

HON. GABRIEL H. BORDADO, JR.  
City Vice Mayor & Presiding Officer

- City Councilors -

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| HON. CECILIA VELUZ-DE ASIS         | HON. JOSE A. TUASON                |
| HON. NELSON S. LEGACION            | HON. SALVADOR M. DEL CASTILLO      |
| HON. ESTEBAN R. ABONAL             | HON. RAOUL T. ROSALES              |
| HON. DAVID CASPER NATHAN A. SERGIO | HON. ALEX C. NERO                  |
| HON. MARIA ELIZABETH Q. LAVADIA    | HON. DAN PAOLO R. MORALES          |
| HON. RAY-AN CYDRICK G. RENTOY      | HON. JOAQUIN F. PEREZ, JR. -Absent |

**RESOLUTION NO. 2011-077-A**  
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**RESOLUTION DIRECTING THE CITY LEGAL OFFICER TO STUDY THE PROPRIETY OF IMMEDIATELY FILING A PETITION FOR EXPROPRIATION (DETERMINATION OF JUST COMPENSATION) IN RELATION TO THE CASE ENTITLED: CITY OF NAGA VS HEIRS OF JOSE MARIANO AND HELEN S. MARIANO, CA-G.R. SP NO. 90547, TAKING INTO CONSIDERATION THE PENDING QUIETING OF TITLE CASE BEFORE THE REGIONAL TRIAL COURT, BRANCH 25, NAGA CITY, AND TO SUBMIT HIS RECOMMENDATION TO THE SANGGUNIANG PANLUNGSOD DURING THE NEXT REGULAR SESSION ON APRIL 5, 2011:-**

On joint and collective motion

**WHEREAS**, on March 7, 2011, the Court of Appeals, 4<sup>th</sup> Division, promulgated a Decision in the case entitled: City of Naga vs. Heirs of Jose Mariano and Helen S. Mariano, CA-G.R. SP No. 90547, the dispositive portion whereof reads:

**"IN VIEW OF ALL THE FOREGOING**, the instant petition for review is **PARTIALLY GRANTED**.

The assailed Decision dated June 20, 2005 rendered by the Regional Trial Court (RTC) of Naga City (Branch 26), in Civil Case No. RTC 2005-0030 (For: Ejectment), is hereby **MODIFIED** in that:

(1) The City of Naga is hereby **ORDERED** to pay to the respondents as heirs of Don Macario Mariano **half** of the adjudged monthly rental for the use and enjoyment of the questioned property, or in the amount of Two Hundred Fifty Thousand Pesos (Php250,000.00), for the period November 3, 2003 until the City of Naga finally vacates that portion it has been occupying, or until such time when the City expropriates the same private property;

(2) The portion of the assailed Decision where all the other government instrumentalities and agencies, including but not limited to the Land Transportation Office, National Bureau of Investigation, Department of Labor and Employment, Philippine Postal Corporation, Fire Department, Municipal Trial Court, Regional Trial Court, which office buildings are standing on the lot in question, are ordered to immediately vacate therefrom as well as to deliver the physical possession of the improvements and structures they have introduced thereat to the Heirs of Don Macario Mariano, is **DELETED** because

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these other government instrumentalities and agencies are **not** parties to the case in the court below; and

(3) The award of attorney's fees in favor of the Heirs of Don Macario Mariano is reduced to Two Hundred Thousand Pesos (Php200,000.00) on equitable grounds.

All other aspects of the assailed Decision dated June 20, 2005 and other Order dated July 15, 2005 are hereby affirmed.

SO ORDERED."

**WHEREAS**, the expropriation option therein provided which is indeed available to the City should be seriously considered and looked into taking into consideration the provision of Section 4, Rule 67, 1997 Rules on Civil Procedure which reads:

"Sec. 4. Order of expropriation. - If the objections to and the defenses against the right of the plaintiff to expropriate the property are overruled or when no party appears to defend as required by this Rule, the court may issue an order of expropriation declaring that the plaintiff has a lawful right to take the property sought to be expropriated, for the public use or purpose described in the complaint, upon the payment of just compensation to be determined as of the date of the taking of the property or the filing of the complaint, whichever came first."

**WHEREAS**, it is imperative for the city government to continue taking appropriate remedies to protect its rights and the interests of its people;

**NOW, THEREFORE**, on joint and collective motion of the Members of the 10<sup>th</sup> Sangguniang Panlungsod of the City of Naga;

**BE IT RESOLVED**, as it is hereby resolved, to direct the City Legal Officer to study the propriety of immediately filing a Petition for Expropriation (Determination of Just Compensation) in relation to the case entitled: City of Naga vs Heirs of Jose Mariano and Helen S. Mariano, CA-G.R. SP No. 90547, taking into consideration the pending Quieting of Title Case before the Regional Trial Court, Branch 25, Naga City, and to submit his recommendation to the Sangguniang Panlungsod during the next regular session on April 5, 2011.

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**LET COPIES** of this resolution be furnished His Honor, the City Mayor for his concurrence, and the City Legal Officer for his information and appropriate action.

UNANIMOUSLY APPROVED.

Adopted: March 22, 2011

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**WE HEREBY CERTIFY** to the correctness of the foregoing resolution.

**GIL A. DE LA TORRE**  
Secretary to the  
Sangguniang Panlungsod

**GABRIEL H. BORDADO, JR.**  
City Vice Mayor &  
Presiding Officer

APPROVED:

**JOHN G. BONGAT**  
City Mayor