

**BASIC : LETTER DATED MAY 08, 2009, FROM PUNONG BARANGAY
LORENZO M. BASAMOT OF KAMPUHAW, CEBU CITY**

2nd Indorsement
May 13, 2009

Respectfully returned to Dr. Patricio Gabuya, City Director, DILG Cebu City Office, the herein basic communication from Punong Barangay Lorenzo Basamot of Kamputhaw, Cebu City requesting legal opinion on how to proceed with the case of Leah Rafanan vs. Mr. & Mrs. Jon Harder brought before the katarungang pambarangay of Kamputhaw for ejectment.

As reported, there was already an amicable settlement reached by the parties wherein it was agreed, among other matters, that the lessee would be allowed to stay in the leased unit up to May 31, 2009. This agreement has the force and effect of judgment rendered by the court. As opined by the Department of Justice, the Punong Barangay as the administrator of the katarungang pambarangay can be called upon by a party for the execution of the agreement entered. Hence, in the case at bar, Punong Barangay Basamot could enjoin Samuel Neri, the representative and attorney-in-fact of Leah Rafanan to honor the agreement. Punong Barangay Basamot may even make representations with the Visayan Electric Company and inform them of the agreement and that there was no need, for the moment, to cut off the electric power of the apartment unit leased by the Harders.

As regards, the certification to file action in court or other investigating bodies, it is issued to the party who filed the complaint. At the time the ejectment case was filed with the katarungang pambarangay, there was no counter-charge filed by the respondents. The harassment case came after the filing of the ejectment case. Again, the purpose of prior referral to the katarungang pambarangay is for the parties to settle their difference without reaching the court. With the settlement agreement arrived at for the ejectment case, it showed that parties were willing to settle. The agent of Leah Rafanan should have coordinated with VECO for their earlier request to cut off power supply. The cutting off of the power supply even with the settlement agreement entered into by the parties, may give rise to the Harders a cause of action for damages against Leah Rafanan and Samuel Neri.

PEDRO A. NOVAL, JR.
Regional Director

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