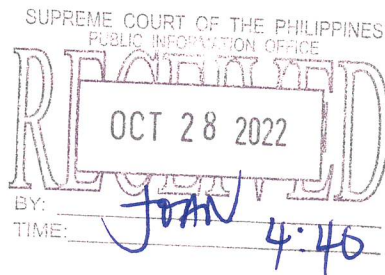




Republic of the Philippines  
**Supreme Court**  
Manila



*EN BANC*

**ADVISORY**

**G.R. No. 261892 (KILUSAN SA PAGBABAGO NG INDUSTRIYA NG TRANSPORTASYON, INC., [KAPIT], PANGKALAHATANG SANGGUNIAN MANILA & SUBURBS DRIVERS ASSOCIATION NATIONWIDE, INC. [PASANG MASDA], ALLIANCE OF TRANSPORT OPERATORS AND DRIVERS ASSOCIATION OF THE PHILIPPINES [ALTODAP], AND ALLIANCE OF CONCERNED TRANSPORT ORGANIZATION [ACTO] vs. CITY OF MANILA, QUEZON CITY, VALENZUELA CITY, PARAÑAQUE CITY, MUNTINLUPA CITY, AND LAND TRANSPORTATION OFFICE) and G.R. No. 262192 (ATTY. JUMAN B. PAA vs. SANGGUNIANG PANLUNGSOD NG MANILA AND HON. DR. MARIA SHEILAH LACUNA-PANGAN)**

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The Court has identified the following preliminary issues to guide the conduct of the Oral Arguments.

***I. Procedural Issues***

1. Whether the issues raised in the Petitions involve an actual and justiciable controversy;
2. Whether petitioners Kilusan sa Pagbabago ng Industriya ng Transportasyon, Inc. (KAPIT), Pangkalahatang Sanggunian Manila & Suburbs Drivers Association Nationwide, Inc. (PASANG MASDA), and Alliance of Transport Operators and Drivers Association of the Philippines (ALTODAP) have legal capacity to sue;
3. Whether petitioners KAPIT, PASANG MASDA, ALTODAP, Alliance of Concerned Transport Organization (ACTO), and Atty. Juman Paa each have *locus standi*;
  - a. Whether petitioners each suffered direct injury; and

*Indo*

- b. Whether the doctrine of third party standing is applicable.
4. Whether petitioners' direct resort to the Supreme Court is proper, thus:
- a. Whether the doctrine of hierarchy of courts is violated;
  - b. Whether the instant case presents issues of transcendental importance to warrant a relaxation of procedural rules;
  - c. Whether the doctrine of exhaustion of administrative remedies is violated; and
  - d. Whether the instant controversy involves questions of fact.

## ***II. Substantive Issues***

### *Issues relating to the Bill of Rights*

1. Whether the implementation of the No Physical Contact Apprehension Policy (NCAP) is a valid exercise of police power;
  - a. Whether the assailed Ordinances meet the requisites for the validity of ordinances as established by jurisprudence;
  - b. Whether the right to procedural and substantive due process is violated; and
  - c. Whether the NCAP can validly apply the registered-owner rule.
2. Whether the NCAP Ordinances violate the constitutional right to privacy; and
3. Whether the NCAP Ordinances violate the constitutional right against excessive fines and penalties.

### *Issues relating to the authority of Local Government Units (LGUs)*

4. Whether the implementation of the NCAP Ordinances is a valid exercise of local autonomy;
  - a. Whether the LGUs can establish their respective schedules of fines and penalties;


- b. Whether the implementation of the NCAP can be done through Joint Venture Agreements (JVAs) or service agreements between LGUs and private entities;
- c. Whether the fees paid by motorists to the LGUs can be transferred to private contractors; and
- d. Whether the NCAP Ordinances may validly grant honoraria to the members of the committees created for the purpose of enforcing the NCAP.

