Mr. Speaker:

The Committee on Legislative Franchises to which was referred House Bill No. 7241, authored by Reps. Jose Antonio "Kuya" R. Sy-Alvarado and Claudine Diana D. Bautista entitled:

"AN ACT GRANTING SAN MIGUEL CORPORATION A FRANCHISE TO CONSTRUCT, DEVELOP, ESTABLISH, OPERATE AND MAINTAIN A DOMESTIC AND INTERNATIONAL AIRPORT IN BULAKAN, BULACAN"

has considered the same and recommends that the attached House Bill No. 7507 entitled:

"AN ACT GRANTING SAN MIGUEL Aerocity Inc. A FRANCHISE TO CONSTRUCT, DEVELOP, ESTABLISH, OPERATE, AND MAINTAIN A DOMESTIC AND INTERNATIONAL AIRPORT IN THE MUNICIPALITY OF BULAKAN, PROVINCE OF BULACAN, AND TO CONSTRUCT, DEVELOP, ESTABLISH, OPERATE, AND MAINTAIN AN ADJACENT AIRPORT CITY"

be approved in substitution of House Bill No. 7241 with Reps. Jose Antonio "Kuya" R. Sy-Alvarado, Claudine Diana D. Bautista, Sharon S. Garin, Alfredo A. Garbin, Jr., Edward Vera Perez...

Respectfully submitted:

FRANZ E. ALVAREZ
Chairperson
Committee on Legislative Franchises

THE HOUSE OF REPRESENTATIVES
QUEZON CITY
HONORABLE SPEAKER
Republic of the Philippines
HOUSE OF REPRESENTATIVES
Quezon City

EIGHTEENTH CONGRESS
Second Regular Session

HOUSE BILL NO. 7507
(In substitution of House Bill No. 7241)


AN ACT

GRANTING SAN MIGUEL AEROCITY INC. A FRANCHISE TO CONSTRUCT, DEVELOP, ESTABLISH, OPERATE, AND MAINTAIN A DOMESTIC AND INTERNATIONAL AIRPORT IN THE MUNICIPALITY OF BULAKAN, PROVINCE OF BULACAN, AND TO CONSTRUCT, DEVELOP, ESTABLISH, OPERATE, AND MAINTAIN AN ADJACENT AIRPORT CITY

Be it enacted by the Senate and House of Representatives of the Philippines in Congress assembled:

SECTION 1. Nature and Scope of Franchise. – Subject to the provisions of the Constitution and applicable laws, rules and regulations, there is hereby granted to San Miguel Aerocity Inc., hereinafter referred to as the grantee, its successor or assignees, a franchise to construct, develop, establish, operate, and maintain for commercial purposes and in the public interest, a domestic and international airport,
hereinafter referred to as the airport, in Barangays Taliptip and Bambang in the Municipality of Bulakan, Province of Bulacan.

The grantee shall likewise have the right to construct, acquire, lease, operate or manage such properties which are as convenient or essential to efficiently carry out objectives of this Act, such as toll roads, railroads, mass transport systems, hotels, warehouses, hangars, aircraft service stations and other facilities, as well as to develop the areas adjacent to the airport into one integral and comprehensive development, hereinafter collectively referred to as the Airport City.

SEC. 2. Manner of Operation of Airport Facilities. — All airport properties and facilities owned, maintained, operated, or managed by the grantee, its successors or assignees, shall be operated and maintained at all times in the best, cautious, and diligent manner and in accordance with the standards, practices and procedures required by the Manual of Standards-Aerodromes. It shall also be the duty of the grantee, its successors or assignees, whenever required to do so by the Department of Transportation (DOTr) or its legal successor, or the Civil Aviation Authority of the Philippines (CAAP), or any other authorized government agency, to modify, improve, and change such properties and facilities or systems in such a manner and to such extent as the progress in science and technological improvements in the airport or air transport service industry may render reasonable and proper.

SEC. 3. Authority of the Civil Aviation Authority of the Philippines. — The grantee shall secure from the CAAP such appropriate certification, permit or license for the construction, installation and operation of the airport. In issuing the certificate, the CAAP shall have the power to impose such conditions relative to the construction, operation, and maintenance of the airport in compliance with international standards. The CAAP shall have the authority to regulate the construction and operation of the airport. The CAAP, however, shall not unreasonably withhold or delay the grant of any such authority, permit or license.

SEC. 4. Responsibility to the Public. — The grantee shall conform to the ethics of honest enterprise and not use the airport for subversive and treasonable acts.

The grantee shall operate and maintain the Airport City in a satisfactory manner at all times, and as far as economical and practicable, modify, improve, or change such systems and equipment used therein to keep abreast with the advances in science and technology.

SECTION 5. Rates for Services. - The charges and rates for the use of the airport shall be subject to the approval of the CAAP.

