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Republic of the Philippines  
PROVINCE OF LEYTE  
Provincial Capitol  
Tacloban City

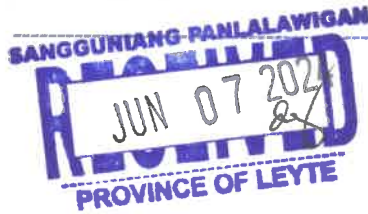
Item No.: 09

Date: 11 2024 JUN

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Province of Leyte  
Legal Office  
Released: [Signature]  
Time: [Signature]  
Date: 6-7-24

**PROVINCIAL LEGAL OFFICE**



2<sup>nd</sup> INDORSEMENT  
May 24, 2024

Respectfully returned to the Sangguniang Panlalawigan of Leyte, through Sp Secretary, the attached Resolution No. 2024-129 of the Sangguniang Bayan of Carigara, Leyte.

**Issues/concerns for legal opinion are as follows:**

- a. W/N SB Carigara can approve request to hold cock fighting activities pending Resolution declaring valid the ordinance reclassifying the land where the cockpit arena was constructed.
- b. W/N SB Carigara's resolution granting franchise to Patrick Makabenta is valid.

**Legal opinion and or comments:**

I. As to the first inquiry, this office made reference to Section 5, par. d, of P.D. 449 otherwise known as the Cockfighting Law of 1974, relative to the holding of cockfighting which shall be allowed **only in licensed cockpits**.

With the facts provided by the documents attached, this office is of the opinion that the SB shall establish if the new cockpit arena has an approved license or without. If it is licensed, the holding of cockfights shall be allowed provided that a valid Mayor's permit or Business permit has been issued therefor, if it is not yet licensed due to the fact of pendency of reclassification, that means that the cockpit arena is not yet allowed to operate as such.

As to intent of holding cockfighting in the Canggara Amusement Center, not intended as a cockpit center and the same being a public facility, this office is of the opinion that the Canggara Amusement Center is not a "licensed cockpit" as contemplated or exempted under P.D. 449. Hence, allowing the holding of cockfighting thereat would be an outward violation of Section 5, par (d) said decree.

II. As to the validity of franchise to operate cockpit arena. As per Section 447 (3) of the Local Government Code (RA 7160)<sup>1</sup>, the grant of franchise can be by way of ordinance or a resolution as the code did not specifically provide

<sup>1</sup> Section 447 (3) of the Local Government Code (RA 7160)

the particular action for the Sanggunian to consider. The requirement to enact ordinances mentioned in said provision has particular reference to the issuance of permits or licenses, among others.

Perusal of the details provided, considering compliance to Section 56 of the Local Government Code of 1991 on review of resolutions, this office is of the opinion that the grant of franchise to operate Cockpit in favor of Patrick Makabenta is considered valid. Despite validity, however, this office finds it vital for the proponent LGU to note that a franchise, by its nature being special privileges intended to private persons or corporations, are subject to rules and regulations set forth by the said franchise and by the local government code such as application of mayor's business permits, building permits among others. The franchise neither confers proprietary rights nor preclude the grantor to withdraw the same for cause.<sup>2</sup>

We hope to have assisted you with this request. Please note that the opinion rendered by this Office are based on facts available and may vary or change when additional facts and documents as presented or changed. This opinion is likewise without prejudice to the opinions rendered by higher and competent authorities and/or courts.

  
**ATTY. JOSE RAYMUND A. ACOL**  
*Asst. Provincial Legal Officer*

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<sup>2</sup> DILG Opinion No. 53, s. 2005

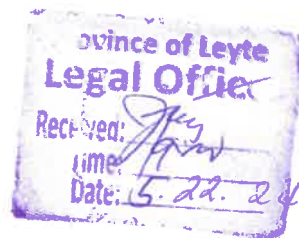


REPUBLIC OF THE PHILIPPINES  
PROVINCE OF LEYTE  
MUNICIPALITY OF CARIGARA  
-oOo-  
OFFICE OF THE SANGGUNIANG BAYAN



May 2, 2024

**Atty. ALDEN AVESTRUZ**  
Provincial Legal Officer  
Sangguniang Panlalawigan  
Palo, Leyte



Dear Sir:

