Securities and Exchange Commission PHILIPPINES

BAGONG PILIPINAS

OFFICE OF THE GENERAL COUNSEL

30 June 2026
SEC-OGC Opinion No. 26-11
Re: Capacity of a Corporation to Enter into Co-Working and/or Subleasing Arrangements

MS. GRACE JOY YAM
Corporate Secretary
Golden Topper Investments, Inc.
4th Flr. Ongtiak Business Center
General Maxilom Ave., Kamputhaw
Cebu City

Dear Ms. Yam:

This refers to your Letter dated 05 March 2026 requesting the Commission's legal opinion regarding the necessity of amending Golden Topper Investments, Inc.'s ("GTII") Articles of Incorporation ("AOI") in connection with its proposed co-working and/or subleasing arrangement.

As stated in your Letter, the relevant facts are as follows:

1. GTII is a domestic corporation duly organized and existing under Philippine laws and is registered with the Commission.

2. It is currently leasing an office space for its own operational use. Due to underutilization of a portion of the leased premises, GTII is considering the following:

   2.1. Sublease a portion of the unused office space to third parties; and/or
   2.2. Operate a co-working arrangement within such unused space, including short-term or daily use of workstations and meeting rooms.

3. You submit that the proposed activity will be incidental to the GTII's principal business operations and will utilize only excess space already under its lawful possession.

Your queries are:

1. Whether the GTII may validly undertake co-working and/or subleasing activities under its existing Primary and Secondary purposes;

2. Whether such activities are considered merely incidental or reasonably necessary to carry out GTII's primary purpose; and

3. Whether an amendment of GTII's AOI is required prior to engaging in such activities.

I. Nature of Lease and Leasehold Interest vis-à-vis Right to Sublease under the Civil Code; Nature of a Co-working Arrangement.

In the lease of things, one of the parties binds himself to give to another the enjoyment or use of a thing for a price certain, and for a period which may be definite or indefinite.[1]Thus, in lease, the lessee possesses the **determinate property** leased in the concept of a holder with the right to keep or enjoy it, the ownership pertaining to the lessor.[2] As in ordinary contracts, a contract of lease (or sublease) has three (3) elements, namely: (a) consent of the contracting parties; (b) **object certain** which is the subject matter of the contract; and (c) cause of the obligation which is established.[3]

For a commercial lease, the general rule is that it is considered a personal right arising from a contract. However, a lease over a real property may acquire the character of a real right enforceable against third persons if the same is recorded or registered. This was enunciated by the Supreme Court in *Saul v. Hawkins,*[4] *viz*:

> But these personal actions do not bind the purchaser in his capacity as successor by singular title in the absence of an express agreement between the lessor and the lessee — an express agreement which must, in turn, become a personal obligation of the purchaser. **If the lease is recorded it is no longer merely a personal right on the part of the lessee to continue to enjoy the property leased**, even after the same is sold. **It is also a real right, made such by recordation, and constitutes an incumbrance upon the property, whoever may be its owner or possessor, and is therefore enforceable even against third persons.**[5]

Meanwhile, Article 1650 of the Civil Code provides that **when in the contract of lease of things there is no express prohibition, the lessee may sublet the thing leased**, in whole or in part, **without prejudice to his responsibility for the performance of the contract toward the lessor**.

On the other hand, co-working arrangements usually offer a pay-as-you-use model, unlike traditional office setups, enabling professionals to rent desks, private offices, or meeting rooms for short or long durations.[6] They allow independent entrepreneurs, self-employed workers, and other professionals to share a physical workspace that includes all the amenities typically found in an office, while also benefiting from pooled equipment and shared expenses in exchange for monthly rental fees.[7] They may also involve co-working companies that (1) rent buildings from property owners under long-term, multi-year leases, (2) transform the space by adding common areas, cafés, and other community-oriented features, and then (3) rent the space out more fractionally to tenants at significantly higher prices and under more flexible lease terms, such as month-to-month.[8] As an evolving concept and arrangement, a client's accessibility to a co-working space may be through membership agreement, short-term co-working lease agreement, or any contract defining the nature and specifications of the agreement, as well as the rights granted.