SECTION 6. Airport City and Related Businesses. — In order to encourage, promote and accelerate the sound and balanced industrial, economic and social development of the areas adjacent to the airport and attract investments therein, the grantee is hereby authorized and allowed to construct, acquire, own, lease, operate, develop or manage the Airport City, and conduct other businesses related to the
airport. In addition to the rights granted unto it under Section 1 of this Act, the
grantee shall have the right to lease, sublease or assign interests in, and to collect
and receive any and all income from toll roads, railroads, and mass transport
systems connecting to the airport, advertising, car park, installation of cables,
telephone lines, fiber optics or water mains, water lines, and other business or
commercial ventures or activities over all areas and aspects of the airport and the
Airport City.

SEC. 7. Right of the Government. – A special right is hereby reserved to the
President of the Philippines, in times of war, rebellion, public peril, calamity,
emergency, disaster, or disturbance of peace and order, to temporarily take over and
operate the airport; to temporarily suspend the operation of the airport in the interest
of public safety, security and public welfare; or to authorize the temporary use and
operation thereof by any agency of the government, upon due compensation to the
grantee, for the use of the airport during the period when these shall be so operated.

SEC. 8 Term of Franchise. – This franchise shall be in effect for a period of
fifty (50) years from the effectivity of this Act, inclusive of the ten (10)-year maximum
period for the design, planning and construction of the airport and the Airport City
(the “Ten-Year Construction Period”), unless sooner revoked or cancelled. This
franchise shall be deemed ipso facto revoked in the event the grantee fails to comply
with any of the following conditions:

a. Commence construction within one (1) year from the effectivity of this
Act;
b. Commence operations within one (1) year from the approval of the
operating permit from the CAAP;
c. Commence operations within twelve (12) years from the effectivity of
this Act; and

d. Operate continuously for two (2) years.

At the expiration of this franchise, the grantee shall turn-over the ownership of
the airport to the government agency or local government unit concerned.

SEC. 9. Acceptance and Compliance. – Acceptance of this franchise shall
be given in writing to the Congress of the Philippines, through the Committee on
Legislative Franchises of the House of Representatives and the Committee on Public
Services of the Senate, within sixty (60) days from the effectivity of this Act. Upon
giving such acceptance, the grantee shall exercise the privileges granted under this
Act. Non-acceptance shall render this franchise void.

SEC. 10. Bond. – The grantee shall file a bond with the CAAP in the amount
that it shall determine to guarantee the compliance with and fulfillment of the
conditions under which this franchise is granted. If, after three (3) years from the
date of the approval of its permit by the CAAP, the grantee shall have fulfilled the
conditions, the bond shall be cancelled by the CAAP. Otherwise, the bond shall be
forfeited in favor of the government and the franchise ipso facto revoked.
SEC. 11. Gross Receipts. - The grantee, its successors or assignees, shall keep a separate account of the gross receipts of the business transacted by it and shall furnish the Commission on Audit (COA) and the Bureau of the Treasury a copy of such account not later than the thirty-first (31st) day of January of each year for the preceding twelve (12) months.

SEC. 12. Books and Accounts. - The books and accounts of the grantee, its successors or assignees, shall always be open to the inspection of the COA and its duly authorized representatives. It shall be the duty of the grantee to submit to the COA two (2) copies of the quarterly reports on the gross receipts, the net profits and the general condition of the business.

SEC. 13. Warranty in Favor of the National and Local Governments. - The grantee shall hold the national, provincial, city, and municipal governments of the Philippines free from all claims, accounts, demands, or actions arising out of accidents or injuries, whether to property or to persons, caused by the construction or operation of the airport.

SEC. 14. Sale, Lease, Transfer, Grant of Usufruct, or Assignment of Franchise. - The grantee shall not sell, lease, transfer, grant the usufruct of, nor assign this franchise or the rights and privileges acquired thereunder to any person, firm, company, corporation or other commercial or legal entity, nor merge with any other corporation or entity, nor the controlling interest of the grantee be transferred, simultaneously or contemporaneously, to any person, firm, company, corporation, or entity without the prior approval of the Congress of the Philippines. Congress shall be informed of any sale, lease, transfer, grant of usufruct, or assignment of franchise or the rights and privileges acquired thereunder, or of the merger or transfer of the controlling interest of the grantee, within sixty (60) days after the completion of said transaction. Failure to report to Congress such change of ownership shall render the franchise ipso facto revoked. Any person or entity to which this franchise is sold, transferred or assigned shall be subject to the same conditions, terms, restrictions, and limitations of this Act: Provided, That the limitations set forth in this Section shall not apply to: (a) any transfer or issuance of shares of stock in the implementation of the requirement for the dispersal of the grantee’s ownership pursuant to Section 18 of this Act; (b) any transfer or sale of shares of stock to a foreign or local investor or investors; (c) any issuance of shares to any foreign or local investors pursuant to or in connection with any increase in the grantee’s authorized capital stock which shall result in the dilution of the stockholdings of the grantee’s then existing stockholders; and (d) any combination thereof where such transfer, sale or issuance is effected in order to enable the grantee to raise the necessary capital or financing for the provision of any of the services authorized by this Act and/or to carry out any of the purposes for which the grantee has been incorporated or organized: Provided, finally, That any such transfer, sale or issuance is in accordance with any applicable constitutional limitations.

