



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 / 815-1229

website: caraga.dilg.gov.ph; email address: dilgxiiii@yahoo.com



DILG RO XIII
FILE

DILG-13 OPINION NO. 002-2014

March 4, 2014

WOC 125481715074

DILG - REGION XIII
RELEASED

DATE: **MAR 10 2014**

TIME: 10:12

BY: BRS

NIDA G. GALIDO
 P-2 Bagakay, Claver
 Surigao del Norte

Dear Ms. Galido:

This refers to your letters received on February 21, 2014; February 25, 2014 and March 3, 2014 and follow-up letter received on March 4, 2014, asking for a Legal Opinion in connection with the Resolution passed by the Sangguniang Barangay of Urbiztondo, Claver, Surigao del Norte, the subject of which is the recommendation for the termination of your employment with Adnama Mining Resources Incorporated. You have enclosed with your letters the above Resolution, the Memorandum of Agreement (MOA) entered into by and between Adnama Mining Resources, Inc. (AMRI) and Barangay Urbiztondo, and the Office Memorandum of AMRI which subject is the Standard Operating Procedures of Employment in compliance with Item No. 4 of the preceding MOA.

You inquired as follows:

- a. *Being public officials, is there any right to interfere an employee who are working in a private institution, if there is, up to what extent?*
- b. *Is there any consequence if they abuse their authority being public official?*
- c. *What will be your immediate sanction being a public officials (sic) for the abuse of authority?*
- d. *Being a public officials (sic) who interfere the discretion of a private institution and an ignorance of the law, is there any rule of law that leads to a penalty imposed if they violate?*

May we invite your attention to Section 22 (a) and (c) of the Local Government Code of 1991 which enumerates the Corporate Powers of a Local Government Unit, viz.:

"Every local government unit, a a corporation, shall have the following powers:

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(5) To enter into contracts; and

(6) To exercise such other powers as are granted to corporations, subject to the limitations provided in this Code and other laws.

(c) Unless otherwise provided in this Code, no contract may be entered into by the local chief executive in behalf of the local government unit without prior authorization by the sanggunian concerned. A legible copy of such contract shall be posted at a conspicuous place in the provincial capitol or the city, municipal or barangay hall.

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Article 1305 of the Civil Code of the Philippines defines contract as "a meeting of minds between two persons whereby one binds himself, with respect to the other, to give something or to render some service." Essentially, a Memorandum of Agreement, being an agreement, is a meeting of the minds. It is a document entered into by and between two or more parties in order to cooperatively work together in a project or objective agreed upon. It can be a legal document which is binding, holding the parties responsible to their commitment.


To answer your first question, while it is not justified for public officials to unreasonably interfere with the affairs of employees working in a private institution, it may be warranted that these officials perform obligations stipulated in the Memorandum of Agreement. Also, the State in the exercise of its inherent Police Power, may exercise reasonable control over persons and property within its jurisdiction in the interest of the general security, health, safety, morals, and welfare except where legally prohibited. It includes, among others, the regulation of the practice of profession.

For your second, third and fourth questions, let us first define the term **abuse of authority**. As defined in this jurisdiction, it is the intentional or improper use of government resources. It includes but not limited to misuse of title, position or authority and tools, vehicles, etc. (DILG Opinion No. 40 s. 2006).

Depending on the gravity of the offense, penalties for abuse of authority range from payment of fines, to reprimand, suspension or termination from service.

We hope to have enlightened you on the matter.

Very truly yours,


LILIBETH A. FAMACION, CESO IV
Regional Director

cc: Mr. John Reyl L. Mosquito, OIC-PD, Surigao del Norte

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