

Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City, Metro Manila

NINETEENTH CONGRESS
Third Regular Session



COMMITTEE REPORT NO. 1509

Submitted by the Committee on Public Accounts on June 10, 2025

RE: House Resolution No. 2148, informing the House of its findings and recommendations.

Sponsors: Representatives Joseph Stephen "Caraps" S. Paduano and Francisco Paolo Ortega V.

Mr. Speaker:

The Committee on Public Accounts to which was referred House Resolution No. 2148 entitled: "Resolution Directing the Committee on Public Accounts and Other Appropriate Committees of the House of Representatives to Conduct an Inquiry, In Aid of Legislation, Into the Alleged Misuse of Public Funds and Properties, and Irregularities in the Operations of the Office of the Mayor and Vice Mayor of the Municipality of Bauan, Batangas Under Mayor Ryañh M. Dolor, has considered the same and recommends the adoption of the attached Report, including the findings and recommendations contained therein.

Respectfully submitted,


JOSEPH STEPHEN "CARAPS" S. PADUANO
CHAIRPERSON
COMMITTEE ON PUBLIC ACCOUNTS

THE HONORABLE SPEAKER
HOUSE OF REPRESENTATIVES

A. PREFATORY STATEMENT

On December 18, 2024, Representative Francisco Paolo Ortega V filed House Resolution No. 2148, directing the Committee on Public Accounts of the House of Representatives to conduct an inquiry, in aid of legislation, into the alleged misuse of public funds and properties, as well as irregularities in the operations of the Office of the Mayor and Vice Mayor of the Municipality of Bauan, Batangas under Mayor Rynh M. Dolor.

The resolution was officially referred to the Committee on Public Accounts on January 21, 2025. In response, the Committee held a series of four regular meetings to deliberate on the matter, which took place on January 27, February 5, February 26, and March 17, 2025.

The following resource persons attended:

- Vice Mayor Ronald E. Cruzat – Municipality of Bauan
- Sangguniang Bayan (SB) Member Niel P. Valdez – Municipality of Bauan
- Municipal Engineer Herman Boongaling – Municipality of Bauan
- Atty. Ava Beatrice Talag – Municipal Administrator, Municipality of Bauan
- SB Secretary Noel C. Bautista – Municipality of Bauan
- Municipal Accountant Ma. Lea R. de Villa – Municipality of Bauan
- Former Vice Mayor Juan L. Magboo – Municipality of Bauan
- Former Councilor Yanile Dalangin – Municipality of Bauan
- Former Municipal Treasurer Renato Gimán – Municipality of Bauan
- Former Assistant Municipal Assessor Pepito Abrenica – Municipality of Bauan
- Former Local Revenue Collection Officer Marilyn Corona – Municipality of Bauan
- Former Councilor William Abrahan – Municipality of Bauan
- Former Councilor Venice Rose Brual – Municipality of Bauan
- Former Councilor Kelvin Gimeno – Municipality of Bauan
- Former Councilor Julian Casapao – Municipality of Bauan
- Commission on Audit (COA) Director Chona A. Labrague, Region IV-A
- COA Division Chief Atty. Patrick Ryan G. Teves, Fraud Audit
- Engr. Romy Verana – former auditor, COA
- Engr. Alfredo Perez – former auditor, COA
- Atty. Jordan Nadal – Department of Interior and Local Government (DILG)
- Atty. Kaye Antonette Quizon – DILG
- Atty. Anfernee Maitem – Government Procurement and Policy Board (GPPB)
- Jaymar Bareng – GPPB
- Atty. Pamela Lorraine Ramos – Securities and Exchange Commission
- Assistant Solicitor General Sarah Mae Cruz – Office of the Solicitor General
- Atty. Enrico Papio – National Water Resources Board
- Herbert Tan – former President, Aquadata, Inc.
- Engr. Paolo Antonio Morales – Aquadata, Inc.
- Rex Joseph T. Reyes – President, First Bay Power Corporation
- Cesar G. Reyes – Incorporator, Adventureland

The Committee terminated its deliberations on June 3, 2025, after thoroughly examining the issues surrounding the alleged misuse of public funds and properties. Over the course of its inquiry, the Committee reviewed audit reports and testimonies from key resource persons, including local government officials and representatives from oversight agencies.

