

Republic of the Philippines PROVINCE OF LEYTE **Provincial Capitol** Tacloban City

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CE OF LEYTE

2nd INDORSEMENT

September 25, 2024

Respectfully returned to the Sangguniang Panlalawigan of Leyte, through SP Secretary, the attached Ordinance No. 2024-13 of the Sangguniang Bayan of Tanauan, Leyte.

Issues/concerns for review/recommendation/legal opinion is/are as follows:

Ordinance No. 2024-13 entitled: "An Ordinance Declaring Unlawful Acts and Conduct of Discrimination Based on Sex, Gender Identity, Sexual Orientation, Race, Color, Descent, National or Ethnic Origin and Religious Affiliation or Beliefs and Penalizing the same".

REVIEW/RECOMMENDATION/LEGAL OPINION:

This office is of the opinion that the subject Ordinance is generally in accordance to its power under Section 161 and Section 4472 of the Local Government Code of 1991 (R.A 7160) as an exercise of its power essential for the promotion of General Welfare.

Moreover, such ordinance is also in consonance with other related laws and statutes such as, R.A. 11313, 10911, 71923 and other new policies and laws promoting gender equality. Hence, recommending for the declaration of its validity.

We hope to have assisted you with this request. Please note that the opinion rendered by this Office are based on facts available and may vary or change when additional facts and documents are presented or changed. This opinion is likewise without prejudice to the opinions rendered by higher and competent authorities and/or the courts.

ATTY. JOSE RAYMUND A. ACOL Asst. Provincial Legal Officer 1

¹ Section 16. General Welfare. - Every local government unit shall exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare.

² (a) The sangguniang bayan, as the legislative body of the municipality, shall enact ordinances, approve resolutions and appropriate funds for the general welfare of the municipality and its inhabitants pursuant to Section 16 of this Code and in the proper exercise of the corporate powers of the municipality as provided for under Section 22 of this Code, and shall:

³ "Safe Spaces Act", "Anti-Age Discrimination in Employment Act", "Women in Development and Nation Building Act" respectively.

Republic of the Philippines PROVINCE OF LEYTE -0-

OFFICE OF THE SANGGUNIANG PANLALAWIGAN

1ST ENDORSEMENT 17 September 2024



Respectfully indorsed to the **PROVINCIAL LEGAL OFFICE** the herein **ORDINANCE NO. 2024-13** of the **MUNICIPALITY OF TANAUAN**, **LEYTE**, which is self- explanatory, for review and recommendations.

FLORINDA JILLS. YYVICO Secretary to the Sanggunian

SP Records



Republic of the Philippines Province of Leyte TANAUAN -oOo-

0771CE 07 THE SANGGUNIANG BAYAN

September 16, 2024

THE SECRETARY

Sangguniang Panlalawigan Province of Leyte Capitol Building Tacloban City



Sir/Madam;

Respectfully submitting herewith 16th SB ORDINANCE NO. 2024-13, "An Ordinance Declaring Unlawful Acts and Conduct of Discriminition Based on Sex, Gender Identity, Sexual Orientation, Race, Color, Descent, National or Ethnic Origin and Religious Affiliation or Beliefs and Penalizing the same", for your appropriate action.

Sponsored by: Hon. Paul Emmanuel R. Cinco Co-sponsor: Hon. Cherry Anne T. Fiel

Trusting that you will accord this matter with your kindest attention.

Thank you.

Truly yours,

Sangguniang Bayan Secretary

Republic of the Philippines Province of Leyte TANAUAN -000-

SANGGUNIANG BAYAN

EXCERPT FROM THE MINUTES OF THE 108th REGULAR SESSION OF THE 16TH SANGGUNIANG BAYAN OF TANAUAN, LEYTE, HELD ON SEPTEMBER 02, 2024, AT THE SB SESSION HALL, TANAUAN TOWN HALL, TANAUAN, LEYTE.