We are respectfully forwarding the attached **Resolution No. 2024-129** of the 19th Council of the Sangguniang Bayan of Carigara, Province of Leyte dated April 24, 2024, entitled - **"A RESOLUTION EARNESTLY REQUESTING THE SANGGUNIANG PANLALAWIGAN OF LEYTE, THRU ITS PROVINCIAL LEGAL OFFICER FOR LEGAL OPINION WHETHER THE SANGGUNIANG BAYAN, CARIGARA, LEYTE CAN APPROVE REQUEST TO HOLD COCKFIGHTING ACTIVITES AT THE CANGGARA AMUSEMENT CENTER SANS ABSENCE OF SANGGUNIANG PANLALAWIGAN RESOLUTION DECLARING VALID THE ORDINANCE RECLASSIFYING THE LAND WHERE THE COCKPIT ARENA WAS CONSTRUCTED AND THE ORDINANCE GRANTING FRANCHISE TO PATRICK V. MAKABENTA TO ESTABLISH, OPERATE AND MAINTAIN COCKPIT ARENA IN THE MUNICIPALITY OF CARIGARA, LEYTE"**.

Also Attached hereto is the **Committee Report No. 2024-26** and the **DILG opinion no. 19, s. 2018** for your ready reference.

For your consideration and appropriate action.

Very truly yours,

For the Sanggunian:

  
**ROMEO M. VIOJAN**  
SB Secretary



REPUBLIC OF THE PHILIPPINES  
PROVINCE OF LEYTE  
MUNICIPALITY OF CARIGARA



-oOo-  
**OFFICE OF THE SANGGUNIANG BAYAN**

Telephone No. (053) 530-5144 E-mail Address: sangguniang bayancarigara@gmail.com

EXCERPT FROM THE MINUTES/JOURNAL OF THE 90<sup>TH</sup> REGULAR SESSION OF THE 19<sup>TH</sup> COUNCIL OF THE SANGGUNIANG BAYAN OF CARIGARA HELD AT THE SESSION HALL, LEGISLATIVE BUILDING, CARIGARA, LEYTE ON APRIL 24, 2024

\* \* \* \* \*

RESOLUTION NO. 2024-129

A RESOLUTION EARNESTLY REQUESTING THE SANGGUNIANG PANLALAWIGAN OF LEYTE, THRU ITS PROVINCIAL LEGAL OFFICER FOR LEGAL OPINION WHETHER THE SANGGUNIANG BAYAN, CARIGARA, LEYTE CAN APPROVE REQUEST TO HOLD COCKFIGHTING ACTIVITIES AT THE CANGGARA AMUSEMENT CENTER SANS ABSENCE OF SANGGUNIANG PANLALAWIGAN RESOLUTION DECLARING VALID THE ORDINANCE RECLASSIFYING THE LAND WHERE THE COCKPIT ARENA WAS CONSTRUCTED AND THE ORDINANCE GRANTING FRANCHISE TO PATRICK V. MAKABENTA TO ESTABLISH, OPERATE AND MAINTAIN COCKPIT ARENA IN THE MUNICIPALITY OF CARIGARA, LEYTE.

WHEREAS, the Sangguniang Bayan, Carigara, Leyte approved on January 19, 2022, Municipal Ordinance No. 2022-132 - *“An ordinance reclassifying parcel of land from agricultural to commercial use, particularly Lot No. 3904-A, owned by Ma. Victoria Bolong located at Brgy. Parag-um, Carigara, Leyte, with a total land area of 10,000 square meters”*;

WHEREAS, on March 4, 2022 the Sangguniang Panlalawigan passed Resolution No. 2022-130 - *“A resolution requiring submission of tax clearance and estate tax clearance for reclassification on Lot No. 3904-A located at Brgy. Parag-um, Carigara, Leyte under Ordinance No. 2022-132”*, which to date have not yet been complied by the owner of the lot;

WHEREAS, the Sangguniang Bayan, Carigara, Leyte passed and approved on March 16, 2022, Municipal Ordinance No. 2022-133 - *“An ordinance granting franchise to Patrick V. Makabenta to establish, operate and maintain cockpit arena in the Municipality of Carigara, Leyte”*;

