

BASIC : LETTER DATED JULY 28, 2010, FROM MLGOO SOFRONIO ABING, JR. OF DILG LILA (BOHOL) OFFICE

2nd Indorsement

July 30, 2010

Respectfully returned to Ms. Rustica N. Mascariñas, Provincial Director, DILG Bohol Provincial Office, the herein basic communication from MLGOO Sofronio Abing, Jr. requesting legal opinion on the legality or validity of the Executive Order issued by Mayor Regina Cahiles-Salazar of Lila, Bohol designating Engr. Alan T. Cahiles, Municipal Planning and Development Coordinator as Municipal Administrator/Deputy Mayor to perform the duties and functions specified therein.

Our Department is bereft of any authority to pass upon the validity of officials acts of local officials such as the Executive Order issued by Mayor Regina C. Salazar. In the same manner, the Office of the Provincial of Attorney of Bohol does not have the authority to rule on the validity of the same. At most, said office can only render advice, opinion and guidance to local functionaries.

Nevertheless, without touching on the legality or validity of the aforementioned issuance, this level would like to point out some provisions of law which should be considered by Mayor Regina Cahiles-Salazar –

- Section 444(c) of the Local Government Code of 1991 provides that during the incumbency of the municipally mayor, he/she shall hold office in the municipal hall;
- As contemplated in Section 46 of the Local Government Code, temporary incapacity is defined by way of enumeration which could be due to physical absence or prevention to hold office due to some causes. Nevertheless, the causes in which temporary incapacity might arise are not limited only to those instances enumerated in paragraph (a). Hence, what controls is the fact that there is indeed physical absence or the chief executive is unable to discharge his functions by reason of some causes. The fact of the Mayor's physical absence on the 4th day is sufficient enough to give the Vice Mayor the right to assume the powers, duties and functions of said office.
- Section 344 of the same law provides that except in cases of disbursements involving regularly recurring administrative expenses such as payrolls for regular or permanent employees, expenses for light, water, telephone and telegraph services, remittances to government creditor agencies such as the GSIS, SSS, LBP, DBP, National Printing Office, Procurement Service of the DBM and others, approval of the disbursement voucher by the local chief executive himself shall be required whenever local funds are disbursed.

PEDRO A. NOVAL, JR.
Regional Director