

**BASIC : MEMORANDUM DATED JULY 28, 2006, FROM LGOO V MARIA
THERESA S. BOCA.**

2nd Indorsement
August 9, 2006

Respectfully returned to Ms. Dominica Lacuesta, Provincial Director, DILG Siquijor Provincial Office, the herein basic communication from LGOO V Maria Theresa S. Boca, DILG focal person in the Municipality of Siquijor with the reply to the queries raised therein.

In the performance of their duties and functions, actions of public officials are accorded with the presumption of regularity. Our Department does not have the authority to pass upon their validity. However, for the guidance and enlightenment of the parties concerned, we wish to point out the following provisions of law and rulings –

- the Civil Service Commission in its Resolution No. 92-1111 resolved the issue on the proper appointing authority of the secretary to the sangguniang bayan by stating that the SB secretary is not a department head per se but only an officer of the sanggunian. Section 469(a) of the Local Government Code of 1991 clearly provides that there shall be a secretary to the sanggunian who shall be a career official with the rank and salary equal to a department head or office. Therefore, not being a department head but only an officer of the sanggunian, the only conclusion is that a sangguniang bayan secretary shall be appointed by the Vice Mayor pursuant to the latter's appointing authority under Section 445(a)(2) of the Local Government Code of 1991 (DILG Legal Opinion No. 13, January 22, 2002; No. 87 dated June 14, 2002)
- in CSC Resolution No. 000702 dated March 15, 2000 (Ambatali, Errol et al., re: Appointment), the Commission ruled that the Vice Mayor's authority to appoint is not confined to those under the sangguniang bayan/panlungsod but extends to those in the Office of the Vice Mayor. This is based on the

principle of separation and non-intermingling of the legislative and executive departments.

- there is no need for the mayor to designate the vice mayor as officer-in-charge while he is away on a foreign travel. By operation of law and without need of further designation, the vice mayor has to assume the office and perform the duties and functions of the mayor. Section 46(a) of the Local Government Code of 1991 expressly provides that when the city or municipal mayor is temporarily incapacitated to perform his duties due to, among other reasons, his travel abroad, the vice mayor shall automatically exercise the powers and perform the duties and functions of the mayor, except the power vested in the mayor to appoint, suspend or dismiss employees which can only be exercised if the period of temporary incapacity exceeds thirty (30) working days.

RENE K. BURDEOS
Regional Director

. cc. : Atty. G. J. Emeterio S. Moreno, Jr.
Director, Legal Service
DILG Central Office

w/enclosures.

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