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TOLL REGULATORY BOARD

EXECUTIVE ORDER NO. 686, December 19, 2007

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WHEREAS, on 31 March 1977, Presidential Decree NO. (PD) 1112 authorized the establishment of toll facilities on public improvements and created a board for the regulation thereof, now known as the Toll Regulatory Board (TRB or Board);

WHEREAS, PD 1112 gave the Board the power, subject to the approval of the President of the Philippines, to enter into contracts in behalf of the Republic of the Philippines for the construction, operation and maintenance of toil facilities;

WHEREAS, PD 1112 gave the Board the power to determine and decide the kind type and nature of public improvement that will be constructed and/or operated as toll facilities;

WHEREAS, PD 1112 gave the Board the power to condemn private property for public use subject to the provisions of existing law;

WHEREAS, PD 1112 gave the Board the power to issue, modify and proclaim from time to time the rates of toll that will be charged the direct users of toil facilities and upon notice and hearing, to approve or disapprove petitions for the increases therefore;

WHEREAS, PD 1112 gave the Board the power to grant authority to operate a toll facility and to issue the necessary "toll Operation Certificate";

WHEREAS, on 10 October 2002 Executive Order No. (EO) 133 transferred the TRB from the Office of the President (OP) to the Department of Transportation and Communications(DOTC);

WHEREAS, on 29 August 2006 the Supreme Court in Mirasol vs. the Department of Public Works and Transportation and TRB decided that the DOTC and not DPWH "has the authority to administer and enforce all laws, rules and regulations relative to transportation";

WHEREAS, on 30 July 2007, EO 644 transferred the TRB from DOTC to the Department of Public Works and Highways;

WHEREAS, entering into contracts is not a regulatory function but rather an administrative function;

WHEREAS, determining and deciding the kind, type and nature of public improvement that will be constructed and/or operated as toll facilities is not a regulatory function but rather a planning function;

WHEREAS, the power to condemn private property for public use is subject to the provisions of existing law on expropriations, and forms part of the implementing powers of infrastructure agencies; the power to condemn private property for public use subject to the provisions of existing law;

WHEREAS, the power to issue, modify and proclaim from time to time the rates of toll that will be charged the direct users of toll facilities and upon notice and hearing, to approve or disapprove petitions for the increases therefore is a regulatory function;

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WHEREAS, the power to grant authority to operate a toll facility and to issue the necessary "Toll Operation Certificate" is a regulatory function;

WHEREAS, the President of the Philippines has continuing authority to recognize the administrative structure of the OP by, among others, transferring any agency under the OP to any department of agency of the government pursuant to paragraph 3, Section 31, Chapter 10, Title III, Book III of EO 292;

WHEREAS, for purposes of government rationalization, regulation should be separated from administration, planning or implementation

NOW, THEREFORE I, GLORIA M.ARROYO, President of the Republic of the Philippines, by virtue of the powers vested in me bylaw, do hereby order:

SECTION 1. By virtue of the required approval of the President for the Board to exercise its power to enter into contracts in behalf of the Republic of the Philippines for the construction, operation and maintenance of toll facilities for highways, roads, bridges and public thoroughfares, such power is hereby removed from the Board and vested in the DPWH;

SECTION 2. The power to determine and decide the kind, type and nature of highways, roads, bridges and public thoroughfares is hereby vested in the DPWH;

SECTION 3. The power to condemn private property for highways, roads, bridges and public thoroughfares is hereby vested in the DPWH,

SECTION 4. The Board shall concentrate on the following powers:

(a) The power to issue, modify and proclaim from time to time the rates of toll that will be charged the direct users of toll facilities and upon notice and hearing, to approve or disapprove petitions for the increases; and

(b) The power to grant authority to operate a toll facility and to issue the necessary "Toll Operation Certificate."

SECTION 5. The Board with its clarified functions is hereby transferred back from DPWH to DOTC.

Adopted: 19 Dec. 2007

(SGD.) GLORIA MACAPAGAL-ARROYO

By the President

(SGD.) EDUARDO R. ERMITA
Executive Secretary

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