WHEREAS, the aforementioned Ordinance No. 2020-133 was referred to the SP Committee on Games and Amusement on May 24, 2022 per SP Resolution No. 2022-260, and since then to date no update came from the Sangguniang Panlalawigan;

WHEREAS, in view of the foregoing, this August Body deemed it proper to ask for legal opinion with the Sangguniang Panlalawigan, thru its Provincial Legal Officer to settle once and for all whether the Sangguniang Bayan can validly approve the holding of cockfights in the cockpit



REPUBLIC OF THE PHILIPPINES  
PROVINCE OF LEYTE  
MUNICIPALITY OF CARIGARA

-oOo-

**OFFICE OF THE SANGGUNIANG BAYAN**

Telephone No. (053) 530-5144 E-mail Address: sangguniang bayancarigara@gmail.com



**BAGONG PILIPINAS**

Page 2/2 – Res. No.2024-129 dated April 24 14, 2024–

***“A RESOLUTION EARNESTLY REQUESTING THE SANGGUNIANG PANLALAWIGAN OF LEYTE, THRU ITS PROVINCIAL LEGAL OFFICER FOR LEGAL OPINION WHETHER THE SANGGUNIANG BAYAN, CARIGARA, LEYTE CAN APPROVE REQUEST TO HOLD COCKFIGHTING ACTIVITIES ...”***

arena pending declaration of validity by the SP of Ordinance No. 2022-132 and Ordinance No. 2022-133.

***WHEREFORE, on Motion of the Honorable Josclu N. Guia, seconded by Honorable Mildred C. Modesto, be it***

**RESOLVED**, as it is hereby resolved to request the Sangguniang Panlalawigan of Leyte, thru its Provincial Legal Officer for legal opinion whether the Sangguniang Bayan, Carigara, Leyte can approve request to hold cockfighting activities at the Canggara Amusement Center sans absence of Sangguniang Panlalawigan resolution declaring valid the ordinance reclassifying the land where the cockpit arena was constructed and the ordinance granting franchise to Patrick V. Makabenta to establish, operate and maintain cockpit arena in the Municipality of Carigara, Leyte.

**RESOLVED FINALLY**, that copy of this resolution be forwarded to the Provincial Legal Officer, Sangguniang Panlalawigan of Leyte, Palo, Leyte and all offices concerned for information and appropriate action.


**APPROVED**, this 24<sup>th</sup> day of April 2024, in Carigara, Leyte

\* \* \* \* \*

I HEREBY CERTIFY to the correctness of the foregoing excerpt.

  
ROMEO M. VIOJAN  
SB Secretary

Attested:

  
JIMMY A. CAMPOSANO  
Municipal Vice Mayor / Presiding Officer





REPUBLIC OF THE PHILIPPINES  
 PROVINCE OF LEYTE  
 MUNICIPALITY OF CARIGARA  
 -oOo-  
**OFFICE OF THE SANGGUNIANG BAYAN**

EXCERPT FROM THE MINUTES/JOURNAL OF THE 128<sup>TH</sup> REGULAR SESSION OF THE 18<sup>TH</sup> COUNCIL OF THE SANGGUNIANG BAYAN OF CARIGARA HELD AT THE SESSION HALL, LEGISLATIVE BUILDING, CARIGARA, LEYTE ON JANUARY 19, 2022.

**PRESENT:**

- |                            |       |                                   |
|----------------------------|-------|-----------------------------------|
| Hon. Eduardo T. Ong Jr.    | ----- | Mun. Vice Mayor-Presiding Officer |
| Hon. Jimmy A. Camposano    | ----- | SB Member                         |
| Hon. Esteban B. Go         | ----- | SB Member                         |
| Hon. Raul Z. Lloren        | ----- | SB Member                         |
| Hon. Lorna A. Marpa        | ----- | SB Member                         |
| Hon. Guillermo I. Panal    | ----- | SB Member                         |
| Hon. Reynaldo A. Bodo      | ----- | SB Member                         |
| Hon. Armando M. Negado     | ----- | SB Member                         |
| Hon. Othello M. Crisostomo | ----- | SB Member                         |
| Hon. Joselu N. Guia        | ----- | SB Member-Liga Fed. President     |
| Hon. Dean Aaron G. Lauron  | ----- | SB Member-SK Fed. President       |

