

September 1, 2010

HON. CESAR R. CAÑETE, JR.
Member
Sangguniang Bayan of Lilo-an
Lilo-an Municipal Hall
Cebu

Dear SB Member Cañete:

This has reference to your letter dated August 27, 2010, seeking legal opinion on whether or not it is legal and valid for the local chief executive to deny the request or invitation of the sanggunian for a head of office or employee of the municipality to appear before the august body.

Before touching on your main concern, please be informed that in the case of *Negros Oriental Electric Cooperative vs. Sangguniang Panlungsod of Dumaguete City*, 155 SCRA 421, the Supreme Court ruled that sanggunians, in the exercise of legislative functions, cannot compel the attendance of any person before it in aid of legislation.

With respect, however, to officials and personnel of your municipality on whether or not they can be compelled to appear before the sanggunian in aid of legislation, please take note of Section 444(b)(1)(iv) of the Local Government Code, which states that the municipal mayor shall x x x Initiate and propose legislative measures to the sangguniang bayan and, from time to time as the situation may require, provide such information and data needed or requested by said sanggunian in the performance of its legislative functions.

Accordingly, while it is a settled jurisprudence that the sanggunian cannot compel the attendance of any person before it in aid of legislation, it can however be safely said that by invoking the duty of the mayor to furnish the necessary information and data to the sanggunian, the latter may exact that duty from the mayor by requiring the mayor or his duly

authorized representative to be present in any session to present the information and data requested by the sanggunian.

It is along this line that we shall focus on the administrative hierarchy in the municipal government. Undoubtedly, the mayor exercises control and supervision over all officials and employees in his local government unit save that of the sanggunian. As such, the mayor has the power to alter, reverse and modify the acts of his subordinates. In deference to the power of control of the mayor, it is just but proper and legal that a department head or any official of the municipality under the mayor's control should first secure the permission or approval of the mayor before the appearance is made by him/her before the sanggunian, in aid of legislation (DILG Legal Opinion No. 8 S2004, February 05, 2004).

Truly yours,

PEDRO A. NOVAL, JR.
Regional Director