

September 30, 2010

MR. ERALDITO . PANA
S.P.A.R.K.S.
Living Word Christian Church
Goodsheperd, Banawa
Cebu City

Dear Pana:

This has reference to your letter dated September 30, 2010, inquiring as who is authorized to issue Travel Order to members of the sangguniang bayan and its employees.

In reply thereto, it bears to emphasize that official trips of municipal officials and employees outside of the municipality has to be authorized by the Mayor per Section 444(b)(1)(xv) of the Local Government Code of 1991. Since the members of the sangguniang bayan including the Vice Mayor are also enumerated in Section 443 of the same Code as “municipal officials”, their official travels outside the municipality are likewise subject to the prior authorization of the Mayor. However, there has be a distinction between discretionary and ministerial approval to be issued by the Mayor.

Under Section 445 of the Local Government Code of 1991, the Vice Mayor is given the authority to sign all warrants drawn on the municipal treasury for all expenditures appropriated for the operation of the sangguniang bayan. It is worth mentioning that in the case of Gamboa vs. Aguirre, 310 SCRA 867, the Supreme Court clarified the separation of powers and functions between the Governor (or Mayor), as the executive, and the Vice Governor (or Vice Mayor) and the members of the Sanggunian as the legislative body of the local government unit. This is further bolstered by the fact that the sanggunian is operating on a separate budget though forming part of the entire budget of the municipality.

Accordingly, if the travel expenses of the Vice Mayor and/or that of the members of the sangguniang bayan are chargeable to the general fund of the municipality, the approval of the Mayor is discretionary. On the other hand, if such travel expenses are chargeable to the sanggunian funds, the recommendation of the Vice Mayor is necessary and the approval of the Mayor becomes a ministerial function. As such, it becomes a ministerial duty on the part of the Mayor to authorize official trips, including the issuance of corresponding travel orders therefor, of members of the sangguniang bayan whenever the Vice Mayor had already issued his/her prior recommendation thereto and had already signed the warrants drawn on the municipal treasury for all expenditures necessary for such official travel chargeable to the sanggunian fund. Said conclusion is arrived at, taking into primordial consideration the well-settled principle of separation of powers and functions (DILG Legal Opinion No. 129 S2002, August 22, 2002).

As regards the personal travel of Vice Mayor Marlon F.Garcia abroad, please be advised that we have directed our DILG Cebu Provincial Office to conduct an inquiry on whether Vice Mayor Garcia has an approved leave in connection with the said foreign travel. .

Very truly yours,

PEDRO A. NOVAL, JR.
Regional Director

.ord/legal