B. STATEMENT OF FACTS

The following facts were gathered during the hearings:

Bauan Waterworks System

- On September 7, 2007, Mayor Ryanh Dolor of the Municipality of Bauan, Batangas, issued Administrative Order No. 14A, series 2007, “*Creating the BOT Pre-Qualification Bids and Awards Committee (PBAC) for the Privatization of Bauan Waterworks System,*” to commence the process of privatizing the Bauan Waterworks System (BWS).
- On January 8, 2008, the Sangguniang Bayan (SB) adopted Resolution No. 03, Series of 2008, authorizing the privatization of the BWS.
- Pursuant to SB Resolution No. 84, Series of 2008, the Municipality of Bauan entered into a General Management Contract (GMC) with the Aquadata Inc. on April 23, 2008. The contract included an Option to Purchase clause.
- The contract provided a pre-termination clause that states that the management of BWS will revert back to the Municipality of Bauan upon its expiration. However, a holdover contract was subsequently executed, extending the management and control of Aquadata Inc. over BWS until 2013.
- Exercising its option to purchase, Aquadata eventually purchased the BWS. The sale of the BWS facility to Aquadata was through a negotiated sale.
- As a consequence of the privatization of the BWS, the Municipality incurred substantial financial losses, resulting in a cumulative net loss of Php34.2 million from 2008 to 2013.
- A fraud audit was conducted by the Commission on Audit (COA) to investigate the utilization of municipal funds in connection with the privatization of the BWS. The audit was carried out pursuant to COA Office Orders Nos. 2013-723 and 2013-723-A, dated December 27, 2013, and February 17, 2014, respectively.
- Fraud Audit Report No. 2017-003 was released on November 23, 2017.
- Based on the audit findings, a Notice of Disallowance (ND) was issued for the total amount of Php102,509,999.45, with the following breakdown:
 - Php40,317,000 for disallowed expenses under Personal Services (PS) and Maintenance and Other Operating Expenses (MOOE);
 - Php62,192,000 representing the improper gross revenue sharing of 95% in favor of Aquadata during the holdover period.
- The aforementioned audit report was transmitted to the Office of the Ombudsman on December 21, 2017, for appropriate action.
- During the Committee hearing on January 27, 2025, the Municipal Administrator Atty. Beatrice Talag, read a written statement from Mayor Dolor submitting the following justifications on the privatization of BWS:

- Upon assuming office in 2007, the Municipality was in a state of severe financial distress, including outstanding obligations at approximately Php28 million in unpaid electricity bills.
- The BWS was operating at a deficit and was able to supply water for only two hours per day.
- The Municipality's financial difficulties were attributed to debts incurred by previous administrations.
- The privatization process of the BWS was conducted in accordance with applicable legal and regulatory requirements.
- Aquadata was selected following a thorough evaluation process, and all relevant documents pertaining to the transaction were made available for inspection.
- The 95%-5% revenue-sharing arrangement was negotiated in consideration of the investment requirements and operational sustainability of the system.
- Aquadata was said to have provided the necessary capital and technological expertise, which purportedly resulted in enhanced water service delivery.
- The sale of the BWS, amounting to Php100.636 million, was based on property appraisals and subsequent negotiations.
- The sale price allegedly reflected the condition of the facility at the time and the anticipated investment required to ensure the continued improvement of services.

Lease Agreement between the Municipality of Bauan and COMNET Management Corporation

- The public plaza, together with the heroes monument situated on the 1,734-square meter lot at the corner of J.P. Rizal Street and Kapitan Ponso Street, Barangay Poblacion II, Municipality of Bauan, Batangas, was transferred to another location to make the subject lot available for lease to COMNET Management Corporation (COMNET).
- On March 25, 2013, the Municipality of Bauan entered into a Memorandum of Agreement with COMNET for the lease of the Bauan Public Plaza built on a government-owned lot. The said Memorandum of Agreement was later ratified by the SB with the passage of Resolution No. 13-04-0668 on April 12, 2013.
- Due to complaints about the irregularity of the transaction, the COA conducted a fraud audit, which was authorized under COA Office Order Nos. 2013-759 and 2014-759A dated December 27, 2013 and February 17, 2014.
- The entrance conference for the fraud audit was held on June 16, 2014. The audit concluded on October 14, 2015.
- The Commission issued Fraud Audit Report No. 2017-002, dated May 25, 2017, covering the lease transaction.

- The audit findings revealed a significant discrepancy in the computation of rental payments. COMNET was charged an undervalued rental rate of only Php320 per square meter per year, which was found to be grossly below the fair market value. As a result, the Notice of Charge (NC) was issued against COMNET, holding the latter liable for the underpayment of rent over a five (5)-year period.
- The total amount charged under the Notice of Charge is Php14,704,320.00 corresponding to the deficiency in rental payments due to the undervaluation of the leased property.
- In a written statement submitted to the Committee during the initial hearing, Mayor Dolor defended the lease on the following grounds:
 - The Bauan Plaza Hotel project aims to stimulate local economic growth, create jobs, and boost tourism.
 - Rental rates were set based on existing market standards and long-term benefits to the community.
 - Decisions were made with integrity and transparency, prioritizing public welfare and municipal progress.
 - The administration has no intent to cause financial harm to the municipality.