SEC. 15. Right of Way. - The grantee, in accordance with existing laws and local ordinances, shall have the power to acquire either by purchase, negotiation, expropriation or condemnation proceedings, any private lands within or adjacent to the premises of the airport for the following purposes: (1) acquisition and
consolidation of lands for the development of the airport and the Airport City; and (2) acquisition of right of way to the airport and the Airport City.

SEC. 16. Tax Exemptions. – During the ten-year construction period, the grantee shall be exempt from any and all direct and indirect taxes and fees of any kind, nature or description, which emanate exclusively from the construction, development, establishment, and operation of the airport and Airport city, including income taxes, value-added taxes, percentage taxes, excise taxes, documentary stamp taxes, customs duties and tariffs, taxes on real estate, buildings and personal property, business taxes, franchise taxes, and supervision fees, levied, established or collected, or may be levied, established or collected, by any city, municipal, provincial or national authority.

After the ten-year construction period and during the remaining term of this franchise, the grantee shall be exempt from income taxes and taxes on real estate, buildings and personal property, levied, established or collected, or may be levied, established or collected, by any city, municipal, provincial or national authority. However, such exemption from income taxes and taxes on real estate, buildings and personal property shall expire as soon as it is determined by a competent authority that the grantee has fully recovered its investment cost on the airport and on the Airport City, whereupon the grantee shall be subjected to all taxes under the National Internal Revenue Code of 1997, as amended, and the Customs Modernization and Tariff Act.

SEC. 17. Revenue Sharing with the Government. – During the term of this franchise and after a competent authority has determined that the grantee has fully recovered its investment cost, the grantee shall be entitled to generate income from the Airport City equivalent to a project Internal Rate of Return (IRR) of twelve percent (12%) per annum. Any amount in excess of the twelve percent (12%) IRR of the Airport City shall be remitted to the National Government.

The IRR of the Airport City shall be reckoned and calculated within three (3) months after the competent authority determined that the grantee has fully recovered its investment cost. The grantee shall remit the share of the National Government immediately after the IRR of the Airport City has been determined.

SEC. 18. Dispersal of Ownership. – In accordance with the constitutional provision to encourage public participation in public utilities, the grantee shall offer to Filipino citizens at least thirty percent (30%) or a higher percentage that may hereafter be provided by law of its outstanding capital stock in any securities exchange in the Philippines within five (5) years from the determination of competent authority that the grantee or its assignee has fully recovered its Investment Cost: Provided, That in cases where public offer of shares is not applicable, other methods of encouraging public participation by citizens and corporations operating public
utilities must be implemented. Noncompliance therewith shall render the franchise ipso facto revoked.

SEC. 19. Reportorial Requirement. – The grantee shall submit an annual report to the Congress of the Philippines through the Committee on Legislative Franchises of the House of Representatives and the Committee on Public Services of the Senate, on its compliance with the terms and conditions of the franchise and on its operations on or before April 30 of every year during the term of its franchise. The reportorial compliance certificate issued by Congress shall be required before any application for permit or certificate is accepted by the CAAP.

SEC. 20. Penalty Clause. – Failure of the grantee to submit the requisite annual report to Congress shall be penalized by a fine of One million pesos (P1,000,000.00) per working day of noncompliance. The fine shall be collected by the CAAP from the delinquent franchise grantee separate from the reportorial penalties imposed by the CAAP and the same shall be remitted to the Bureau of the Treasury.

SEC. 21. Equality Clause. – Any advantage, favor, privilege, exemption, or immunity granted under existing franchises, or which may hereafter be granted, upon prior review and approval of Congress, shall become part of this franchise and shall be accorded immediately and unconditionally to the herein grantee: Provided, That the foregoing shall neither apply to nor affect the provisions of the franchise concerning territorial coverage, the term, or the type of service authorized by the franchise.

SEC. 22. Repealability and Non-exclusivity Clause. – This franchise shall be subject to amendment, alteration, or repeal by the Congress of the Philippines when the public interest so requires and shall not be interpreted as an exclusive grant of the privileges herein provided for.

SEC. 23. Separability Clause. – If any of the sections or provisions of this Act is held invalid, all other provisions not affected thereby shall remain valid.

