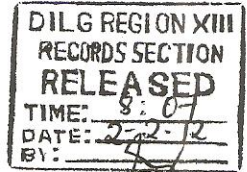




Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
REGION XIII (CARAGA REGION)
1559 Matimco Bldg., Km.4, Libertad, Butuan City
Telefax. Nos. (085) 342-2134/815-1299
website: www.dilgxiii.org; email address: dilgxiii@yahoo.com



February 1, 2012
DILG-13 OPINION NO. 05



SAVP SISINO S. NARISMA
Regional Head
Development Bank of the Philippines
Regional Marketing Center – Northeastern Mindanao
J. Rosales St., Butuan City

Dear SAVP Narisma:

This refers to your letter dated February 1, 2012 seeking opinion on the legality of Resolution No. 98-2011 of the Sangguniang Bayan of Claver, Surigao del Norte directing DBP Surigao City to suspend any fund withdrawal from the general fund of the LGU account with DBP Surigao City and requesting guidance whether DBP should heed the said resolution.

Please be informed that a resolution is not a law but a mere expression of sanggunian's sentiment in which whether to accept or comply with it depends on to whom it is addressed to. Granting *arguendo* that a resolution is like an ordinance, we believe that the action is beyond the powers conferred to it by law. The most the *sanggunian can do is to file an appropriate case against the mayor and DBP in the proper court with a prayer to prohibit fund withdrawal.*

In opening the LGU account with your bank, the sanggunian is not a party to it. The participation of the sanggunian was the enactment of resolution authorizing the mayor to enter into a contract of deposit with the bank and nothing more. The act of the Sangguniang Bayan in passing such Resolution to suspend any fund withdrawal from the general fund of the LGU with DBP Surigao City is tantamount to rescission of contract. It is not a party to the contract. The parties to the contract are the municipality, represented by the Mayor and DBP Surigao City. Thus, the suspension of withdrawal of funds must have the acquiescence of Mayor Rosemarie M. Gokiangkee and DBP Surigao City otherwise nothing can prevent the Mayor to withdraw funds and the bank to release the same.


It is on this light that we concur with the observations of Mayor Rosemarie M. Gokiangkee as expressed in her letter to Ms. Ma. Liza C. Balmadres, Branch Manager, DBP Surigao City dated January 30, 2012 that DBP cannot just suspend fund withdrawal without the proper representation of the former as authorized representative of the municipal government.

We hope to have clarified you on this matter.

Very truly yours,



ATTY. RENE K. BURDEOS, CESO III
Regional Director

S67  JS
02/02/12
0825H