C. ISSUES

- I. **Whether or not the Mayor of the Municipality of Bauan, Batangas is involved in any irregularities in the privatization of the Bauan Waterworks System (BWS), including possible violations of applicable laws, misuse of public funds, or engaging in disadvantageous contractual arrangements.**
- II. **Whether or not there were irregularities in the execution and implementation of the Memorandum of Agreement between Municipality of Bauan and COMNET Management Corporation on the leasing of the land where the Bauan Public Plaza and Heroes Monument were situated.**

D. FINDINGS

- I. **The Mayor of the Municipality of Bauan, Batangas was involved in the irregularities involving the privatization of the Bauan Waterworks System (BWS), including potential violations of applicable laws, misuse of public funds, or disadvantageous contractual arrangements.**

The Committee finds Mayor Ryanh M. Dolor of the Municipality of Bauan liable for administrative and potentially criminal offenses in connection with the privatization of BWS, misuse of public funds and other violations of laws.

Being the Local Chief Executive and head of the procuring entity, he is primarily accountable for the acts and omissions of the municipal government under his administration. His approval of the contract, despite the clear financial prejudice to the Municipality and the lack of legal basis, reflects willful intent to disregard applicable laws and regulations.

The Committee established the following grounds to reach its findings on the liability of Mayor Dolor:

a. Testimony of Director Chona Labrague, COA Region IV-A.

- The procurement process on the privatization of the BWS appeared to have been prearranged, based on a series of circumstances suggesting irregularities and non-compliance with applicable procurement laws and regulations.
- The privatization of the BWS through a build-operate-transfer (BOT) arrangement was not in compliance with the requirements of Republic Act No. 6957, as amended by Republic Act No. 7718 and Local Government Code of 1991. The project was not among the approved list of priority projects as required under existing laws and did not secure the necessary approvals from the Local Development Council, the National Economic Development Authority (NEDA) Board, or the Investment Coordination Committee. Furthermore, no guidelines were issued by the approving body for the evaluation and approval of the BWS privatization and its associated contracts, in violation of Sections 2.7 and 2.8 of the Implementing Rules and Regulations (IRR) of the BOT Law.
- The disposal of the BWS facility through negotiated sale contravened several legal provisions, including Section 379 of RA 7160, Section 79 of Presidential Decree No. 1445 or the Government Auditing Code of the Philippines, and various COA Circulars—particularly, Circular Nos. 92-386, 89-296, and 86-264—as well as Department of Budget and Management National Budget Circular No. 425, which collectively govern the proper disposal of government property.
- The absence of any publication of the Invitation to Apply for Eligibility and to Bid in a newspaper of general and local circulation, as mandated by law. This failure to publish the bidding opportunity significantly limited participation in the procurement process due to the lack of advertisement or proper posting of bid invitations.
- The listed bidders to the privatization of the BWS were three (3), but only one bidder, Aquadata, was qualified. The presence of unqualified bidders appeared to be merely a compliance exercise designed to create the impression of competitive bidding. One of the three listed bidders did not submit any bid, while the other lacked the capacity to participate in the bidding process.
- The Municipality failed to ensure proper publication of the Invitation to Apply for Eligibility and the corresponding Notice of Bidding. These were not posted on the Philippine Government Electronic Procurement System (PHILGEPS), the official municipal website, or in any newspaper of general or local circulation, as required by law. Instead, the Municipality merely submitted an affidavit of posting dated April 28, 2008, attesting that the notices were posted on the municipal building's bulletin board and in other unspecified "conspicuous places" within the locality—an act that falls short of the transparency standards mandated under procurement regulations.
- On March 26, 2007, prior to the formal incorporation of the said company, Mr. Herbert Tan, who would later assume the role of president of Aquadata, made an advance payment of Php2 million to the Municipality, purportedly as "financial assistance" to cover electricity expenses. This financial contribution was made more than a year before the execution of the GMC in April 2008.

- On March 27, 2008, just eight days prior to the formal incorporation of Aquadata, and thirteen days before the contract was awarded, Mr. Tan deposited an additional Php20 million to the Municipality, purportedly as an advance payment to the sale of the BWS. These premature financial dealings, made in the absence of any formal or legal identity of the project proponent at the time, and prior to any competitive procurement process, raise serious concerns regarding the integrity and fairness of the bidding and contract award procedures.
- The sale was approved by the Municipal Mayor despite the Panel of Negotiators rejecting the proposed purchase price for being unconscionable and grossly disadvantageous to the local government. Based on the economic utility valuation conducted by COA's Special Audit Team, the BWS was valued at Php148 million, revealing a significant undervaluation in the final sale price.
- The Asset Purchase Agreement was executed without the required prior approval from COA, in contravention of Section 79 of P.D. 1445, Section 197 of COA Circular No. 92-386, Section 380 of R.A. 7160, and Article 444 of its Implementing Rules and Regulations (IRR).

b. Other key findings:

