

**BASIC : LETTER DATED JANUARY 10, 2008, FROM PUNONG BARANGAY
ALEJANDRA L. CURATIVO OF SOLONGGON, LA LIBERTAD,
NEGROS ORIENTAL**

2nd Indorsement
January 14, 2008

Respectfully returned to Mr. Jofralito L. Lorico, Provincial Director, DILG Negros Oriental Provincial Office, the herein basic communication from Punong Barangay Alejandra L. Curativo of Solonggon, La Libertad, Negros Oriental on the refusal of five members of the sangguniang barangay thereat to concur the appointments issued by her allegedly for reasons that they have their own choice of candidates to the positions at stake; and that DILG issuances particularly on the appointment of barangay personnel are mere opinions and do not have binding effect of laws.

Let it be emphasized to all concerned that issuances of the different departments of the executive branch of government which are tasked to implement the laws of the land constitute executive or contemporaneous construction of statutes (Alvarez vs. Guingona, G.R. No. 118303, January 31, 1996). They are not just mere opinions. They are based on provisions of laws. Utter defiance of said issuances may lead to the imposition of administrative sanctions. Moreover, the defiant officials cannot anymore claim good faith as a defense since these executive issuances are issued primarily to remind them of what the laws are and what to do based thereon.

DILG MC No. 2002-150 dated September 18, 2002 still subsists and still in effect. The sangguniang barangay members cannot impose on their choice since the authority to appoint is with the Punong Barangay; otherwise, they can be held administratively liable for usurpation of official function. The mandate of the sanggunian is to approve or concur the appointment issued by the appointing authority. Their task is to determine whether the appointee possesses all the qualifications and none of the disqualifications as provided in the Local Government Code of 1991, and nothing more. Should the concerned sangguniang barangay members continue to withhold their concurrence despite the fact that the appointee has all the qualifications and none of the disqualification as provided in the Code and in the aforementioned DILG MC 2002-150, it is suggested that a complaint be brought against them before the Office of the Ombudsman (Visayas) for abuse of discretion.

PEDRO A. NOVAL, JR.
Regional Director

.ord/legal