PRESENT:

HON. JAN ELMER V. MAGDALAGA Acting V-Mayor/Presiding chair HON. MARK EFREN E. MERILO Sangguniang Bayan Member HON. PAUL EMMANUEL R. CINCO -do-HON. JOSIE M. CREER -do-HON. ATTY. ISAGANI S. ESPADA -do-HON. QUINTIN T. OCTA, JR., D.M.D. -do-**HON. CHERRY ANNE T. FIEL** -do-HON. EFREN C. MERILO -do-/Liga Fed. Pres. HON, KYLE C. MESIAS -do-/ SK Fed. Pres.

ABSENT:

HON. ARCHIE LAWRENCE R. KAPUNAN (on leave)
HON. MAE JANE ANGELIE M. MORABE-BORAIS (on leave)

Municipal Vice-Mayor Sangguniang Bayan Member

ORDINANCE NO. 2024 - 13

AN ORDINANCE DECLARING UNLAWFUL, ACTS AND CONDUCT OF DISCRIMINATION BASED ON SEX, GENDER IDENTITY, SEXUAL ORIENTATION, RACE, COLOR, DESCENT, NATIONAL OR ETHNIC ORIGIN AND RELIGIOUS AFFILIATION OR BELIEFS AND PENALIZING THE SAME.

Sponsored by: Hon. Paul Emmanuel R. Cinco Hon. Cherry Anne T. Fiel

BE IT ENACTED BY THE SANGGUNIANG BAYAN OF TANAUAN, LEYTE IN REGULAR SESSION ASSEMBLED THAT:

SECTION 1. TITLE — This Ordinance shall be known as the "Anti-Discrimination Ordinance of Tanauan, Leyte".

SECTION 2. AUTHORITY AND BASES — This ordinance is enacted pursuant to the provisions of the 1987 Philippine Constitution particularly:

- Article II, Section 10 thereof, which reads:

• Section 10. The State shall promote social justice in all phases of national development.

Article II, Section 11 thereof, which reads:

Section 11. The State values the dignity of every human person and guarantees full respect for human rights.

Article II, Section 22 thereof, which reads:

Section 22. The State recognizes and promotes the right of indigenous cultural communities within the framework of National unity and development.

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(Page 2 of 5, Ordinance No. 2024-13 of the 16th SB of Tanauan, Leyte, September 2, 2024)

- Article III, Section 1 thereof, which reads:
- Section 1. No person shall be deprived of life, liberty and property without due process
 of law, nor shall any person be denied the equal protection of the laws.
- Article XIII, Section 3 thereof, in part, reads:
- Section 3. The State shall afford full protection of labor, local and overseas, organized and unorganized, and promote full employment and full equality of employment opportunities for all.

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As well as generally accepted principles of international law, such as, those but not limited, to the 1981 Declaration of Elimination of all forms of intolerance and of Discrimination based on Religion or Belief, the 1993 UN General Assembly Resolution on Elimination of all forms of Religious Intolerance and the International Convention on the Elimination of all forms of Racial Discrimination.

SECTION 3. DEFINITION OF TERMS

- Discrimination any act, or conduct which withholds, excludes, restricts, curtails, demeans human dignity, or otherwise impairs the recognition, enjoyment and exercise of human rights and basic freedoms in the economic, labor, social, cultural, educational or any other field of public life based on sex, gender identity, sexual orientation, race, color, descent, national or ethnic origin, religious affiliation or beliefs.
- 2. **Gender Identity** refers to a person having the emotional and psychological characteristics of the opposite sex as shown by, among others, his/her behavior and sexual attraction to members of his/her own sex, or to both sexes, whether he/she a gay, lesbian, transsexual or bisexual.
- 3. **Sex Orientation** refers to the emotional or sexual attraction or inclination of a person towards person of his/her own sex, or both masculine and feminine sexes.