- The privatization did not conform to RA 6957 (as amended by RA 7718), and RA 7160 and its IRR.
- The Municipality of Bauan had no approved List of Priority Projects for private sector participation, violating Section 4 of the BOT Law and Section 2.3 of its IRR.
- The Local Development Council, NEDA Board, and Investment Coordination Committee did not confirm or approve the project. Additionally, no detailed guidelines were prescribed for the approval process, violating Sections 2.7 and 2.8 of the IRR.
- The Invitation to Apply for Eligibility and to Bid (IAEB) and the project notice were not published in a newspaper of general and local circulation or on the municipality's website, violating Sections 2.4 and 5.2 of the IRR of the BOT Law. Also, duly registered contractors were not notified, violating Section 302(b) of RA 7160, which limited participation.
- The IAEB lacked prequalification requirements, a submission deadline, and clear instructions to bidders. Additionally, the minimum design, performance standards, and bid evaluation parameters were not established, violating Sections 5.2, 5.3, and 5.4 of the BOT Law IRR and Sections 4.1, 4.2, and 4.3.
- The Privatization Bids and Awards Committee was created before the actual need for rehabilitation and upgrading was properly determined and established.
- The 95%-5% revenue split in favor of Aquadata lacked legal and factual basis, making it inequitable for the Municipality. COA found no study or legal basis supporting this arrangement—it was merely stated in Aquadata's letter of intent, without financial or legal justification.
- The contractor, Aquadata, performed only chlorination as an improvement to the water facility, and it failed to provide a program of work, cost estimates, and a timeline for BWS rehabilitation.
- The contractor imposed an 18% interest on its Php20 million "financial assistance", which was deducted from the purchase price absent any expressed stipulation.

- The Municipality of Bauan shouldered Php22.068 million for personal services and Php18.249 million for maintenance expenses, totaling Php43.544 million. These costs should have been Aquadata's responsibility but were instead charged to the municipality, resulting in a net loss of Php34.254 million instead of earning its assured Php9.278 million income from the contract.
- Sections 7.1 and 10.2 of the GMC transferred ownership of capital expenditures to Aquadata, including an 18% interest charge, granting undue financial benefits to the company.
- The contract failed to define Aquadata's specific obligations, justifying its 95% revenue share. Furthermore, payments lacked supporting documents, such as official receipts from the Bureau of Internal Revenue, violating Section 4.6 of Presidential Decree No. 1445.
- Aquadata earned Php123.089 million in four years and eight months, including:
 - Php60.898 million from the GMC (Apr. 23, 2008 – Jan. 11, 2011).
 - Php62.191 million during its holdover period (Jan. 11, 2011 – Jan. 13, 2013).
- The assured income for the municipality in the amount of Php 9.278 million was depleted by its Php43.544 million expenses, leading to a Php34.254 million net loss due to Aquadata's irregular charges.
- The GMC between the Municipality of Bauan and Aquadata, Inc. did not comply with RA 6957 and RA 7718 on the BOT law.
- COA confirmed that the contract failed to undergo proper pre-qualification and bidding requirements, making it irregular and non-compliant.

II. There were irregularities in the execution and implementation of the Memorandum of Agreement between Municipality of Bauan and COMNET Management Corporation on the leasing of the land where the Bauan Public Plaza and Heroes Monument were situated

Likewise, the Committee determined that the leasing of the subject land by the Municipality of Bauan was tainted with irregularities. It was evident that the Municipality extended undue preference to COMNET Management Corporation (COMNET) in order to facilitate the consummation of the transaction. The actions of the Municipality suggest manifest partiality and blatant disregard of pertinent laws, rules and regulations prejudicial to the public interest.

Central to this determination are the following findings:

a. Testimony of Director Chona Labrague, COA Regional Office IV-A

- COMNET made an offer to lease the property at Php300 per square meter per year, which the Mayor endorsed to the Sangguniang Bayan (SB) on July 4, 2012. A purchase request for the lease was approved on August 16, 2012. The Bids and Awards Committee (BAC) then published an invitation to pre-qualify and bid on September 4, 2012, using COMNET's proposal as the basis, violating the provisions of RA 9184 and Executive Order No. 301.
- The lease price was far below the prescribed Php7,920 per square meter per year under the 2008 Revenue Code of Bauan.

