

March 10, 2008

HON. MANUEL R. MOLINA
Mayor
Carmen Municipal Hall
6319 Bohol

Dear Mayor Molina:

This has reference to your letter dated February 29, 2008, on the Contract of Legal Management Consultancy entered into by the Municipality of Carmen and Atty. Alexander H. Lim.

In reply thereto, please be advised that our office does not have the authority to pass upon the validity of a contract nor on whether or not the claim of one party is valid. It is only the regular court that can adjudicate on the same. However, for purposes of discussion, we wish to emphasize the following –

- local government units have the power to enter into contract (Sec. 22, LGC);
- the mayor shall represent the municipality in all its business transactions and sign on its behalf all bonds, contracts and obligations upon authorization by the sangguniang bayan (Sec. 444, LGC);
- the contracting parties may establish such stipulations, clauses, terms and conditions as they may deem convenient, provided they are not contrary to law, morals, good customs, public order or public policy (Art. 1306, Civil Code);
- obligations created by contract have the force of law between parties and should be complied with in good faith (Art. 1159, Civil Code);

As stated in your letter, Atty. A. H. Lim failed to comply with his expected output as provided in Item 3 of the contract. Were there referrals made that he failed to act upon? It could be not there were no issues, documents, contracts that were referred to him.

However, there is a provision in the contract that is a matter of concern. It is provided in Item 2 that Atty. A. H. Lim shall represent the municipality in all cases that involves (sic) the local government unit. The Supreme Court has ruled that private lawyers may not, on their own or in collaboration with authorized government lawyers, represent municipalities (Ramos vs. Court of Appeals, G.R. No. 99425, March 3, 1997). It is suggested that you consult with the Commission on Audit on this regard.

Truly yours,

PEDRO A. NOVAL, JR.
Regional Director