

September 24, 2010

MR. CRESCENCIANO M. PITOGO
229 San Roque
Lamac, Consolacion
Cebu

Dear Mr. Pitogo:

This has reference to your letter dated September 22, 2010, reiterating your request for legal opinion on whether an ordinance is required to ban entry of private motorcycles in Consolacion public market, and not just an order from the Mayor.

In reply thereto, please be advised that an ordinance must be passed by the sangguniang bayan to ban the entry of private motorcycles in the public market of Consolacion to include therein the appropriate sanctions that may be imposed on violators. An order from the Mayor will not be sufficient as he cannot impose penalties on those who violate his order. However, the sanggunian bayan of Consolacion if ever it decides to continue the action taken by former Mayor Avelino J. Gungob in banning private motorcycles in the Consolacion public market should take guidance from the decision of the Regional Trial Court, Branch 55, Mandaue City, rendered in the case you filed against the former mayor docketed as Civil Case No. MDE-184, wherein the former mayor was ordered to desist from further implementing the No Entry policy for motorcycles in the public market of Consolacion, and to allow private motorcycles to enter and park in designated places inside the premises of the public market.

Truly yours,

PEDRO A. NOVAL, JR.
Regional Director