- To accommodate COMNET, the SB amended the Bauan Revenue Code on December 14, 2012, allowing rental reductions if the proponent's net infrastructure investment exceeded Php50 million which was later increased the required investment to Php60 million. COMNET only invested Php56 million, still short of the new threshold.
- The Php300 per square meter per year minimum bid price in the lease contract lacked factual and legal basis.
- The BAC adopted the price from COMNET's unsolicited offer without independent assessment.
- The technical working group failed to evaluate the reasonableness of the price before publishing the Invitation to Pre-Qualify and to Bid on September 4, 2012.
- The bid opening was postponed when the BAC discovered that the 2008 Revenue Code set the commercial lot rate at Php165 per square meter per week, making the bid price questionable.
- The SB amended the Revenue Code on December 14, 2012, allowing rental reductions if the proponent's net infrastructure investment exceeded Php50 million.
- The opening of bids was originally scheduled for September 27, 2012, but was postponed to February 11, 2013, pending a resolution from the SB regarding the reasonableness of the minimum bid price. The SB then passed Ordinance No. 12-12- 044 on December 14, 2012, amending the Bauan Revenue Code of 2008. The amendment decreased rental rates for municipal properties if the net investment for infrastructure exceeded Php50 million.
- COMNET was awarded the lease contract at a bid price of Php320 per square meter per year for a 25-year term, with an option to renew for another 25 years. The contract also granted COMNET an irrevocable option to purchase the property at any time during the lease period. Additionally, COMNET was exempted from all taxes, license fees, dues, or charges related to its operations, management, and development of the area for eight years.
- COA determined that a fair market rate should be Php2,016 per square meter per year, leading to a revenue loss of Php2,940,864 per year.
- Article 2(c) of the Contract of Lease explicitly grants COMNET an absolute exemption from all municipal taxes, license fees, dues, or charges for eight years. The municipality also agreed to shoulder all taxes related to the agreement, including withholding taxes, EVAT, documentary stamp tax, and other government-imposed taxes. These exemptions violated Section 192 of RA 7160, which requires an SB ordinance before granting tax exemptions.

b. Statements of SB Secretary Noel C. Bautista

SB Secretary Bautista clarified that on April 28, 2021, the SB issued a resolution amending the existing lease contract in response to the audit findings of COA. The amendment specifically addressed COA's observations by ensuring that any amounts deemed undervalued in the audit were duly settled by the proponent.

He further disclosed that the lease rights under the contract were subsequently transferred from COMNET to Adventureland. Following the transfer, Adventureland settled all outstanding deficiencies identified by COA, thereby rectifying the financial discrepancies associated with the contract. SB

Bautista claimed that Php23 million had already been returned to the Municipality in compliance with COA's findings. The refund was related to the undervaluation of rental fees in which COA ruled that COMNET should have been paying Php2,016 per year instead of Php320. However, this payment did not cover unpaid taxes, meaning the tax exemption issue remains unresolved.

c. Ombudsman Letter

The Committee received a letter from the Office of the Ombudsman dated March 10, 2025, which informed the Committee that its investigation, initiated upon the recommendation of the COA to file appropriate charges against officials of the Municipality of Bauan concerning the lease of the Bauan Public Plaza, had already been terminated. The Ombudsman stated that, pursuant to its rules of procedure, the investigation could not be reopened; however, it may be re-filed based on newly discovered evidence.

E. CONCLUSION

Privatization of the BWS

The Committee concludes that the arrangement between the Municipality of Bauan and Aquadata to be inconsistent with the basic principles of a fair public-private partnership, where both parties are expected to equitably share in both risks and revenues. Instead, the agreement resulted in the Municipality incurring debt rather than generating income.

In the first place, the BWS was financially viable prior to the contract with Aquadata. Net incomes were reported at Php3 million in 2003, Php4.8 million in 2004, Php5.14 million in 2005, Php1.2 million in 2006, and Php5.8 million in 2007. These figures contradicted claims that the Municipality needed Aquadata's financial support to sustain water operations.

There was also no valid legal basis for the continued payments of operational costs to pay salaries to BWS employees despite their transfer to a private entity by the Municipality. Such an arrangement was financially prejudicial to the interests of the local government and its constituents and constitutes a blatant misuse of public funds.

Ms. Daisy Maliwanag, who served as the Municipal Treasurer from 2008 to 2012, confirmed that during her tenure, the Municipality continued to shoulder the payment of Personal Services (PS) for employees working for BWS, even after Aquadata had assumed full operational control. This reinforced earlier findings that, despite Aquadata receiving 95% of the revenues, the LGU remained burdened with core operational expenses.

Ms. Ma. Lea De Villa, the Municipal Accountant since 2011, attempted to justify the continued payment of PS by the Municipality. She argued that these expenditures were intended to preserve the government benefits of the affected employees, including Government Service Insurance System pensions. The Committee took note of this rationale but stressed that such an arrangement favored the private entity at the expense of public funds.

The foregoing admissions are highly damning to the local officials involved, as they point to possible violations of several laws governing the illegal use of public funds.

The Committee also finds that the advance payments made by Mr. Herbert Tan constitute clear indicia of undue advantage and preferential treatment. Such actions are not only irregular but may also amount to prohibited acts under the relevant provisions of the Anti-Graft and Corrupt Practices Act and may constitute potential acts of bribery under Article 212 of the Revised Penal Code.

The timing, nature, and lack of transparency surrounding these payments further support the Committee's finding that the entire transaction was tainted with irregularity and designed to circumvent procurement safeguards and secure a predetermined outcome in favor of a particular private party.

Furthermore, the transaction was inconsistent with the fundamental principle of the BOT scheme. Under the BOT Law, ownership of the project or facility is required to revert to the government upon the expiration of the agreed operation period. This did not occur in the case at issue even though the privatization was conducted under the BOT law. Accordingly, this deviation from the prescribed legal framework renders the transaction highly irregular and legally infirm.

