

BASIC : LETTER DATED MARCH 13, 2008, FROM MR. GEOFFREY P. VILLEHERMOSA, SECRETARY TO THE SANGGUNIANG PANLALAWIGAN OF NEGROS ORIENTAL

2nd Indorsement

March 26, 2008

Respectfully returned to Mr. Jofralito L. Lorico, Provincial Director, DILG Negros Oriental Provincial Office, the herein basic communication from Mr. Geoffrey P. Villahermosa, Secretary to the Sangguniang Panlalawigan of Negros Oriental, requesting legal opinion on whether or not the review of the 2007 annual budget of the Municipality of Dauin has become moot and academic since its 2006 annual budget was deemed reenacted.

As reported, the 2007 budget ordinance of the Municipality of Dauin was approved only on July 16, 2007. It was forwarded to the sangguniang panlalawigan of Negros Oriental for review on November 13, 2007. Thereafter, the budget ordinance was referred to different offices of the provincial government for comments on the provisions therein. It was only on February 7, 2008, that the provincial august body deliberated on said budget ordinance with the ensuing herein request for legal opinion.

The sangguniang panlalawigan of Negros Oriental still has to review the 2007 budget ordinance of Dauin despite the delay of its approval by the municipal council. The fact that the municipality's 2006 annual budget was deemed reenacted did not divest from the sanggunian panlalawigan of its authority and mandate to make such review. As provided in Section 323 of the Local Government Code of 1991, the reenacted budget shall remain in force and effect until the ordinance authorizing the proposed appropriations is passed by the sanggunian concerned. Hence, even with the reenacted budget, the sangguniang bayan of Dauin is not prevented to deliberate, consider and approve the proposed budget ordinance. And in compliance with the provisions of Section 56 and Section 468(a)(1)(i) of the Local Government Code of 1991, the

sangguniang panlalawigan has to review the ordinance passed and approved by the municipality.

Moreover, let it be stressed that the sangguniang panlalawigan has to make the review within a period of thirty (30) days. If no action has been taken by the sanggunian panlalawigan within said period after its receipt of the ordinance subject of review, the same shall be presumed consistent with law and therefore valid [Sec. 56(c), RA 7160]. The thirty (30)-day period has to be reckoned from receipt of such ordinance or resolution by the sangguninang panlalawigan. It is our Department's considered view that the 30-day period should be construed as mandatory in accordance with established rules of statutory construction that when the time is specified for the execution of an official act and such time was designated to limit the power and authority of the officer or body, such time is considered mandatory and may be insisted as imposing a duty. Hence, upon the lapse of the mandatory period, the ordinance becomes fully effective and the failure of the reviewing authority to act within said period strips the latter of its power to review (DILG Legal Opinion No. 78 S2002, May 24, 2002).

PEDRO A. NOVAL, JR.
Regional Director

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