

July 31, 2009

HON. ROGELIO C. BAQUERFO, SR.
Mayor
Tudela Municipal Hall
6051 Cebu

Dear Mayor Baquerfo:

In his letter dated July 27, 2009, Vice Mayor Clint M. Maratas informed us that you still insist to approve vouchers for expenditures of the sangguniang bayan, sign checks drawn against sanggunian funds and to have the authority to appoint officials and employees of the sanggunian.

Pursuant to Section 445(a)(1) of the Local Government Code of 1991, the power to sign checks, warrants and disbursement vouchers covering all expenditures appropriated for the operation of the sanggunian and drawn against the municipal treasury is vested unto the Vice Mayor (DILG Legal Opinion Nos. 7-S2001, Feb. 19, 2001 & 40-S2002, March 04, 2002). The Commission on Audit issued COA Circular No. 92-382 on July 03, 1992, prescribing the accounting and auditing rules and regulations that govern the implementation of above-cited provisions of the Local Government Code. The said circular provides, among other provisions, the following –

“Section 39. – Approval of Vouchers. – xxx xxx Disbursement vouchers for expenditures appropriated for the operation of the sanggunian shall be approved by the Provincial Vice-Governor, the City Vice Mayor or the Municipal Vice Mayor, as the case may be.

Section 43. – Officials Authorized to Draw and Sign Checks. – xxx xxx In the case, however, of expenditures appropriated for the operation of the sanggunian, checks drawn thereon shall be countersigned by the Provincial Vice Governor, the City Vice Mayor or the Municipal Vice Mayor, as the case may be.”

In connection with said COA Circular, then DILG Secretary Jose D. Lina, Jr. issued on April 25, 2003 DILG Memorandum Circular No. 2003-84, directing all concerned local authorities to comply with and faithfully observe the mandate of the law and related issuances.

On the hiring and appointment of sanggunian officials and employees, Section 445(a)(2) of the Local Government Code of 1991 provides that the Vice Mayor shall appoint all officials and employees of the sangguniang bayan, subject to civil service law, rules and regulations. In the case of *Atienza vs. Villarosa*, G.R. No. 161081, May 10, 2005, the Supreme Court ruled that the authority to appoint casual and job order employees of the sanggunian belongs to the Vice Governor or Vice Mayor. The authority of the Vice Governor/Vice Mayor to appoint the officials and employees of the sanggunian is anchored on the fact that the salaries of these employees are derived from the appropriation specifically for the said local legislative body. The budget source of the salaries is what sets the employees and officials of the sanggunian apart from the other employees and officials of the local government unit. Accordingly, the appointing power of the Vice Governor/Vice Mayor is limited to those employees of the sanggunian, as well as those of the Office of the Vice Governor/Vice Mayor whose salaries are paid out of the funds appropriated for the sanggunian. However, casual employees may not be appointed if there are no available local funds therefor.

Truly yours,

PEDRO A. NOVAL, JR.
Regional Director

.cc : Vice Mayor Clint M. Maratas
Tudela Municipal Hall

Municipal Budget Officer/
Municipal Accountant/
Municipal Treasurer
Tudela Municipal Hall

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