

December 28, 2009

HON. JOEL P. QUIÑO  
Vice Mayor  
Municipal Hall  
Compostela  
Cebu

Dear Vice Mayor Quiño:

This has reference to your letter dated December 21, 2009, requesting legal opinion/clarification on the authority of the mayor to designate an Officer-in-Charge of the Office of the Mayor whenever he is on domestic travel.

In reply thereto, Section 46(c) of the Local Government Code of 1991 expressly provides that when the incumbent local chief executive is traveling within the country but outside his territorial jurisdiction for a period not exceeding three (3) consecutive days, he may designate in writing the Officer-in-Charge of the Office of the Local Chief Executive (be it governor or mayor). It bears stressing that the law provides a limit as to the number of days the local chief executive is outside his territorial jurisdiction.

In relation thereto, paragraph (d) of the same section provides that on the fourth day of absence of the local chief executive, the vice local chief executive shall have the right to assume the powers, duties and functions of the office of the local chief executive. It is, therefore, clear that the power to designate an OIC is available only if the absence of the local chief executive does not exceed three (3) days. Should his absence exceed that number of days, then on fourth day, by operation of law, the vice local chief executive shall automatically assume the duties, powers and functions of the Office of the Local Chief Executive (DILG Legal Opinion No. 120 S2002, August 05, 2002). Moreover, such authority to designate an OIC in his office is not bestowed on the local chief executive if he is on travel abroad. Said situation immediately creates a temporary vacancy in the office as provided in Section 46(a) of the Local Government Code in which case, the vice local chief executive shall assume the office and shall discharge and perform the duties and functions appurtenant thereto.

Truly yours,

PEDRO A. NOVAL, JR.  
Regional Director

