

February 22, 2008

HON. SULPICIO N. YU, JR., M.D.  
Mayor  
Calape Municipal Hall  
6328 Bohol

Dear Mayor Yu:

This has reference to your letter dated February 07, 2008, on reenacted budget particularly on whether or not it would include the 20% Development Fund.

It is provided in Section 323 of the Local Government Code of 1991 that if the sanggunian still fails to enact the budget ordinance after ninety (90) days from the beginning of the fiscal year, the ordinance authorizing the appropriations of the preceding year shall be deemed reenacted and shall remain in force and effect until the ordinance authorizing the proposed appropriations is passed by the sanggunian concerned. However, only the annual appropriations for salaries and wages of existing positions, statutory and contractual obligations, and essential operating expenses authorized in the annual and supplemental budgets for the preceding year shall be deemed reenacted. The 20% Development Fund being a mandated budgetary requirement under Section 287 of the Code, the same is considered as statutory obligation hence deemed reenacted pursuant to the aforecited provision of law (DILG Legal Opinion No. 55 S2002, April 01, 2002).

As regards the local development plan and the annual investment program, the formulation and initiation thereof is the primary concern of the Municipal Development Council. The same shall be submitted to the sanggunian for approval. Such submission and approval are only for the purpose of the enactment by the sanggunian of the corresponding ordinance providing for legislative authorization of the budget of said projects. To construe the sangguniang bayan's approval as to include the authority to revise the project identified and formulated by the local development council would

render nugatory the purposes and objectives for which the local development council had been institutionalized by the Code. Moreover, the sanggunian is being represented in the Municipal Development Council through its Chairman of the Appropriations Committee. Such that, in the process of formulating Local Development Plans, the concerns of the sanggunian are presumed to have been taken care of through its representative in the council. Any comment or suggestion to the proposed development plan should have been threshed out right at the level of the Local Development Council. If at all, the sangguniang bayan is not amenable to the Municipal Development Council's (MDC) approved projects and programs, the said sanggunian should instead return it to the MDC with its comments and recommendations for the MDC's proper consideration (DILG Legal Opinion No. 46 S2002, March 18, 2002)..

Lastly, the sanggunian may decrease allocations in the budget; however, it is not empowered to increase the annual budget as proposed by the Mayor. The limitation on the sanggunian's legislative authorization over the annual budget submitted by the local chief executive is set forth in Article 415 of the Rules and Regulations Implementing the Local Government Code of 1991 which provides that "the sanggunian may not increase the proposed amount in the executive budget nor include new items thereto except to provide for statutory and contractual obligations, but in no case shall it exceed the total appropriations in the executive budget".

Truly yours,

PEDRO A. NOVAL, JR.  
Regional Director

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