SEC. 24. Repealing Clause. – All laws, decrees, orders, resolutions, instructions, rules and regulations, and other issuances or parts thereof which are inconsistent with the provisions of this Act are hereby repealed, amended, or modified accordingly.

SEC. 25. Effectivity. – This Act shall take effect fifteen (15) days after its publication in the Official Gazette or in a newspaper of general circulation.

Approved,
FACT SHEET

House Bill No. 7507
In substitution of House Bill No. 7241
(As approved on ________________)

AN ACT GRANTING SAN MIGUEL AEROCITY INC. A FRANCHISE TO CONSTRUCT, DEVELOP, ESTABLISH, OPERATE, AND MAINTAIN A DOMESTIC AND INTERNATIONAL AIRPORT IN THE MUNICIPALITY OF BULACAN, PROVINCE OF BULACAN, AND TO CONSTRUCT, DEVELOP, ESTABLISH, OPERATE, AND MAINTAIN AN ADJACENT AIRPORT CITY


Committee Referral: LEGISLATIVE FRANCHISES
Committee Chairperson: HON. FRANZ E. ALVAREZ

OBJECTIVE:

- To provide an effective public service and to accommodate more air traffic through construction and operation of a domestic and international airport in Bulacan, Bulacan (referred hereto as the “Airport”).

KEY PROVISIONS:

- Grants the San Miguel Aerocity, Inc. to a franchise to operate an airport for fifty (50) years;
• Mandates the grantee to secure the appropriate permits and licenses for the construction, development, establishment, operation and maintenance of its airport properties or facilities from the CAAP;

• Mandates the grantee to conform to the ethics of honest enterprise and to not use the operation of the Airport properties or facilities for subversive and treasonable act;

• Requires the grantee to commence construction of the airport within one (1) year from the effectivity of the Act, complete the construction for ten (10) years and to commence operations within one (1) year from the approval of the operating permit from the CAAP;

• Entails the grantee to turn-over the ownership of the airport to the government agency or local government unit concerned after the expiration of the 50-year franchise period;

• Requires the grantee to file a bond with the CAAP to guarantee the compliance and fulfillment of the conditions in the franchise;

• Reserves the right of the President of the Philippines to temporarily take over and operate the airport properties or facilities of the grantee, to temporarily suspend the operation of the Airport in the interest of public safety, security and public welfare, or to authorize the temporary use and operation thereof by any agency of the government in times of war, rebellion, public peril, calamity, emergency, disaster or disturbance of peace and order;

• Provides that the national and local governments shall not be held liable for any damage to properties or injury to persons caused by accidents during construction or operation of the Airport properties or facilities;

• Prohibits the grantee from leasing, transferring, selling nor assigning the franchise or the controlling interest thereof without the prior approval of the Congress of the Philippines;

• Requires the grantee to offer to Filipino citizens at least thirty per cent (30%) of its outstanding stock in any security exchange in the Philippines or through other methods of encouraging public participation by citizens and corporations operating public utilities as allowed by law;

• Provides the grantee the authority to either purchase or negotiate any private lands for the acquisition and consolidation of lands for the development of the airport and acquisition of right of way to the Airport;

• Grants the grantee tax benefits in accordance with the Build-Transfer-Operate Law;

• Requires the grantee to submit an annual report to the Congress of the Philippines on its compliance with the terms and conditions of the franchise and its operation on or before April 30 of every year;
• Imposes a fine in the amount of One million pesos (P1,000,000.00) per working day of noncompliance in the submission of its annual report to Congress; and

• Provides an equality clause which aims to grant existing and potential franchise grantees equal privilege.

RELATED LAWS:

• Republic Act No. 7718 – "AN ACT AMENDING CERTAIN SECTIONS OF REPUBLIC ACT NO. 6957, ENTITLED ‘AN ACT AUTHORIZING THE FINANCING, CONSTRUCTION, OPERATION AND MAINTENANCE OF INFRASTRUCTURE PROJECTS BY THE PRIVATE SECTOR, AND FOR OTHER PURPOSES’"
• Republic Act No. 9497 – "AN ACT CREATING THE CIVIL AVIATION AUTHORITY OF THE PHILIPPINES, AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR, AND FOR OTHER PURPOSES"
• Republic Act No. 10752 – "AN ACT FACILITATING THE ACQUISITION OF RIGHT-OF-WAY SITE OR LOCATION FOR NATIONAL GOVERNMENT INFRASTRUCTURE PROJECTS"
• Section 20, Article II and Section 11, Article XII of the 1987 Philippine Constitution
• Advisory Circular No. 139-02-A issued on May 2008 by Air Transportation Office (now Civil Aviation Authority of the Philippines)
• Civil Aviation Regulation Governing Aerodromes issued on 09 May 2017