The Committee underscores that the privatization of the BWS under the guise of a BOT arrangement, yet resulting in the effective permanent transfer of public assets to a private entity, constitutes a betrayal of the fiduciary duty imposed on public officials. It also sets a dangerous precedent that weakens the integrity of future infrastructure partnerships if left unaddressed. Accordingly, the Committee recommends further legal scrutiny by appropriate agencies of the contract terms and the initiation of appropriate legal actions to recover the asset and hold accountable those responsible.

Lease of the land where the Bauan Public Plaza was situated

With regard to the issue concerning the lease of the land where the Bauan Public Plaza was situated, the Committee deems unmeritorious the Municipality's justification that the financial losses and deficiencies identified by the COA were eventually settled. Even assuming the veracity of this claim, which remains unsubstantiated due to the absence of documentary evidence submitted to the Committee proving full payment of the losses, such remedial actions do not exculpate the individuals responsible for entering into a manifestly and grossly disadvantageous contract. Those involved may still be criminally, civilly, and administratively held liable under applicable laws.

Moreover, notwithstanding any subsequent remedial actions undertaken by the Municipality, the original lease agreement executed between the Municipality of Bauan and COMNET remains the controlling instrument for audit purposes, as confirmed by COA.

The Committee notes with serious concern the transfer of lease rights from COMNET to Adventureland. While such transfer was justified by the Municipality as a remedial measure to settle the financial deficiencies flagged by the COA, the Committee concludes that this maneuver may have been intended to shield the original contractor from legal and financial liability.

This sequence of events raises the possibility that the transaction constituted a simulated assignment, designed to evade full accountability. Despite the refund, it is evident that material legal issues remain unresolved, including unpaid taxes and the validity of the tax exemption, as well as concerns over the legality of the underlying lease of public dominion property.

The Committee views the transfer of lease rights as a potential ruse to frustrate audit integrity and legal enforcement mechanisms. Such practice may be characterized as corporate layering to circumvent state oversight, particularly if the transferee and transferor are related entities or if the transfer lacked economic consideration. The Committee stresses that the settlement of a portion of the Notice of Charge and Disallowance does not exculpate the original parties from liability under the law.

The Committee also took cognizance of the fact that the Bauan Public Plaza is a property of public dominion under Article 420 of the Civil Code of the Philippines. This provision defines public dominion property as those intended for public use, such as roads and plazas, or those owned by the State and devoted to public service or the development of national wealth.

Further, Article 421 of the Civil Code provides that property of public dominion is distinct from patrimonial property and cannot be disposed of or leased unless it has first been formally withdrawn from public use. Such withdrawal requires clear and legal proceedings declaring that the property is no longer intended for public use or service.

The Committee stressed that the mere cessation of public use does not, by itself, effect the conversion of property of public dominion into patrimonial property. Such conversion requires the observance of formal legal processes, including a categorical declaration that the property is no longer intended for public use or service.

The Committee further observed that COA's failure to ascertain and establish the legal history and classification of the property from the outset rendered the audit fundamentally flawed.

Public plazas are considered properties of public dominion and, as such, cannot be leased or disposed of by a local government unit. Any lease or sale of such property, if not effected through the appropriate legal processes, is considered *ultra vires*.

The COA admitted that it did not examine the legal history of the property and started the investigation during the hotel's construction and was based on the assumption that the construction was legally authorized. No verification was made as to whether the property had been formally reclassified from public dominion to patrimonial property. Accordingly, this lapse calls for institutional reforms to ensure stricter adherence to legal standards in future audits involving public land.

F. RECOMMENDATIONS

For the COA to:

- Conduct a thorough and retrospective audit of the legal history and classification of the Bauan Public Plaza to determine whether its conversion from property of public dominion to patrimonial property was done in accordance with law.
- Review and, if warranted, revise its existing audit protocols to include mandatory verification of property classification prior to the assessment of lease or disposition transactions involving public property.
- Reopen and expand the audit investigation into the agreement with Aquadata, specifically to account for the continuing financial burden on the Municipality despite the privatization of the water system.
- Coordinate with the Office of the Ombudsman to promptly share findings of fraud audits that may give rise to criminal, civil, or administrative liability.
- Submit to the Committee a comprehensive compliance report detailing all actions taken in response to the above findings within sixty (60) days from receipt of this Report.
- Strengthen audit protocols to ensure that the legal status and classification of public properties are verified before rendering opinions on the legality of contracts involving such assets.
- Coordinate with the Office of the Solicitor General and transmit all relevant evidence gathered in connection with the lease of the public plaza, to enable the Solicitor General to initiate appropriate reversion proceedings in accordance with law.

