



REPUBLIKA NG PILIPINAS
PAMAHALAANG LUNGSOD NG MUNTINLUPA
KALAKHANG MAYNILA

Sangguniang Panglungsod

RESOLUTION NO. 04-032

A RESOLUTION STRONGLY RECOMMENDING THE IMMEDIATE REVOCATION OR CANCELLATION OF THE BUSINESS PERMIT GRANTED TO MAKATI FOUNDRY, INC. LOCATED AT KM. 27 #23 NATIONAL ROAD, TUNASAN, MUNTINLUPA CITY FOR VIOLATIONS OF PRESIDENTIAL DECREE NO. 856, OTHERWISE KNOWN AS THE SANITATION CODE OF THE PHILIPPINES, THE CIVIL CODE OF THE PHILIPPINES, ORDINANCE NO. 91-39, AS AMENDED BY ORDINANCE NO. 02-047 AND THE REVENUE CODE OF MUNTINLUPA.

- *****
- Sponsored by : Hon. Ma. Luisa Babaran-Echavez, M.D.
 Co-Sponsored : Hon. Marissa Cole Rongavilla
 Hon. Atty. Icasiano M. Dela Rea
 Hon. Allan Rey A. Camilon
 Hon. Mario E. Bulay, Jr.
 Hon. Lucio B. Constantino
 Hon. Rene Carl S. Cayetano
 Hon. Melchor R. Teves
 Hon. Allen F. Ampaya
 Hon. Kevin B. Delgado
 Hon. Elmer S. Espeleta
 Hon. Francis Ian T. Bagatsing
 Hon. Engr. Mamerto T. Sevilla, Jr.
 Hon. Artemio A. Simundac
 Hon. Christian Glenn D. Lorica
- *****

WHEREAS, Article II, Section 15 of the Constitution of the Republic of the Philippines states that *"The State shall protect and promote the right to health of the people and instill health consciousness among them"*;

WHEREAS, Article II, Section 16 of the same law also provides that *"The State shall protect and advance the right of the people to a balanced and healthful ecology in accord with the rhythm and harmony of nature"*;

WHEREAS, Section 458 (a) (I) (vi) of Republic Act 7160, otherwise known as Local Government Code of 1991 further empowers the Sangguninag Panlungsod to approve ordinances or resolutions in order *"to protect the environment and impose appropriate penalties for acts which endanger the environment, xxxx and such other activities which result in pollution, xxx or ecological imbalance"*;



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WHEREAS, the *Makati Foundry* located at Km. 27 #23 National Road, Tunasan, Muntinlupa City is engaged in the recycling of raw materials like *cast iron scrap, ferro-silicon, limestone and foundry coke* since 1977 and was issued a valid temporary business permit by the *Business Permit and Licensing Office* on *January 19, 2004* and an *Environmental Compliance Certificate* issued by the *Department of Environmental and Natural Resources (DENR)* on *January 8, 1999*;

WHEREAS, on *August 24, 2004*, a public hearing was conducted by the *Committee on Health and Sanitation* to investigate the complaints filed by the residents of *JPA Subdivision, Sto. Nino Village and Divine Mercy School, Tunasan, Muntinlupa City* against *Makati Foundry* for alleged offensive odor emitted from the operation of its plant;

WHEREAS, on the said public hearing, *Engr. Mario Garcia*, the engineer of *Makati Foundry* admitted that there is indeed an unpleasant smell emanating from the operations of *Makati Foundry*;

WHEREAS, the operation of *Makati Foundry* is no longer viable in its present location which is a commercial zone;

WHEREAS, from the study, investigation and inspection conducted by the different departments involved, it was found out that the *Makati Foundry* has incurred several violations, among them are as follows:

1. Violation of the provision on *Chapter 7, Administrative Order #115, Series of 1991*, otherwise known as the *Industry and Hygiene of the Sanitation Code of the Philippines*, which provides that "***The location of sighting of industrial establishment shall be in compliance with existing policies, zoning laws and ordinances***", and as prescribed by *Ordinance No. 91-39*, as amended by *Ordinance No. 02-047*. "***No industrial establishment shall be allowed to be constructed in a non-industrial zone***";

Corollary to said Ordinance, reclassifying area where *Makati Foundry* is located is a *commercial zone* and not an industrial zone..

