Accordingly, the said typhoon deduction was based on the above quoted provision of the Typhoon Endorsement. It is the position of the GSIS that the phrase "actual value of the affected item/s" pertains to the sound value of the insured building which is equivalent to the sum insured. We claimed otherwise and countered that the 2% deduction should be based only from the actual cost of the affected/damaged portion of the building. Such interpretation we think is more effectual and in consonance with the essence of insurance coverage."

After careful consideration of your request for legal opinion and the facts pertinent to the said request, this Commission is constrained to deny your request for the issuance of a legal opinion.

As provided in Circular Letter No. 2017-13 or the "Guidelines in the Processing of Requests for Legal Opinion", the Commission, in its discretion, may refrain from rendering an opinion in certain cases, to wit:

Section 4. The Commission, in its discretion, may refrain from rendering opinion on the following:

x x x

3. Matters which involve the substantive and contractual rights of private parties who would, in all probability, contest the same in court if the opinion turns out to be adverse to their interest;

x x x

5. Those which will require an examination or review of the acts and rulings of another government agency;

x x x

11. Other analogous circumstances which the Commission deems to be with transcendental importance."

The instant request involves the substantive and contractual rights of the Commission on Audit, Regional Office No. II. This Commission foresees that if it renders any opinion on the subject matter, the aggrieved party, whether the same be the COA RO2 or the GSIS, would in all probability contest the opinion adverse to their interest before the regular courts.

Moreover, rendering an opinion on the present matter will necessitate the examination or review of the acts and rulings of another government agency. It must be emphasized that while the GSIS is in the business of insurance, it is not regulated by the Insurance Commission and it does not operate by virtue of Section 193 of Republic Act No. 10607 or the Amended Insurance Code. Instead, the GSIS has its own charter and its governing law is Republic Act No. 8291 or the Revised Government Service Insurance Act of 1997. As such, the relevant laws, rules, and regulations governing the policies issued by insurance companies do not apply to those issued by the GSIS.

The foregoing considered, the Commission is constrained to refrain from rendering a legal opinion on the present subject matter.

For your information and guidance.

Very truly yours,

DENNIS B. FUNA
Insurance Commissioner