For the Office of the Ombudsman to:

- Reassess the termination of its initial investigation into the Bauan Plaza transaction in light of newly uncovered evidence and admissions made during the Committee hearings.
- Expedite the resolution of the pending complaint/s related to the Aquadata and COMNET transactions, including the conduct of preliminary investigations based on the COA findings.
- Conduct a motu proprio investigation to determine whether the acts committed in relation to the privatization of the BWS and lease of the Public Plaza may give rise to criminal liability under relevant laws, including but not limited to the Anti-Graft and Corrupt Practices Act (Republic Act No. 3019), the Plunder Law (Republic Act No. 7080), and other applicable penal statutes.

For the Municipality of Bauan to:

- Immediately cease any arrangements resulting in continued public expenditure for operational costs or personal services benefitting privatized entities without legal basis.
- Reassess and, if necessary, renegotiate or terminate contracts that unduly prejudice the interests of the Municipality and its constituents.
- Institute legal action, where warranted, against officials or third parties found to have engaged in contracts contrary to law or public policy.
- Conduct an internal review of policies governing public-private partnerships to ensure alignment with the principles of equity, legality, and fiscal responsibility. Reclaim ownership and control of the Bauan Public Plaza and initiate legal action to nullify the lease agreement with COMNET Management Corporation.
- Submit a comprehensive report to the DILG, COA, and the House of Representatives detailing all contracts entered into with private entities over the past 15 years, particularly those concerning public infrastructure or utilities.

For the DILG to:

- Investigate the transactions subject of this Report and evaluate the administrative liability of concerned local officials.
- Conduct a comprehensive review of the Municipality of Bauan's compliance with applicable laws governing the use and disposition of public property.
- Institute administrative proceedings against local officials found to have approved or implemented the unlawful lease of the Bauan Public Plaza and the irregularities in the BWS-Aquadata agreement.
- Issue a circular reminding all LGUs that properties of public dominion cannot be disposed of, alienated, or leased without proper legal conversion into patrimonial property through formal proceedings.
- Provide capacity-building programs for LGU officials on the legal requirements of public-private partnerships, the BOT Law, and property classification under the Civil Code, Local Government Code, and relevant laws, rules, and regulations.

For the Public-Private Partnership (PPP) Center of the Philippines to:

- Issue clarificatory guidelines on the application of the BOT Law, particularly on reversion of ownership and operational responsibilities in PPP projects.
- Investigate the implementation of the BOT scheme in the privatization of the BWS and determine whether the transfer of ownership to Aquadata violated Section 6 of the BOT Law, which mandates the reversion of ownership to the government upon the expiration of the contract term.

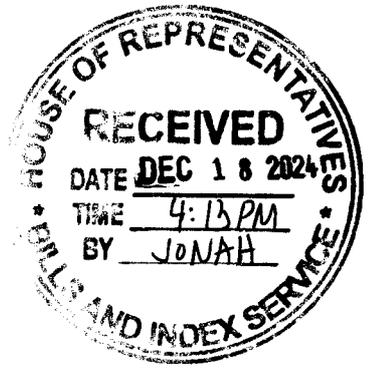
For the Department of Justice to:

- Render a legal opinion on the validity of the agreements entered into by the Municipality involving public dominion property.

For the House of Representatives to:

- Amend the BOT Law to enhance transparency in privatization projects and strengthen the Local Government Code of 1991 to empower the DILG in addressing violations made by the LGUs more effectively.
- Amend PD 1445 to reflect present-day conditions and include a provision imposing penalties on any auditor or official of the COA who, in the exercise of his or her function, commits any act or omission resulting in material loss, damage, or prejudice to the government or the public interest.

Finally, the aforementioned government agencies shall be furnished with a copy of the Committee Report to notify them of the findings and enable them to take appropriate action on the respective recommendations.



Republic of the Philippines
HOUSE OF REPRESENTATIVES
Congress of the Philippines
Quezon City

19th Congress

Third Regular Session

HOUSE RESOLUTION NO. 2148

Introduced by:

REPRESENTATIVES FRANCISCO PAOLO P. ORTEGA V; AMPARO MARIA J. ZAMORA; JEFFERSON F. KHONGHUN; RAMON RODRIGO L. GUTIERREZ; ZIA ALONTO ADIONG; RAUL ANGELO "JIL" D. BONGALON,

RESOLUTION DIRECTING THE COMMITTEE ON PUBLIC ACCOUNTS AND OTHER APPROPRIATE COMMITTEES OF THE HOUSE OF REPRESENTATIVES TO CONDUCT AN INQUIRY, IN AID OF LEGISLATION, INTO THE ALLEGED MISUSE OF PUBLIC FUNDS AND PROPERTIES, AND IRREGULARITIES IN THE OPERATIONS OF THE OFFICE OF THE MAYOR AND VICE MAYOR OF THE MUNICIPALITY OF BAUAN, BATANGAS UNDER MAYOR RYANH M. DOLOR

