

April 14, 2010

HON. VITO B. RAPAL
Mayor
Corella Municipal Hall
Bohol

Dear Mayor Rapal:

This has reference to your letter dated March 08, 2010, addressed to SILG Ronaldo V. Puno requesting for legal opinion on certain issues raised therein. Said letter was referred to this level for reply.

The first concern is on the validity of Ordinance No. 2010-02 of the Municipality of Corella entitled " An Ordinance Appropriating the Amount of Twenty Seven Million Pesos (P27,000,000.00) for the Purchase of the Following Heavy Equipment: One Unit Brand New Road Grader, One Unit Reconditioned Road Roller, and Rehabilitation/Improvement on the Existing Waterworks System of the LGU". As you reported, 5 members of the sanggunian voted in favor of the measure, 2 were against it, 1 abstained, and 2 were absent.

Those who were opposed to the subject ordinance contended that the measure was not carried for the required number of votes, allegedly majority of all the members of the body, was not reached. You failed, however, to state in your letter whether or not the aforementioned appropriation ordinance has been forwarded to the Sangguniang Panlalawigan for review and on the outcome of such review. The higher sanggunian is empowered under the Local Government Code to review the measures passed and approved by the lower local government unit. It is observed that you have affixed your signature on Ordinance No. 2010-02, signifying your approval thereto. Hence, for all intents and purposes, the legislative process has been completed, and that the subject ordinance is now accorded with the presumption of validity. Moreover, it might interest you to know that DILG Central Office had the occasion to opine, under DILG Opinion No. 103 S2001 dated December 18, 2001, that the Local Government Code of 1991 does not expressly prescribe for a specific voting requirement for the passage of an appropriation ordinance. Hence, the general rule on the passage of an ordinance should

be made to apply. The pertinent provision on the matter is Article 107(g) of the Rules and Regulations Implementing R.A. 7160 which provides that “no ordinance or resolution passed by the sanggunian in a regular or special session duly called for the purpose shall be valid unless approved by a majority of the members present, there being a quorum xxx”.

On the decision of some sanggunian members to vote against the approval of a particular legislative measure, it is their prerogative. Ours is a democratic process where every one is entitled to his view and opinion. However, every freedom enshrined in our Constitution is not without limitation. Once the decision of a sanggunian member is tainted with malice and/or bad faith, he could be held administratively liable for abuse of discretion, dereliction of duty or misconduct. The determination of his liability is best done by filing the appropriate administrative charges before the proper disciplining authority for adjudication.

Truly yours,

PEDRO A. NOVAL, JR.
Regional Director