With the broader shift in how workspaces are utilized, both locally and internationally, co-working arrangements have emerged and flourished in this time of technological advancements. It is often perceived as a cost-efficient alternative to traditional office leases or often brought about by hybrid remote work arrangements. In the Philippines, while co-working arrangements have wildly appeared, proliferated, and flourished, it can be said that they sit in a legally nuanced position under the property law as the terms may vary depending on the contractual stipulations of the parties.

II. Powers of a corporation.

It is well-settled that **a corporation has only such powers as are expressly granted in its charter or in the statutes under which it is created or such powers as are necessary for the purpose of carrying out its express power**. A corporation has both express and implied or incidental powers. **Express powers** are those which are enumerated in Section 35 of the Revised Corporation Code ("RCC"), and those which are sanctioned by the State in the corporation's AOI. **Implied or incidental powers**, on

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[1] Article 1643 of the Civil Code.
[2] *Heirs of Leopoldo Esteban, Sr. v. Llaguno*, G.R.No. 255001, 14 June 2023.
[3] Article 1318, of the Civil Code.
[4] G.R No. 66, 01 May 1902.
[5] Emphasis supplied.
[6] Last accessed on 24 June 2026 at 2:39p.m. from: https://yesssworks.com/yesssboard/how-coworking-is-revolutionizing-the-real-estate market/#:~:text=Co%2Dworking%20space%20in%20real,for%20short%20or%20long%20durations.
[7]Tremblay, D.-G. (2025) Coworking Spaces and Their Effects on Workers and Working Environments. *Open Journal of Social Sciences*, 13, 476-509. 04 April 2019, last accessed on 24 June 2026 at 3:12p.m. from: https://www.scirp.org/journal/paperinformation?paperid=144217
[8]Travis Howell, "Coworking Spaces: An Overview and Research Agenda," Volume 51, 2 March 2022, last accessed on 24 June 2026 at 3:30p.m. from: https://www.sciencedirect.com/science/article/pii/S0048733321002390.

the other hand, are the corporation's "powers, attributes and properties which are incidental to its existence," which may be "**essential or necessary to carry out its purpose or purposes as stated in its AOI.**"[9]

In this connection, there are general powers that may be exercised by every corporation whether or not such powers are stated in the AOI or by-laws.[10] Section 35 of the RCC enumerates the powers expressly given to every corporation created under the general incorporation law, item (g) of which particularly pertains to transactions or dealings with real and personal property, to wit:

> Sec. 35. Corporate Powers and Capacity. — Every corporation incorporated under this Code has the power and capacity:
>
> xxx xxx xxx
>
> (g) To purchase, receive, take, or grant, hold, convey, sell, **lease**, pledge, mortgage, **and otherwise deal with such real and personal property**, including securities and bonds of other corporations, **as the transaction of the lawful business of the corporation may reasonably and necessarily require**, subject to the limitations prescribed by law and the Constitution;
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> xxx xxx xxx

The Commission has previously opined that: "Fletcher has regarded the power to acquire and convey property as an incident to every corporation although such power is expressly conferred to corporations incorporated in accordance with Section 36 (7) of the Corporation Code (*now Section 35 (g) of the RCC*). **Therefore, whether or not such power is included in what the corporation could do and perform under its articles of incorporation, it is nevertheless, deemed to be within the scope of its corporate powers by express declaration of Section 36 of the Code (*now Section 35 (g) of the RCC*).**"[11]

III. Discussion.

Article II of GTII's Amended AOI provides:

SECOND: That the primary purpose for which such corporation is incorporated:

> PRIMARY PURPOSE
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> To purchase, subscribe for or otherwise **acquire and own, <u>hold, use, manage</u>, sell, assign, transfer, mortgage, pledge, exchange or <u>otherwise dispose of real</u> and personal property of every kind and description,** including but not limited to shares of stocks, bonds, debentures, notes, evidences of indebtedness and other securities, contracts or obligations of any corporation or corporations, association or associations, domestic or foreign, engaged in, but not limited to, the business of real estate, manufacturing, trading and agribusiness, and to pay in whole or in part, in cash or by exchanging therefor, stocks, bonds and other evidences of indebtedness or securities of this or any other corporation, and while the owner or holder of any such real or personal property, stocks, bonds, debentures, notes, evidences of indebtedness or other securities, contracts or obligations, to receive, collect and dispose of the interest, dividends and income arising from such property and **<u>to possess and exercise in respect thereof all the rights, powers and privileges of ownership</u>**, including all voting powers on any stock so owned, without however engaging as a stock broker or dealer in securities. x x x[12]
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> SECONDARY PURPOSES
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> 1. To purchase, acquire, own, **<u>lease</u>**, sell and **convey real properties such as lands, buildings, factories and warehouses and machineries, equipment and other personal properties as may be necessary or incidental to the conduct of the corporate business**, and to pay in cash, shares of its capital stock, debentures and other pieces of evidence of indebtedness, or other securities, as may be deemed expedient, for any business or property acquired by the corporation.[13]
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> xxx xxx xxx
>
> 3. **To** invest and **deal with** money and **properties of the corporation in such manner as may, from time to time, be considered wise or expedient for the advancement of its interest** and to sell, dispose of or

