

BASIC : LETTER DATED FEBRUARY 27, 2008, FROM MAYOR MANUEL C. TAN OF DUERO, BOHOL

3rd Indorsement

March 17, 2008

Respectfully returned to Ms. Rustica N. Mascariñas, Provincial Director, DILG Bohol Provincial Office, the herein basic communication from Mayor Manuel C. Tan of Duero, Bohol seeking clearance to hire the services of a private lawyer to undertake the judicial registration or titling of the municipality's real properties.

Our Department does not have the authority to issue the requested clearance or authority. The Supreme Court has consistently held that only the provincial fiscal and/or the municipal attorney can represent a province or municipality in their lawsuits. The rule is mandatory. The municipality's authority to employ a private lawyer is limited to situations where the provincial fiscal is disqualified to represent it and such disqualification must appear on record (Ramos vs. Court of Appeals, G.R. No. 99425, March 03, 1997). However, the prohibition is not absolute. In cases 1) where the municipality is an adverse party in an action involving the provincial government or another municipality or city within the province; 2) when the representation by the municipal attorney could deprive a party of his/her right to seek redress of a valid grievance; 3) when the complaint contains allegations aimed at questioning acts beyond the mere confines of official functions (i.e. illegal termination); and, moral damages is sought, a municipality may hire the services of a private counsel. (Alinsug vs. RTC Branch 58, San Carlos City, G.R. No. 108232, August 23, 1993.)

PEDRO A. NOVAL, JR.
Regional Director

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