

**BASIC : UNDATED LETTER FROM MS. SALLY C. SOTTO, MEMBER OF
THE BOARD OF DIRECTORS OF DON GASPAR VICENTE
SUBVISION HOMEOWNERS' ASSOCIATION IN BAYAWAN
CITY**

3rd Indorsement
May 12, 2009

Respectfully returned to Mr. Jofralito L. Lorico, Provincial Director, DILG Negros Oriental Provincial Office, the herein basic communication from Ms. Sally C. Sotto requesting for legal opinion on whether or not the barangay officials of Villareal, Bayawan City can oppose the proposal of her group to create a new barangay where the subdivision they are residing is located. As reported the residents of Don Gaspar Vicente Subdivision located in Villareal, Bayawan City want to be separated from Villareal and are calling for the creation of a new barangay to be called Barangay Don Gaspar Vicente.

Section 6 of the Local Government Code (RA 7160) provides that a local government unit may be created, divided, merged, abolished or its boundaries substantially altered either by law enacted by Congress in the case of a province, city, municipality or any other political subdivision, or by ordinance passed by the sangguniang panlalawigan or sangguniang panlungsod concerned in the case of a barangay located within its territorial jurisdiction, subject to the limitations and requirements prescribed in the Code. Section 8 of the same law further provides that division and merger of existing local government units shall comply with the same requirements prescribed for the creation; provided that such division shall not reduce the income, population or land area of the local government unit or units concerned to less than the minimum requirements prescribed, and that the income classification of the original local government unit shall not fall below its current income classification prior to such division. Corollary thereto, Section 384 of the Code provides that a barangay may be created, divided, merged, abolished or its boundary substantially altered, by law or by an ordinance of the sangguniang panlalawigan or sangguniang panlungsod, subject to the approval by a majority of the votes cast in a plebiscite to be conducted by the

COMELEC in the local government unit or units directly affected within such period of time as may be determined by the law or ordinance creating said barangay.

In the process of enacting the ordinance creating the new barangay, any one can present his opposition, not only the barangay officials of the mother barangay from which a new barangay would be created. It would be up to the sanggunian concerned (be it sangguniang panlalawigan or sangguniang panlungsod) to weight the merits of the opposition taking into consideration the aforecited provisions of law. After the passage of the ordinance, it will be presented to the constituents affected by the creation of the new barangay to be conducted by the COMELEC by way of a plebiscite. The affected parties are the constituents of the mother barangay from which the new barangay will be created, and the constituents of the newly created barangay. If the majority wins, the creation of the new barangay will push through.

PEDRO A. NOVAL, JR.
Regional Director

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