Republic of the Philippines

Department of Finance

Securities and Exchange Commission
OFFICE OF THE GENERAL COUNSEL

22 July 2019

SEC-OGC Opinion No. 19-28
RE: Corporate Term of Existing Corporations under the Revised Corporation Code

ZG Law
Zambrano Gruba Caganda & Advincula
27/F 88 Corporate Center, 141 Sedeño Street, Salcedo Village,
1229 Makati City, Philippines

Gentlemen:

This refers to your letter dated 30 May 2019, requesting confirmation of your opinion that: (a) the corporate term of Unlad Resources Development Corporation (Unlad) expiring on 01 December 2020 is deemed extended and amended to perpetual existence pursuant to Republic Act No. 11232 or the Revised Corporation Code of the Philippines ("RCC") without amending its Articles of Incorporation (AOI); and (b) the amendment of Unlad's corporate term to perpetual existence does not require two-third (2/3) affirmative vote of the outstanding shares of Unlad.

Based on the amended AOI which you attached to your letter, Unlad was incorporated on 01 December 1920 with a corporate term of fifty (50) years expiring on 01 December 1970. On 15 November 1969, Unlad's corporate term was extended for another 50 years expiring on 01 December 2020. Given this situation, you opine that the corporate term of Unlad is now deemed perpetual without need of amending its AOI with the requisite 2/3 affirmative vote of its outstanding shares, pursuant to the RCC.

We confirm your opinion that the corporate term of Unlad is deemed extended and amended to perpetual existence pursuant to Paragraph 2, Section 11 of the RCC[1], which provides:

> Section 11. Corporate Term. – A corporation shall have perpetual existence unless its articles of incorporation provide otherwise. **Corporations with certificates of incorporation issued prior to the effectivity of this Code, and which continue to exist shall have perpetual existence**, unless the corporation, upon a vote of its stockholders representing a majority of its outstanding capital stock, notifies the Commission that it elects to retain its specific corporate term pursuant to its articles of incorporation: Provided, that any change in the corporate term under this section is without prejudice to the appraisal right of dissenting stockholders in accordance with the provisions of this Code. (Emphasis supplied)

[1] Effective 23 February 2019

It is clear from the aforementioned provision that the corporate term of a corporation existing prior to, and which continues to exist upon the effectivity of the RCC, shall be automatically deemed perpetual without any further action on the part of the corporation.[2]

Further, since the automatic conversion of the corporate term to perpetual existence does not require an amendment of the AOI, the 2/3 affirmative vote[3] of the outstanding shares to amend the AOI would not be required.

It shall be understood that the foregoing opinion is rendered based solely on the facts and circumstances disclosed and relevant solely to the particular issue raised therein. It shall not be used in the nature of a standing rule binding upon the Commission in other cases or upon the courts whether of similar or dissimilar circumstances.[4] If upon further inquiry or investigation, it will be disclosed that the facts relied upon are different, this opinion shall be rendered void.

Please be guided accordingly.

CAMILO S. CORREA CSCV
General Counsel

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[2] SEC-OGC Opinion No. 19-16 dated 15 April 2019 addressed to Paner Hosaka & Ypil

[3] SEC. 15. Amendment of Articles of Incorporation. – Unless otherwise prescribed by this Code or by special law, and for legitimate purposes, any provision or matter stated in the articles of incorporation may be amended by a majority vote of the board of directors or trustees and the vote or written assent of the stockholders representing **at least two-thirds (2/3) of the outstanding capital stock**, without prejudice to the appraisal right of dissenting stockholders in accordance with the provisions of this Code. (Emphasis supplied)

[4] SEC Memorandum Circular No. 15 Series of 2003 (16 December 2003), No. 5.10