2. Violation of *Article 694 of the Civil Code of the Philippines* which states that "***A nuisance is any act, omission, establishment, condition or property, or anything else which injures or endangers the health safety of others or annoys or offends the senses***".



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Article 695 of the same Code also states that "Nuisance is either private or public. A public nuisance affects a community or neighborhood or any considerable number of persons, although the extent of annoyance, danger or damage upon individuals may be unequal". A private nuisance is one that is not included in the foregoing definition.

3. Violation of the *Revenue Code of Muntinlupa*, which according to the inspection/investigation conducted by the *Business Permit and Licensing Office*, the *Makati Foundry* has misdeclared the measurement of its area by declaring only *1,000 square meter* of its property when the actual measurement is *3,150 square meter*.

WHEREAS, while it is true that the *Makati Foundry* has passed the emission test conducted by the DENR on *February 16, 2004*, yet the same is only for solid particles and not for the obnoxious odor emanating from its chimney, which is causing respiratory diseases to the affected neighborhood;

WHEREAS, The *obnoxious odor* emanating from the operation of *Makati Foundry* which injures or endangers the health safety of the nearby residents is considered a *nuisance per se* which under *Article 699 of the Civil Code* is subject to abatement without judicial proceedings;

WHEREAS, under *Chapter 1, Section 74 b of the Revenue Code of Muntinlupa*, "*any false statement made by the applicant or licensee will constitute a sufficient ground for denying or revoking the permit without prejudice to the criminal liability of the applicant or licensee*";

WHEREAS, the City Government cannot tolerate the existence of a business establishment which would endanger the health and safety of the community, even to the extent of losing *P176,314.15* from its annual collections;

WHEREAS, the corporate power of the local government unit to grant permit or license to any business or practice of profession, carries with it the power to revoke the same as provided for under *Section 458 (a) (3) (ii) of the Local Government Code of 1991*;

WHEREAS, in view of the foregoing premises the City Council therefore rules in favor of the clamor of its constituents based on the Latin maxim "*Salus populi est suprema lex*" which means, "*The general welfare of the people is the supreme law*", and "*vox populi vox dei*", which means "*The voice of the people is the voice of God*";



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RESOLVE THEREFORE, AS IT IS HEREBY RESOLVED, by the Sangguniang Panglungsod strongly recommending the immediate revocation or cancellation of the business permit granted to *Makati Foundry*, located at Km. 27 #23 National Road, Tunasan, Muntinlupa City for violations of *Presidential Decree No. 856*, otherwise known as the *Sanitation Code of the Philippines, Civil Code of the Philippines, Ordinance No. 91-39*, as amended by *Ordinance No. 02-047*, and the *Revenue Code of Muntinlupa*.

APPROVED, by the *Fourth (4th) Sangguniang Panlungsod of Muntinlupa* this *14th* day of *October 2004* on its *14th* Regular Session.

CONCURRED:


ALLAN REY A. CAMILON
Councilor


MA. LUISA BABARAN-ECHAVEZ
Councilor



MELCHOR R. TEVES
Councilor


ALLEN F. AMPAYA
Councilor

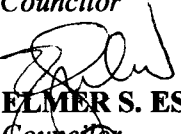

KEVIN B. DELGADO
Councilor



ATTY. ICASIANO M. DELA REA
Councilor


MARIO E. BULAY, JR.
Councilor


CHRISTIAN GLENN D. LORICA
Sectoral Representative
President, Federation of
Sangguniang Kabataan


RENE CARL S. CAYETANO
Councilor



ELMER S. ESPELETA
Councilor


FRANCIS IAN T. BAGATSING
Councilor


MARISSA COLE-RONGAVILLA
Councilor


LUCIO B. CONSTANTINO
Councilor


MAMERTO T. SEVILLA, JR.
Councilor


ARTEMIO A. SIMUNDAC
Sectoral Representative
President, Association of
Barangay Captains



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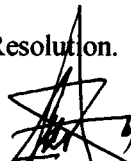
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ABSENT:

BAL NIEFES
Councilor

JOSELITO V. AREVALO
Councilor


I HEREBY CERTIFY, as to the correctness of the foregoing Resolution.



CECILIA C. LAZARTE
Secretary
Sangguniang Panlungsod

ATTESTED:


ATTY RAUL R. CORRO
Acting City Vice Mayor/Presiding Officer

APPROVED:


ALDRIN L. SAN PEDRO
Acting City Mayor
Date: _____


PBS, JR.