[9] SEC-OGC Opinion No. 19-22 dated 14 June 2019, addressed to Juan Miguel Macapagal Arroyo. Citations omitted.
[10] SEC-OGC Opinion No. 19-26 dated 22 July 2019, addressed to Atty. Ireneo J. Marasigan. Citations omitted.
[11] *Ibid.*
[12] Emphasis supplied.
[13] Emphasis supplied.

transfer the business properties and goodwill of the corporation or any part thereof, for such consideration and under such terms as it shall see fit to accept.[14]

xxx xxx xxx

5. **To enter into any lawful arrangement for** sharing profits, **allocation of expenses**, union of interest, unitization or farmout agreement, reciprocal concession, or cooperation, with any corporation, association, partnership, syndicate, entity, person or governmental, municipal or public authority, domestic or foreign, **in the carrying on of any business or transaction deemed necessary, convenient or incidental to carrying out any of the purposes of the corporation.**[15]

xxx xxx xxx

This Office notes that item No. 1of GTII's Secondary Purposes is substantially similar to Section 35 (g) of the RCC. Hence, it may not strictly be construed as a Secondary Purpose independent or distinct from its Primary Purpose because it is a general power of every corporation allowed under the said law.[16] Thus, even if GTII's AOI does not so provide, it can still **sublease a portion of the leased premises <u>or</u> otherwise deal with such property, *<u>as the transaction of the lawful business of the corporation may reasonably and necessarily require</u>***, because it is expressly allowed under Section 35 (g) of the RCC. As represented, GTII is leasing the leased premises for its own operational use, which is a power that is reasonably necessary, if not inherent, for every corporation. Since a portion of such leased premises is currently underutilized, it is reasonable for the corporation to optimize the cost of the principal lease, which may be achieved by subleasing unused space or operating a co-working arrangement within the same.

This is not inconsistent with GTII's primary purpose to "xxx. hold, use, manage, xxx or otherwise dispose of real and personal property, xxx." Here, GTII possesses a leasehold interest constituting a property in itself arising from the lease contract. As such, GTII may validly exercise the rights appurtenant to its leasehold interest, ***subject to the terms and conditions of the lease agreement and applicable laws on the matter***. Consequently, as long as the lease agreement of GTII with its lessor does not expressly restrict or prohibit certain arrangements, GTII may determine the manner by which it shall utilize its leasehold interest. This may include, among others, granting a sublease for the underutilized portions of the leased premises or co-working arrangements **consistent with GTII's Primary Purpose and the provisions of the lease agreement.**

Accordingly, as to your first and second queries, GTII can sublease the underutilized portion of its leased premises and/or operate a co-working arrangement within the same, subject to the terms of the lease contract, so long as it remains reasonably necessary in the conduct of its corporate business. As to your third query, we answer the same in the negative.

It shall be understood that the foregoing opinion is rendered solely on the basis of the facts, circumstances and documents disclosed/submitted, and should be considered relevant solely to the particular issue raised therein. It shall not be used in the nature of a standing rule binding upon the Commission in other cases or upon the courts whether of similar or dissimilar circumstances.[17] If upon investigation, it will be disclosed that the facts relied upon are different, this opinion shall be rendered null and void.

Please be guided accordingly.

Yours most respectfully,

ROMUALD C. PADILLA
General Counsel

[14] Emphasis supplied
[15] Emphasis supplied.
[16] SEC-OGC Opinion No.33-11 dated 29 July 2011 addressed to Mr. Jesus B. Lapuz.
[17] Section 7, SEC Memorandum Circular No. 15, Series of 2003.