SECTION 4. ACTS OF DISCRIMINATION, HOW COMMITTED

Discrimination is committed when a person withholds form; excludes, restricts, curtails, demeans human dignity or otherwise impairs the recognition, enjoyment and/or exercise of a right or basic, freedom, of another, to which others similarly situated or circumstanced are extended or which they are allowed to enjoy or exercise in employment, education, shelter and delivery of basic goods and services on the basis of national or ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, descent, race, or color of the skin, and that the following constitute acts of discrimination and are therefore punishable:

1. By refusing employment to a job applicant or imposing onerous or additional terms or conditions which are not imposed on another similarly situated or circumstances, on the basis of ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, descent, race, or color of the skin; by denying or limiting access to an employee opportunities for promotions, transfer, training, schooling or other benefit which are otherwise granted to other employees similarly situated or circumstanced, on the basis of national ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, race and color of the skin.

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(Page 3 of 5, Ordinance No. 2024-13 of the 16th SB of Tanauan, Leyte, September 2, 2024)

- 2. By refusing or failing to accept any person for admission as a student in any private or public education and/or vocational institution, or by subjecting said person to terms and conditions for his acceptance in the said institution which are not imposed on applicants or students similarly circumstanced as him, or limiting the access of the student to any benefit or privilege provided by said educational or vocational institution, by reason of ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, race and color of the skin.
- 3. By refusing to provide goods or services and/or imposing onerous terms or conditions as a requisite for providing goods or services to a person which are not refused or subjected to such onerous terms and conditions when extended to others similarly circumstanced, by reason of ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, race and color of the skin.
- 4. By refusing or failing to allow any person, by reason of this ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, race or color of the skin to avail of quarters or accommodation in a house, apartment, condominium, townhouse, flat, hotel, inn, dormitory or any other places of dwelling being rented or offered to the public for a fee, rental or other forms of compensation.
- 5. By subjecting either by verbal or written word or publication, to ridicule or insult or attributing despicable behavior and habits or associating with violence and criminal activities, any person or group of persons by reason of ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, race or color of the skin.
- 6. By refusing entry into restaurants, bars, stores, movie houses, malls and other places of entertainment and business which are open to the general public, or refusing or failing to attend to or serve the orders for foods, drinks, beverages and other goods, consumable and non-consumable, to any person, by reason of his national or ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, race or color of the skin.
- 7. By doing any other analogous act which demeans the dignity and self-respect of a person or impairs, mars, reduces or nullifies the recognition, employment or exercise of his human and legal rights and basic freedoms in the political, labor, economic, social, cultural and educational spheres on the basis of ethnic origin, religious affiliation or belief, sex, gender identity, sexual orientation, race or color of the skin.

SECTION 5. PERSONS LIABLE — Any person, natural or judicial, who commits any of the acts herein prohibited and enumerated in the immediately preceding section shall be criminally liable therefor, and penalized accordingly, provided that in the case of a juridical person such as, but not limited to corporations, associations, partnership, educational and vocational institutions, whether public or private, the manager, head and the officers thereof shall also be criminally accountable and responsible.

SECTION 6. PENALTIES — Except for violations of the Labor Code of the Philippines involving the rights of women workers or employees which shall be punishable under the said code, and for violations under Republic Act 7610, otherwise known as "Special Protection of Children Against Abuse, Exploitation and Discrimination Act", involving rights of children of Indigenous Communities which are punishable under the said act, the following penalties for violations of any provisions of this ordinance are hereby imposed as follows:

1. Any person liable under this Ordinance shall be punished by admonition and a fine of

One Thousand Pesos (P1,000.00).

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(Page 4 of 5, Ordinance No. 2024-13 of the 16th SB of Tanauan, Leyte, September 2, 2024)

- 2. Second conviction, for any of the acts punishable under this ordinance, shall be penalized by a fine of Two Thousand Pesos (P2,000.00) and imprisonment for a period of not more than ten (10) days at the discretion of the court.
- 3. A third conviction after two (2) previous convictions, shall be penalized by a fine of Two Thousand Five Hundred Pesos (P2,500.00) and imprisonment of Fifteen (15) days.

