

January 6, 2010

HON. GREG G. SANCHEZ, JR.
Vice Governor
Cebu Provincial Capitol
Cebu City

Sir:

This has reference to your letter dated January 04, 2009, on two legislative measures of the sangguniang panlalawigan of Cebu which you personally considered as dubious and irregular.

It can be surmised from your letter and from the copies of the subject legislative measures attached thereto, on two separate sessions of the sangguniang panlalawigan you temporarily left the session hall after these sessions were called to order. As the Presiding Officer Pro Tempore (as reflected in the attachments), Board Member Agnes A. Magpales took over as Presiding Officer. It was at this juncture that the two legislative measures in question were taken up by the body.

Perusing through the aforementioned legislative measures, Appropriation Ordinance No. 2009-10 and Appropriation Ordinance No. 2009-11, it is noted that both enacted ordinances were approved by the Governor. Both are now called approved ordinances. As such, they are presumed valid which only the court can declare otherwise. Our Department is without authority to pass upon the validity of said measures.

Nevertheless, without touching on the validity of the subject ordinances, the following provisions of the Local Government Code of 1991, its implementing rules and regulations and decision of the Supreme Court are worth pondering in relation to the issue at hand –

- Section 49(b) of the Local Government Code provides that in the event of the inability of the regular presiding officer to preside at a sanggunian session, the members present and constituting a quorum shall elect from among

themselves a temporary presiding officer. He shall certify within ten (10) ten days from the passage of ordinance enacted and resolution adopted by the sanggunian in the session over which he temporarily presided.

- Art, 107(g) of the IRR of Local Government Code provides that no ordinance or resolution passed by the sanggunian in a regular or special session duly called for the purpose shall be valid unless approved by a majority of the members present, there being a quorum. Any ordinance or resolution authorizing or directing the payment of money or creating a liability shall require the affirmative vote of a majority of all the sanggunian members for its passage. Hence, an ordinance to be valid must be voted upon or approved by the number of members (simple majority or absolute majority) required by law in a session duly called for constituting a quorum.
- Internal rules of procedure may be waived, disregarded or suspended by the deliberative body by way of a vote of the majority (Romulo vs. Yñiguez, L-71908, February 04, 1986).

Truly yours,

PEDRO A. NOVAL, JR.
Regional Director

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