WHEREAS, it is the policy of the State to promote good governance, transparency, and accountability in the use of public funds and resources to ensure that they serve the best interests of the public;

WHEREAS, Section 1, Article XI of the 1987 Philippine Constitution states that public office is a public trust, and public officers and employees must, at all times, be accountable to the people by serving with utmost responsibility, integrity, loyalty, and efficiency, and by upholding patriotism and justice while leading modest lives;

WHEREAS, the Office of the Mayor of the Municipality of Bauan, Batangas, led by Mayor Ryanh M. Dolor, has been allegedly involved in several irregularities in its operations and transactions, particularly in the privatization of the Bauan Waterworks System (BWS);

WHEREAS, the Commission on Audit (COA) issued a Notice of Disallowance dated November 28, 2018, identifying irregularities in the bidding process and in transactions with Aquadata, Inc.,

which was awarded a General Management Contract (GMC) despite failing to meet legal and financial qualifications;

WHEREAS, the privatization of the BWS resulted in a grossly disadvantageous revenue-sharing arrangement, granting Aquadata, Inc. 95% of net revenues while the Municipality retained only 5%, and led to substantial financial losses for the local government;

WHEREAS, subsequent extensions of the GMC through a holdover agreement and the eventual sale of the BWS facility at a grossly undervalued price of Php 100,636,000.00—despite its assessed value of Php 148,000,000.00—further compounded the financial disadvantage to the Municipality of Bauan;

WHEREAS, these transactions have deprived the Municipality of vital resources needed for essential public services, undermining the welfare of its constituents;

WHEREAS, there are also reports concerning irregularities in the privatization and/or alleged leasing of the land occupying the Bauan Basketball Court located at J.P. Rizal Street, Bauan, Batangas at a very meager amount to a private entity for the purpose of constructing a hotel known as the Bauan Plaza Hotel;

WHEREAS, such actions by public officials, if proven true, constitute manifest partiality, evident bad faith, and gross negligence, in violation of Republic Act No. 3019 (Anti-Graft and Corrupt Practices Act) and other relevant laws;

WHEREAS, the gravity of these allegations necessitates a thorough congressional investigation to determine the accountability of the individuals involved and to recommend legislative measures to prevent the recurrence of similar irregularities;

NOW, THEREFORE, BE IT RESOLVED, as it is hereby resolved, that the House of Representatives directs the Committee on Public Accounts and other appropriate committees to conduct an inquiry, in aid of legislation, into the alleged misuse of public funds and properties, and irregularities in the operations of the Office of the Mayor of the Municipality of Bauan, Batangas under Mayor Ryanh M. Dolor;

BE IT FURTHER RESOLVED, that the inquiry aims to:

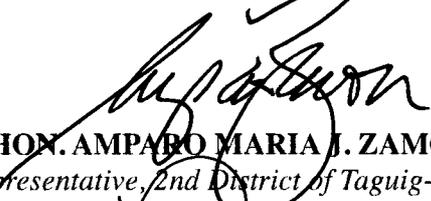
1. Investigate the misuse of public funds and properties, anomalies in the privatization of the Bauan Waterworks System, and other irregularities committed by the Office of the Mayor of Bauan, Batangas;
2. Determine the accountability of Mayor Ryanh M. Dolor and other individuals involved;
3. Identify legislative gaps in existing laws governing procurement, privatization, and local government operations;
4. Institute the appropriate legal remedies and sanctions following the determination of accountability of Mayor Ryanh M. Dolor and other individuals involved;

5. Propose legislative measures to strengthen transparency, accountability, and oversight mechanisms in local government transactions and to safeguard public resources.

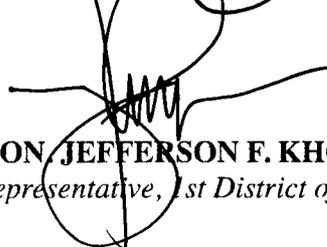
Adopted,



HON. FRANCISCO PAOLO P. ORTEGA V
Representative, 1st District of La Union



HON. AMPARO MARIA J. ZAMORA
Representative, 2nd District of Taguig-Pateros



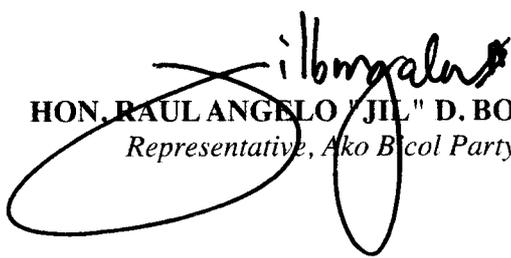
HON. JEFFERSON F. KHONGHUN
Representative, 1st District of Zambales



HON. RAMON RODRIGO L. GUTIERREZ
Representative, 1-Rider Partylist



HON. ZIA ALONTO ADIONG
Representative, 1st District of Lanao Del Sur



HON. RAUL ANGELO "JIL" D. BONGALON
Representative, Ako Bicol Partylist