SECTION 7. ANTI-DISCRIMINATION MEDIATION AND CONCILIATION BOARD:

There is hereby created the Anti-Discrimination Mediation and Conciliation Board, otherwise known as the BOARD, composed of the following, namely:

- 1. Municipal Mayor or his duly authorized permanent representative.
- 2. Municipal Legal Officer or his duly authorized permanent representative.
- 3. Chairperson of the Committee on Civil, Political and Human Rights of the Sangguniang Bayan or his duly authorized permanent representative.
- 4. Chairperson of the Committee on Labor and Employment Opportunities of the Sangguniang Bayan or his duly authorized permanent representative.
- 5. Chairperson on the Committee on Education, Science and Technology, Arts and Culture of the Sangguniang Bayan or his duly authorized permanent representative.
- 6. District Social Supervisor of the Department of Education or his duly authorized permanent representative.
- 7. Head of the Commission on Higher Education in Region VIII or his duly authorized permanent representative.
- 8. Indigenous people's Representative in the Sangguniang Bayan.
- 9. Head of the Department of Labor and Employment of Tanauan, Leyte or his duly authorized permanent representative.
- 10. President of the Tanauan, Leyte Chamber of Commerce and Industry or his duly authorized permanent representative.

SECTION 8. SUB-BOARD TO BE CREATED BY THE ANTI-DISCRIMINATION MEDIATION AND CONCILIAITON BOARD — The Anti-Discrimination Mediation and Conciliation Board is hereby authorized and empowered to create such number of Sub-Board as it deems necessary and proper to be composed of five (5) members with the Municipal Mayor or his duly authorized permanent representative as Chairperson and the Municipal Legal Officer or his duly authorized representative as Vice-Chairperson of each sub-board, with the three (3) remaining members to be chosen from the foregoing list in consonance with the nature or character of the complaint or issue to be subjected to mediation and conciliation proceedings.

SECTION 9. MAIN/PRINCIPAL FUNCTION OF THE ANTI-DISCRIMINATION MEDIATION AND CONCILIATION BOARD AND SUB-BOARD — The Anti-Discrimination Mediation and Conciliation Board and Sub-Board are tasked to receive complaints concerning violations of any provision of this Ordinance, notify the parties concerned of the same, and mediate or conciliate the parties' differences to the end that judicial, quasi-judicial, prosecutorial, and administrative action is AVOIDED.

SECTION 10. EXHAUSTION OF ADMINISTRATIVE REMEDY — Unless the Anti-Discrimination Mediation and Conciliation Board certifies in writing that a complaint for violation of any of the

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(Page 5 of 5, Ordinance No. 2024-13 of the 16th SB of Tanauan, Leyte, September 2, 2024)

provisions of this Ordinance has been brought to its jurisdiction for mediation and conciliation purpose and that the same failed despite all diligent efforts, NO complaints or action of whatever kind – civil, criminal, labor or administrative – shall be deemed actionable and proper for judicial, quasi-judicial, prosecutorial or administrative determination, except when the matter involves the rights of women workers and employees contained in the Labor Code of the Philippines, in which case the provisions of the said Code shall apply, or unless the case falls within the converge of Republic Act 7610, otherwise known as "Special Protection of Children Against Abuse, Exploitation and Discrimination Act", particularly those involving the rights of Children of Indigenous Cultural Communities, in which case, said Republic Act shall apply.

SECTION 11. INFORMATION CAMPAIGN – Within thirty (30) days from the approval of this ordinance, the Municipal Information Office shall conduct an information campaign to apprise the public of the provisions of this ordinance.

SECTION 12. SEPARABILITY CLAUSE — If any portion or provision of this ordinance is declared void or unconstitutional, the remaining portions of thereof shall not be affected thereby and shall remain in full force and effect.

SECTION 13. EFFECTIVITY CLAUSE – This ordinance shall take effect ten (10) days after its publication in a local newspaper of general circulation in the municipality and it's posting in the Bulletin Board at the entrance of the Municipal Hall and in two (2) other conspicuous places in the municipality, which comes later, either the publication or the posting.

ENACTED: 02 SEPTEMBER 2024.

ATTESTED:

HON. JAN ELIMEN V. MAGDALAGA
Acting Vice Mayor/Presiding

HON. MARK EFREN E. MERILO

SB Member

ON. JOSIE M. CREER

∫SB Member

HON. QUINTIN T. OCTA, JR.

