

**BASIC : LETTER DATED AUGUST 20, 2009, FROM GOV. ERICO B. AUMENTADO OF BOHOL**

**2<sup>nd</sup> Indorsement**  
September 3, 2009

Respectfully returned to Ms. Rustica N. Mascariñas, Provincial Director, DILG Bohol Provincial Office, the herein basic communication from Gov. Erico B. Aumentado of Bohol seeking guidance on how to proceed with the resignation of Theresa Camacho as Mayor of Getafe when she has not provided any reason of her resignation in her letter dated August 01, 2009.

Section 82 (a)(2) of the Local Government Code of 1991 provides that resignation of municipal mayors shall be deemed effective only upon acceptance by the governor; and the resignation shall be deemed effective if not acted upon by the concerned authority within fifteen (15) working days from receipt thereof. The resignation letter of Mayor Theresa Camacho was dated August 01, 2009, and received by the Office of Gov. Erico B. Aumentado on August 07, 2009, as reflected therein. Hence, the 15 working days after which the resignation could be deemed effective if not acted upon would fall on September 01, 2009. However, Gov. E. Aumentado enjoined Mayor Theresa Camacho to continue discharging her functions while he sought guidance on how to proceed with her resignation since she failed to give a reason. Thus it cannot be said that Mayor T. Camacho's resignation was not acted by upon by Gov. E. Aumentado.

In the case of *Sangguniang Bayan of San Andres, Catanduanes vs. Court of Appeals* (G.R. No. 11883, January 16, 1998), the Supreme Court held that to constitute a complete and operative resignation from public office, there must be: a) an intention to relinquish a part of the term; b) an act of relinquishment; and c) an acceptance by the proper authority. Moreover, in *Punzalan vs. Mendoza* (14 SCRA 153), the Court held implicitly, but no less clearly, that the effectivity of a public official's resignation depends not so much on its terms, e.g. "effective at the pleasure of the President", or "at a particular time or on the happening of a particular contingency", but as a legal proposition, on acceptance thereof by the proper authority. For quite obviously, such appropriate authority can disregard the terms of the official's resignation, and as easily reject it as accept it. . . "(cited in *Joson vs. Nario*, 187 SCRA 453).

Acceptance by the proper authority is required by reason of Article 238 of the Revised Penal Code, which makes abandonment of office criminally punishable. To be valid resignation, the tender thereof must be in writing and must be accepted by the public officer authorized by law to accept the same. And such acceptance is not a ministerial function of the accepting authority.

In fine, the Honorable Erico Aumentado as the Governor of the Province of Bohol, is the authority provided by law to accept the resignation of municipal mayors, and he can inquire into the reason of such resignation before the acceptance thereof is made. It is therefore suggested that Gov. Erico B. Aumentado will require Mayor Theresa Camacho to expressly provide the reason of her resignation. The good Governor was correct in saying that the people of Getafe elected her as Mayor with the expectation that she will serve the full term. She owes it to her constituents to state the reason of her resignation.

PEDRO A. NOVAL, JR.  
Regional Director

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