



Legal Opinion (LO) No:	2023-09
Date:	06 March 2023

MR. RENE S. ONG
 5 Cayetano Arellano St.,
 Ayala Heights, Quezon, City
reneongrso@gmail.com

SUBJECT: Request for Legal Opinion on the Validity of Comprehensive General Liability Insurance Before Issuing Business Tax Certificate

Dear **Mr. Ong:**

This refers to your email requesting for a legal opinion on the validity of Comprehensive General Liability Insurance as a requirement before issuing a business tax certificate.

Based on the letter, the issue emanates when the local government of Taguig City (LGU of Taguig City) required you to secure a Comprehensive General Liability Insurance before they issue a business tax certificate. You have questioned said act, arguing that:

- “1. As a Residential Lessor, there are no Customers or Third Parties that are involved in the day to day run of the business and as such, there could be no insurable risk to be covered;
2. The tenant who is a Counterparty (not a third party) to our transaction becomes our extension to the exclusive use of our unit and therefore, has the sole right to ingress/egress of the Condominium;
3. The Condominium Corporation is covered already by a Comprehensive General Liability Insurance to take care of all its residents and visitors against possible risks on its open spaces;
4. We acknowledge that if it is a Commercial Lease, the LGU requirement is very valid.”

After a thorough consideration, the Insurance Commission (Commission) refrains to render a legal opinion because: (a) the matter involves 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; and (b) the question involves a review of both the issuance and the act of the LGU of Taguig City.

Section 437 (d) of the Insurance Code, as amended by Republic Act No. 10607, grants the Commission the power to issue legal opinions. It states -

(d) Prepare, approve, amend or repeal rules, regulations and orders, and **issue opinions** and provide guidance on and supervise compliance with such rules, regulations and orders.

For the proper exercise of this power, the Commission promulgated on 07 March 2017, Circular Letter (CL) No. 2017-13, entitled, "*Guidelines in the Processing of Request for Legal Opinion.*" CL No. 2017-13 requires that all requests for legal opinion must pertain or relate to the **interpretation and application of laws, rules and regulations being enforced and implemented by the Commission.**¹

Consequently, the Commission may, in its discretion, refrain from rendering opinion based on the following grounds:

1. Issues that had been decided by the courts or have been filed before the courts and are pending therein;
2. Queries which are too general in scope or hypothetical, abstract, speculative and anticipatory in character and those pertaining to undisclosed entities;
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;**
4. **Questions which will involve review or interpretation of Presidential Decrees, statutes, orders, administrative rules and issuances of other government agencies;**
5. **Those which will require an examination or review of the acts and rulings of another government agency;**
6. Questions which will require determination of factual issues or mixed questions of fact and law;
7. Matters which clearly involve the exercise of business discretion or judgment which properly falls within the competence of the management of the entities concerned, or those which call for financial and technical expertise of economic managers;
8. Questions which involve anticipated or pending administrative complaint or money claims;
9. Issues which are already moot and academic;
10. The request will entail gathering of legal materials or writing abstract essay for the requesting party since the Commission cannot function or resemble as legal counsel of private firms; and
11. Other analogous circumstances which the Commission deems to be with transcendental importance.

A scrutiny of the letter reveals that the request for legal opinion touches upon a matter which involves the substantive and contractual rights of private parties who would, in

¹ CL No. 2017-13, § 1.

all probability, contest the same in court if the opinion turns out to be adverse to their interest; and raises a question which involves review of an issuance and act of other government agency.

The matter involves 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. The necessity to obtain Comprehensive General Liability Insurance prior to obtaining a business tax certificate poses a significant impact on you as a business owner since it places an unnecessary burden on how you conduct business. In addition to higher expenses, the burden also carries the risk of not receiving a business tax certificate if it is not met.

The arguments further show that the validity of requiring Comprehensive General Liability Insurance for the issuance of business tax certificate far-reaches questions relating to: (a) [t]he tenant who is a Counterparty (not a third party) to [your] transaction x x x; and (b) [t]he Condominium Corporation [which] is covered already by a Comprehensive General Liability Insurance x x x. In all, the crux of the matter involves your substantive and contractual rights and other affected parties.

The question involves review of both the issuance and the act of the LGU of Taguig City. Because scrutinizing the validity of the need to secure a Comprehensive General Liability Insurance will touch upon the issuance of the LGU of Taguig City, the request for legal opinion therefore essentially tasks the Commission with reviewing said issuance. Not only will the said issuance be reviewed, but likewise the act of the LGU of Taguig City in issuing said regulation, which therefore necessitates the examination and interpretation of the law concerning local government units.

It bears stressing that the power to issue opinion evolves around the interpretation and application of laws, rules and regulations being enforced and implemented by the Commission. It is in this light that collateral matters involving laws, rules and regulations concerning other field may be reviewed. But if the request hinges on the interpretation of laws, rules and regulation not being enforced or implemented by the Commission, the request dissuades us to issue an opinion.

Please note that the above opinion rendered by this Commission is based solely on the particular facts disclosed in the query and relevant solely to the particular issues raised therein and shall not be used, in any manner, in the nature of a standing rule binding upon the Commission in other cases whether for similar or dissimilar circumstances.

For your information and guidance.

Very truly yours,


DENNIS B. FUNA
Insurance Commissioner