SB Member

HON EFRENC. MERILO SB Member Liga President

CERTIFIED TRUE AND CORRECT:

ELECTERIO T. LERIOS

SB Secretary

HON. PAUL ENAMANDEL R. CINCO

Member

HON. ATTY: ISAGANI /S. ESPADA

SB Member

HON. CHERRY ANNE T. FIEL

SB Member

HON KYLE TO MESIAS

SB Member/\$k Fed. Pres.

APPROVED:

HON. MA. GNA E. MERILO

Municipal Mayor

sp Attachment

Republic of the Philippines
Province of Leyte
Municipality of Leyte
-00016th Sangguniang Bayan

MINUTES OF THE PUBLIC HEARING

MAY 16, 2024 TANAUAN PRESIDENCIA LOBBY

SUBJECTS:

1. A PROPOSED ORDINANCE MANDATING BUSINESSES OPERATING WITHIN THE TERRITORIAL JURISDICTION OF THE MUNICIPALITY OF TANAUAN, LEYTE TO SECURE A PHILIPPINE NATIONAL POLICE (PNP) CETTIFICATE OF CONFORMITY AND/OR CERTIFICATE OF DISTRIBUTORSHIP BEFORE MANUFACTURING, SELLING, USING OR DISTRIBUTING PNP UNIFORM, INSIGNIAS AND OTHER ACCOUTREMENTS AND PRESCRIBING PENALTIES FOR VIOLATIONS THEREOF.

SPONSOR: HON. PAUL EMMANUEL R. CINCO

2. A PROPOSED ORDINANCE PROHIBITING ACTS OF DISCRIMINATION WITHIN THE MUNICIPALITY OF TANAUAN, LEYTE ON THE BASIS OF ETHNICITY, RACE, COLOR SEX, GENDER, SEX CHARACTERISTICS, LANGUAGE, RELIGION OR BELIEF, POLITICAL OR OTHER OPINION, SOCIAL ORIGIN, PROPERTY, BIRTH AND OTHER PROTECTED ATTRIBUTES AND PROVIDING PENALTIES THEREOF.

SPONSOR: HON. PAUL EMMANUEL R. CINCO CO-SPONSOR: HON. CHERRY ANNE T. FIEL

PRELIMINARIES:

The public hearing was commenced with an opening prayer. In attendance were the sponsors of the proposed ordinance, the Chairman of the SB Committee on Laws, the Chairpersons of the different Barangays; and representatives from the different stakeholders of the municipality.

Afterwards, the salient provisions of afore-stated proposed Ordinances were presented.

DISCUSSION/OPEN FORUM:

The Tanauan III District Supervisor, Ms. Pamela Almanza raised the concern on instances were the sons or kids of PNP Officers are also wearing the uniforms or accessories and whether they shall be covered with the sanctions provided in the proposed Ordinance. She added whether the students who are performing Drama, parades and or role plays for academic purpose or for portraying different professions shall also be sanctioned.

Hon. Cinco answered that since the Ordinance include as prohibited act the "use" of such uniforms or accessories, thus the use by students of the said uniforms or accessories are deemed violation of the Ordinance unless there is a Certificate of Conformity. It is advised that the schools or students may resort to similar uniforms but which are not totally or exactly the uniforms and accessories used by the PNP Officers.

Hon. Espada added that if the Ordinance will be passed, the application thereof will include all persons or entity, including the kids or immediate family of PNP Officers who are not members of the organization.

The Representative from Tanauan MPS added that they are strongly advocating for the passage of the proposed Ordinance as there were instances when they flagged down a group of young men who were wearing complete set of PNP Uniform with insignias but were wearing rubber shoes and that at first glance the public could have mistaken them to be PNP Officers. Due to the rampant cases of unauthorized use of the Official Uniforms of the PNP Officers, the PNP was alarmed and thus it was coordinated with the DILG for the passage of the proposed Ordinance.

Hon. Fiel added that the proposed Ordinance also seek to protect the image of the PNP Officers and to deter the commission of future crimes by pretending to be police Officers.

