

July 9, 2009

MR. VICTOR R. TAN  
Sangguniang Bayan Secretary  
Dumanjug Municipal Hall  
6035 Cebu

Dear Mr. Tan:

This has reference to your letter dated July 02, 2009, requesting legal opinion on whether a sangguniang bayan with only two members and the Acting Presiding Officer remaining after five other members left the session hall could continue holding session to consider, pass and approve measures.

As reported, the sangguniang bayan started its regular session with eight (8) members present including the one who acted as the Presiding Officer; hence, there was quorum. However, during the proceedings five (5) members left the session hall leaving behind two (2) other members and the Acting Presiding Officer who continued holding session, and passed and approved several resolutions and an ordinance.

There being no adjournment, the remaining sangguniang bayan members can still proceed with the session of that day **provided there was still quorum**. In the case of *Avelino vs. Cuenco*, G.R. No. L2821, the Supreme Court ruled that where a session has been regularly convened but later on illegally adjourned, or when some members present voluntarily abandoned the session, any group, provided it consists of a majority of the members, may continue the same session, it being a simple prolongation of the session which had been formerly declared open with a quorum. Thus, the remaining members may still continue the session provided quorum is maintained or constituted. Corollary thereto, Article 107(g) of the Rules and Regulations Implementing the Local Government Code of 1991 provides that no ordinance or resolution passed by the sanggunian in a regular or special session duly called for the purpose shall be valid unless approved by a majority of the members present, there being a quorum. Measures approved in violation of this provision are legally infirmed.

Truly yours,

PEDRO A. NOVAL, JR.  
Regional Director

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