

February 28, 2007

ATTY. ELPEDIO BENJAMIN S. NOEL
Room 202
Aniceta Building
Osmeña Boulevard
Cebu City

Dear Atty. Noel:

This has reference to your letter dated February 21, 2007, for and in behalf of Hon. Joel D. Dum Dum, sangguniang bayan member of Asturias, Cebu, requesting for an opinion on the reported action of Mayor Letecia Orozco, in relation to our reply to her query contained in our letter dated January 22, 2007.

At the onset, let it be emphasized that the opinions we rendered are based on the alleged facts or situations presented vis-a-vis the provisions of law. In our letter to Mayor Letecia A. Orozco dated January 22, 2007 (a copy was attached to your aforementioned letter), we cited the provisions of the Local Government Code of 1991 on the authority of the mayor to represent the local government unit in all its business transactions. And that if the provisions of the Code are not followed, the municipality is not bound by the transactions entered into without authority.

It would be a different matter if indeed authority or consent was first had before the transaction was entered into by a sanggunian member, and all the requirements of law on procurement of goods and service are complied. Such authority given can be proved as a matter of evidence. Going through the documents attached to your letter, we have observed that in a certification dated July 31, 2006, issued by the Community Environment and Natural Resources Office of the DENR, CENR Officer Iluminado C. Lucas certified that sometime in July 2002, the Municipality of Asturias **through its Municipal Mayor, Hon. Letecia A. Orozco**, requested for a Geodetic Engineer to relocate lot 11388 located in Obogon, Asturias; and that his office did not have available Geodetic Engineer and recommended for the municipality to hire a private Geodetic Engineer to execute the survey. This may be used to show that the Mayor had prior knowledge of the need to have a survey done on the lot in question.

Truly yours,

RENE K. BURDEOS
Regional Director

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