

BASIC : LETTER DATED OCTOBER 19, 2006, FROM MAYOR LEON A. CALIPUSAN OF LOBOC, BOHOL.

2nd Indorsement
October 26, 2006

Respectfully returned to Ms. Rustica N. Mascariñas, Provincial Director, DILG Bohol Provincial Office, the herein basic communication from Mayor Leon A. Calipusan of Loboc, Bohol, requesting legal opinion as to who has authority to issue travel order for the members of the sanggunian. Attached to said basic communication is photocopy of a travel order issued by Vice Mayor Artemio Delfin to a member of the sangguniang bayan of Loboc.

Official trips of municipal officials and employees outside of the municipality for a period not exceeding thirty (30) days have to be authorized by the Mayor per Section 444(b)(1)(xv) of the Local Government Code of 1991. Since the members of the sangguninag bayan including the Vice Mayor are included in the enumeration in Section 443 of the Code as “municipal officials”, **their travel outside of the municipality are subject to the prior authorization of the Mayor.** However, as stated in DILG Legal Opinion No. 129, dated August 22, 2002, there has to be a distinction between discretionary and ministerial approval to be issued by the local chief executive.

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. 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 local government unit.

Accordingly, if the travel of the members of the sanggunian is chargeable to the general fund of the municipality, the approval of the Mayor is discretionary. On the other hand, if such travel is chargeable to the sanggunian funds, the recommendation of the Vice Mayor is necessary and the approval of the Mayor is 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 sanggunain whenever the Vice Mayor had already issued his prior recommendation thereto, and had already signed the warrants drawn on the municipal treasury for all expenditures necessary for such travel chargeable to the sanggunian funds. Said conclusion is arrived at, taking into primordial consideration the well-settled principle of separation of powers and functions.

RENE K. BURDEOS
Regional Director

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

w/ enclosure.

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