There having no further salient concerns on the first proposed Ordinance, the second proposed Ordinance was then presented and the open forum followed. The sponsors of the proposed ordinance emphasized that the said proposal was endorsed by the Commission on Human Rights to institutionalize and heightened the protection of the rights of individual especially against any form of discrimination.

Hon. Cinco further stated that the only vulnerable group that are not specifically mentioned in the proposed ordinance are the ethnic groups, in which there is no particular ethnic group in the municipality except for the *badjaos* who are considered as nomads as they do not settle in a particular place or municipality. Nevertheless, the sponsors of the said proposed Ordinance stated that the Commission on Human Rights also manifested that they will come up with a separate template of proposed Ordinance addressing the rights of this similar tribes to be legislated in the concerned local government units.

CONCLUSION:

There having no further salient queries or comments to the above-stated proposed Ordinances, the Public Hearing was adjourned.

CERTIFIED TRUE AND CORRECT

LOCAL Legislative Officer

ATTESTED:

ON. PAUL EMMANUEL R. CINCO

SB MEMBER/ SPONSOR

HON. CHERRY ANNE T. FIEL SB MEMBER/SPONSOR



Republic of the Philippines Province of Leyte Municipality of Tanauan -oOo-

OFFICE OF THE SANGGUNIANG BAYAN

PUBLIC HEARING

1. An Ordinance Mandating Business Operating Within the Territorial Jurisdiction of the Municipality of Tanauan, Leyte, to Secure a Philippine National Police (PNP) Certificate of Conformity and/or Certificate of Distributorship before Manufacturing, Selling, Using, or Distributing PNP Uniform, Insignias and other Accountrements and Prescribing Penalties for violation thereof.

Sponsored by: Hon Paul Emmanuel R. Cinco

 An Ordinance Prohibiting Any Acts of Discrimination withing the Municipality of Tanauan, Leyte, on the Basis of Ethnicity, Race, Color, Sex, Gender, Sex Characteristics, Language, Religion or Belief, Political or Other Opinion, Social Origin, Property, Birth and Other Status, and Other Protected Attributes and providing penalties thereof.

Sponsored by: Hon Paul Emmanuel R. Cinco Co-sponsor: Hon. Cherry Anne T. Fiel

Date:

May 16, 2024 (Thursday)

Time:

2:00 in the Afternoon

Venue:

Presidencia Lobby, Tanauan Town Hall, Tanauan, Leyte

ATTENDANCE

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| 111. Clana P. malate 112. Tolilon, John C. | | |
| 112. Toulan, 200 C. | 1/10 | No. |
| 113. Simbon'o Chuna T. | Mto | Chart |
| 114. James Leizel L. 115. Eacher F. + Harollo (1 | otul | 1 plens |
| 115. Eacho B- + Harolo (1 | 190 | |
| 116. Madry De MA 117. VESSON ASHAO | Sign | 4699 |
| | VIV | |
| 118. ELENTERIO T. LERIOS | SB | 2 72 |
| 119. PLAN PRUGATUNGAN | 5/3 | 11/14 |
| 120. JON APAGA | 1 | |
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Republic of the Philippines Province of Leyte TANAUAN -oOo-

0771CE 07 THE SANGGUNIANG BAYAN

CERTIFICATION

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY that ORDINANCE NO. 2024-13, "AN ORDINANCE DECLARING UNLAWFUL ACTS AND CONDUCT OF DISCRIMINATION BASED ON SEX, GENDER IDENTITY, SEXUAL ORIENTATION, RACE, COLOR, DESCENT, NATIONAL OR ETHNIC ORIGIN AND RELIGIOUS AFFILIATION OR BELIEFS AND PENALIZING THE SAME", have been posted in the bulletin boards at the following: Entrance of the Municipal Hall, Office of the Sangguniang Bayan and Public Market beginning September 12, 2024 and shall remain posted for a minimum of three consecutive weeks.

This certification is issued in compliance with the pertinent provisions of R.A. 7160.

Issued: September 12, 2024

ELEUTERIO T. LERIOS

Sangguniang Bayan Secretary