

March 5, 2010

HON. SUN J. SHIMURA
Mayor
Municipal Hall
Daanbantayan, Cebu

Dear Mayor Shimura:

This has reference to your letter dated March 03, 2010, requesting for legal opinion on whether or not the Punong Barangay of Bakhawan, Daanbantayan has committed any infraction for posting/installing or for allowing the posting or installation in front of the barangay hall of a tarpaulin on the oath taking and congratulating Engr. Augusto Corro as Mayor of Daanbantayan.

As Punong Barangay, he is mandated under Section 389(b)(1) of the Local Government Code of 1991 to enforce all laws and ordinances which are applicable within the barangay for the efficient, effective and economical governance, the purpose of which is the general welfare of the barangay and its inhabitants. As such, he is expected to know the laws. He is presumed to know there are legal processes that party litigants should abide and adhere. The assumption of Engr. Augusto Corro as Mayor of Daanbantayan is premature. The writ of execution which would have been the legal document to install him as Mayor was recalled by the court before the same can be implemented considering that the Resolution of the Commission on Elections, First Division, is not yet final and executory, and that the matter is now with the said body.

Moreover, under the Code of Conduct and Ethical Standards for Public Officials and Employees, every public official and employee shall observe, among other standards, commitment to public interest over and above personal interest, and that all government resources and powers of their respective offices must be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public funds.

On the basis of the foregoing, it is the considered view of this Office that the subject Punong Barangay may be held administratively liable for abuse of discretion and violation of the Code of Conduct and Ethical Standards for Public Officials and Employees. However, such sanctions may only be imposed upon observance of due process.

Truly yours,

PEDRO A. NOVAL, JR.
Regional Director