**ABSENT:**

None

\* \* \* \* \*

**ORDINANCE NO. 2022-132**

**AN ORDINANCE RECLASSIFYING PARCEL OF LAND FROM AGRICULTURAL TO COMMERCIAL USE, PARTICULARLY LOT 3904-A, OWNED BY MA. VICTORIA NARIDO BOLONG LOCATED AT BRGY. PARAG-UM, CARIGARA, LEYTE, WITH A TOTAL LAND AREA OF 10,000 SQUARE METERS**

*(Sponsor: Hon. Raul Z. Lloren)*

**WHEREAS**, Section 20 of the Local Government Code of 1991 provides that cities and municipalities may reclassify agricultural lands into non-agricultural uses within their respective jurisdiction under any of the following cases:

- (1) *When the land ceases to be economically feasible and sound for agricultural purposes as determined by the Department of Agriculture (DA); or*
- (2) *Where the land shall have substantially greater economic value for residential, commercial, or industrial purposes as determined by the Sanggunian concerned;*

*cm*  
  
 JIMMY A. CAMPOSANO  
 SB Member

ESTEBAN B. GO  
 SB Member

RAUL Z. LLOREN  
 SB Member

LORNA A. MARPA  
 SB Member

EDUARDO T. ONG JR.  
 Mun. Vice Mayor-Pres. Office

DEAN AARON G. LAURON  
 SB Member-SK Fed. Pres.

JOSELU N. GUIA  
 SB Member-Liga Fed. Pres.

OTHELLO M. CRISOSTOMO  
 SB Member

ARMANDO M. NEGADO  
 SB Member

REYNALDO A. BODO  
 SB Member

GUILLERMO I. PANAL  
 SB Member



REPUBLIC OF THE PHILIPPINES  
 PROVINCE OF LEYTE  
 MUNICIPALITY OF CARIGARA  
 -oOo-  
**OFFICE OF THE SANGGUNIANG BAYAN**

Page 2.Ord. No. 2022-132 –

**WHEREAS**, the Sangguniang Bayan determined per recommendation of the Committee on Land Use, Housing and Agrarian Reform embodied in its Committee Report No. 2022-012, duly adopted that the Lot 3904-A, located in Brgy. Parag-um, Carigara, Leyte, if reclassified to commercial use for purposes of constructing a cockpit arena thereto would entail greater economic value to the land and if the proposed project would push through, the community and the municipality as well would be highly benefited for it will increase the revenues, generate jobs and employment.

**WHEREAS**, all local government units (LGUs) are authorized under Section 16 of the Local Government Code of 1991, otherwise known as the General Welfare Clause, among others, to exercise powers necessary, appropriate, or incidental for its efficient and effective governance and those which are essential to the promotion of the general welfare;

**WHEREAS**, Sec. 5 (c) of the same Code (LGC) provides that general welfare provisions of this Code shall be liberally interpreted to give more powers to local government unit in accelerating economic development and upgrading the quality of life of the people in the community.

**NOW, THEREFORE**, be it ordained by the Sangguniang Bayan in regular session assembled, THAT:


Article 1. **RECLASSIFICATION**. The parcel of land with Lot 3904-A, owned by Ma. Victoria Narido Bolong located at Brgy. Parag-um, Carigara, Leyte, with a total land area of 10,000 square meters, more or less, be reclassified from agricultural to commercial because it would entail greater economic value to the land and if the proposed project would push through, the community and the municipality as well would be highly benefited for it will increase the revenues, generate jobs and employment.

Article 2. **EFFECTIVITY**. This ordinance shall take effect upon approval.

**APPROVED:** January 19, 2022


\* \* \* \* \*

I HEREBY CERTIFY to the correctness of the foregoing resolution.


  
 ROMEO M. VIOJAN  
 SB Secretary

Attested:


  
 EDUARDO T. ONG JR.  
 Municipal Vice Mayor/Presiding Officer

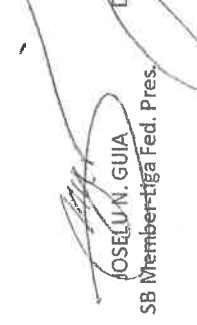
  
 JIMMY A. CAMPOSANO  
 SB Member

  
 ESTEBAN B. GO  
 SB Member

  
 RAUL Z. LLOREN  
 SB Member

  
 LORNA A. MARPA  
 SB Member

  
 DEAN AARON G. LAURON  
 SB Member-SK Fed. Pres.

