



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 7, 2012
DILG-13 OPINION NO. 07

MR. ROMEO A. SOLIS
OIC-Provincial Director
DILG, Agusan del Norte

Dear Dir. Solis:

This refers to the Proposed Provincial Ordinance No. 077-2012 of the Sangguniang Panlalawigan of Agusan del Norte entitled "AN ORDINANCE PROVIDING MEDICAL ASSISTANCE TO ALL INCUMBENT PUNONG BARANGAYS AND MORTUARY ASSISTANCE TO THE FAMILIES OF DECEASED PUNONG BARANGAYS IN THE PROVINCE OF AGUSAN DEL NORTE AND PROVIDING FUNDS THEREOF" which was endorsed to your office to comment on the validity of the proposed measure.

Please be informed that Section 393 of the Local Government Code of 1991 states that:

Section 393. Benefits of Barangay Officials. – (a) Barangay officials, x x x, shall receive honoraria, allowances, and such other emoluments as may be authorized by law or barangay, municipal or city ordinance in accordance with the provisions of this Code, but in no case shall it be less than One thousand pesos (P1,000.00) per month for the punong barangay x x x.

Based on the abovementioned provisions, only the barangay, city and municipality are allowed to provide honoraria, allowances and other emoluments to barangay officials. And applying the basic rule on statutory construction which provides that what is not included is deemed excluded or that the express mention of one person, thing or consequence implies the exclusion of all others (*expressio unius est exclusio alterius*), the province is excluded. Therefore the province cannot provide honoraria, allowances and other emoluments to incumbent punong barangays.

Nevertheless, while the province is not included in the enumeration, we believe that the sangguniang panlalawigan can still enact such draft ordinance on the presumption that any doubt on the ordinance should be liberally interpreted in favor of the province. This is in adherence to Section 5 of the Code which provides that:

Section 5. Rules of Interpretation. – In the interpretation of the provisions of this Code, the following rules shall apply:

- (a) *Any provision on a power of a local government unit shall be liberally interpreted in its favor, and in case of doubt, any question thereon shall be resolved in favor of devolution of powers and of the lower local government unit. Any fair and reasonable doubt as to the existence of the power shall be interpreted in favor of the local government unit concerned."*

Under Section 468 of the Code, the sangguniang panlalawigan is given the power to enact ordinances and appropriate funds for the general welfare of the province and its inhabitants pursuant to Section 16 of the same Code. The general welfare clause also applies to limited number of persons such as the barangay officials.

However, the grant of medical assistance or mortuary assistance is subject to the availability of funds in the provincial treasury and should be released only after an ordinance has been passed by the Sangguniang Panlalawigan of Agusan del Norte

We hope to have enlightened you on this matter.

Very truly yours,



ATTY. RENE K. BURDEOS, CESO III
Regional Director