

November 15, 2006

HON. CESAR TOMAS M. LOPEZ, M.D.  
Mayor  
Municipality of Loon  
Bohol

Dear Mayor Lopez:

This has reference to your letter dated November 09, 2006, requesting for opinion whether or not your municipality's existing ordinances imposing fees and charges on goods brought in or passing through your territorial jurisdiction are illegal in the light of DILG MC No. 2006-70 dated June 26, 2006.

It is beyond our authority to pass upon the validity or legality of laws and ordinances. Such power is vested with the courts. DILG MC No. 2006-70 only called the attention of local chief executive of the fact that it is beyond the authority of local government units to impose fees, taxes and other charges on goods transported or passing through its territorial jurisdiction, giving emphasis on Section 133 of the Local Government Code of 1991. Under said circular, local chief executives are enjoined to refrain from enforcing any existing ordinance authorizing the collection of fees, taxes and charges falling under the common limitation on the taxing powers of local government units (Sec. 133); and to cause the immediate repeal of the ordinance imposing the aforementioned fees and taxes.

Municipal corporations exist in a dual capacity and their functions and powers are two-fold: public, governmental or political, and corporate, private or proprietary. Under Section 22(d) of the Local Government Code of 1991, local government units shall enjoy full autonomy in the exercise of their proprietary functions and in the exercise of their economic enterprises, **subject to the limitations provided in the Code and other applicable laws.** The following facilities are corporate in character – municipal waterworks, slaughterhouses, markets, stables, public baths, **wharves**, ferries, fisheries, maintenance of parks, cemeteries and airports. Excepted to the limitations on the taxing powers of local government units are charges and dues on wharves constructed and maintained by the local government unit concerned [Sec. 133d)]. Hence, a local

government unit may impose and collect charges and dues for the use of wharves it constructed and maintained. However, with regard to **goods** carried into or out of or passing through the territorial jurisdictions of the local government unit, it cannot impose taxes, fees, charges and other impositions **in any form whatsoever**, even in the guise of charges for wharfage and tolls for bridges [Sec. 133(e)].

Truly yours,

RENE K. BURDEOS  
Regional Director

.cc : Atty. G. J. Emeterio S. Moreno, Jr.  
Director, Legal Service  
DILG Central Office

.ord/legal