

**BASIC : LETTER DATED OCTOBER 27, 2008, FROM MLGOO JUDY A.
ARMIROLA OF DILG TUBURAN OFFICE**

2nd Indorsement
November 4, 2008

Respectfully returned to Mr. Edmundo J. Jamisola, Provincial Director, DILG Cebu Provincial Office, the herein basic communication with the corresponding reply to the queries raised therein.

As regards the first concern, the answer is no. The local government unit cannot impose a sanction or a penalty on the constituents who failed to attend the barangay assembly for it is not provided in the Local Government Code, which is an act of Congress. Let it be stressed that the powers of local government units are delegated powers, hence they cannot rise above the source of its powers. However, the punong barangay who fails to call or hold the required barangay assembly can be administratively sanctioned for neglect of duty.

With regard to the second issue, the answer is still in the negative. Again, the Local Government Code of 1991 does not provide for specific dates, time and venue of the meeting or assembly. What is provided by law is that the barangay assembly shall meet at least twice a year to hear and discuss the semestral report of the sangguniang barangay. The Presidential issuance, Proclamation No. 342, was issued for administrative purpose, to facilitate the monitoring of the conduct of the barangay assembly. It does not provide for a penalty in the event the barangay assembly is not conducted on the dates specified/suggested. Moreover, in an earlier opinion of DILG Central Office, it states that the holding of barangay assemblies is mandatory and self-executory, i.e. there is no need for memorandum order to require the holding of such meeting (DILG Legal Opinion No. 4-1993). And in the case of Villacorta vs. Bernardo (143 SCRA 480), it was held that ordinances amending and so violating national laws in the guise of implementing them by imposing additional requirements are ultra vires.

PEDRO A. NOVAL, JR.
Regional Director

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