*Issues relating to the violation of other statutes*

*(i) Land Transportation and Traffic Code*

- 5. Whether the NCAP Ordinances violate the provisions of Republic Act (RA) No. 4136, otherwise known as the Land Transportation and Traffic Code;
  - a. Whether Section 29 of RA No. 4136 is sufficient basis for no-contact apprehension for violation of traffic rules;
  - b. Whether Section 29 of RA No. 4136, as presently worded, allows other modes of apprehension other than face-to-face; and
  - c. Whether the enactment of a law is required to allow for a no-contact apprehension for violation of traffic rules.
- 6. Whether the payment of penalties for violations of the NCAP Ordinances can be made a condition for the renewal of motor vehicle registration under RA No. 4136;

*(ii) Data Privacy Act of 2012*

- 7. Whether the NCAP Ordinances violate the Data Privacy Act of 2012;
    - a. Whether the consent of motorists, as data subjects, must be secured prior to the processing of their personal information or sensitive personal information in the implementation of the NCAP;
    - b. Whether the exception under Section 4 of RA 10173, also known as the Data Privacy Act of 2012, applies; and
- 

- c. Whether the Land Transportation Office (LTO) validly entered into data sharing agreements with LGUs and their private contractors.
8. Whether the NCAP Ordinances can be declared unconstitutional if the Court finds that their implementation violated specific provisions of the Data Privacy Act of 2012.

(iii) *Act No. 3326*

9. Whether the condition that penalties arising from infractions of the NCAP Ordinances must be paid first before motor vehicle registrations may be renewed violates the two-month prescriptive period for the violation of municipal ordinances under Act No. 3326, otherwise known as “An Act to Establish Periods of Prescription for Violations Penalized by Special Acts and Municipal Ordinances and to Provide When Prescription Shall Begin to Run”;

*Issue relating to declaration of unconstitutionality of NCAP*

10. Whether the operative fact doctrine shall apply if the NCAP is declared unconstitutional;
  - a. Whether the notices of violations issued by the LGUs prior to the issuance of the TRO can still be enforced.
11. Whether the assailed Ordinances constitute a usurpation of legislative authority for expanding the coverage of traffic regulations under RA No. 4136.


Accordingly, for the efficient conduct of the **Preliminary Conference** scheduled on **8 November 2022, two o'clock in the afternoon (2:00 p.m.)** at the *En Banc* Session Hall, Second Floor, Supreme Court Main Building, the parties are required to observe the following:

- I. Only two (2) counsels per petitioner shall be physically present at the *En Banc* Session Hall during the Preliminary Conference. Respondents (City of Manila, Quezon City, Valenzuela City, Parañaque City, Muntinlupa City, *Sangguniang Panlungsod ng Maynila*, LTO, and MMDA) shall likewise be limited to two (2) counsels each.

- II. Counsels who will be attending the Preliminary Conference are directed to submit to the Court their manifestations stating their names.
- III. Counsels who intend to present audio-visual materials must submit manifestations to this effect so that the Court can make the necessary arrangements.
- IV. Manifestations, additional comments or motions must be submitted **on or before 4 November 2022, at twelve o'clock noon (12:00 n.n.)**
- V. All attendees shall be required to present **negative antigen test results taken within twenty-four (24) hours** prior to the Preliminary Conference. In this regard, antigen testing shall also be available at the SC Centennial Building, subject to payment of fees.

October 18, 2022.

By authority of the Court:

  
**MARIFE M. LOMIBAO-CUEVAS**  
Clerk of Court *hnp*



HON. ALEXANDER G. GESMUNDO (x)  
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Senior Associate Justice  
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HON. RAMON PAUL L. HERNANDO (x)  
HON. AMY C. LAZARO-JAVIER (x)  
HON. HENRI JEAN PAUL B. INTING (x)  
HON. RODIL V. ZALAMEDA (x)  
HON. MARIO V. LOPEZ (x)  
HON. SAMUEL H. GAERLAN (x)  
HON. RICARDO R. ROSARIO (x)  
HON. JHOSEP Y. LOPEZ (x)  
HON. JAPAR B. DIMAAMPAO (x)  
HON. JOSE MIDAS P. MARQUEZ (x)  
HON. ANTONIO T. KHO, JR. (x)  
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Associate Justices  
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