  
 JOSELYN N. GUIA  
 SB Member-tiga Fed. Pres.

  
 OTHELLO M. CRISOSTOMO  
 SB Member

  
 ARMANDO M. NEGADO  
 SB Member

  
 REYNALDO A. BODO  
 SB Member

  
 GUILLERMO L. ANAL  
 SB Member



REPUBLIC OF THE PHILIPPINES  
PROVINCE OF LEYTE  
MUNICIPALITY OF CARIGARA

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**OFFICE OF THE SANGGUNIANG BAYAN**

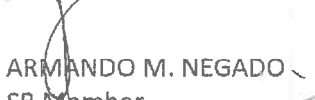
Page 3.Ord. No. 2022-132 –


Concurred:

  
JIMMY A. CAMPOSANO  
SB Member

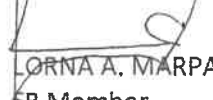
  
RAUL Z. LLOREN  
SB Member

  
GUILLERMO PANAL  
SB Member

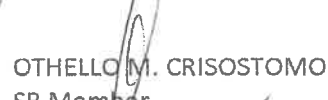
  
ARMANDO M. NEGADO  
SB Member

  
JOSE N. GUIA  
SB Member-Liga Fed. Pres.

  
ESTBAN B. GO  
SB Member

  
LORNA A. MARPA  
SB Member

  
REYNALDO A. BODO  
SB Member

  
OTHELLO M. CRISOSTOMO  
SB Member

  
DEAN AARON G. LAURON  
SB Member-SK Fed. Pres.

Approved:

  
EDUARDO C. ONG  
Municipal Mayor

Date Approved: 1 / 27 / 2022





Republic of the Philippines  
**PROVINCE OF LEYTE**  
 Tacloban City  
 -oOo-



52  
**RELEASED**  
 # 03-026  
 DATE 3.15.2022  
 BY V

**OFFICE OF THE SANGGUNIANG PANLALAWIGAN**

**EXCERPTS FROM THE MINUTES OF THE 128<sup>th</sup> REGULAR SESSION OF THE SANGGUNIANG PANLALAWIGAN OF LEYTE CONDUCTED AT THE SESSION HALL SESSION HALL, LEGISLATIVE BUILDING, CAPITOL GROUNDS, ON MARCH 4, 2022.**

**RESOLUTION NO. 2022-130**

**A RESOLUTION REQUIRING SUBMISSION OF TAX CLEARANCE AND ESTATE TAX CLEARANCE FOR RECLASSIFICATION ON LOT NO. 3904-A LOCATED AT BRGY. PARAG-UM, CARIGARA, LEYTE UNDER ORDINANCE NO. 2022-132.**

**WHEREAS**, pursuant to Section 468 (a)(1)(i) of Republic Act 7160 otherwise known as The Local Government Code of 1991, among the powers and duties of the Sangguniang Panlalawigan is "to review all ordinances approved by the Sanggunians of component cities and municipalities;"

**WHEREAS**, submitted to the Sangguniang Panlalawigan is "**Ordinance No. 2022-132 of Carigara, Leyte** entitled: "**AN ORDINANCE RECLASSIFYING PARCEL OF LAND FROM AGRICULTURAL TO COMMERCIAL USE, PARTICULARLY LOT 3904-A, OWNED BY MA. VICTORIA NARIDO BOLONG LOCATED AT BRGY. PARAG-UM, CARIGARA, LEYTE, WITH A TOTAL LAND AREA OF 10,000 SQUARE METERS**", for approval;

**WHEREAS**, the August Body, upon review, observed that there is disparity of the name of applicant for reclassification and the name in the Tax Declaration;

**WHEREAS**, Tax Clearance Certificate and Certificate of Estate Tax Payment were not attached to the Ordinance;

**NOW, THEREFORE**, on motion presented by Honorable Trinidad G. Apostol, duly seconded by Honorable Maria Carmen Jean Torres-Rama, be it

**RESOLVED**, as it is hereby resolved, to **REQUIRE SUBMISSION OF TAX CLEARANCE AND ESTATE TAX CLEARANCE ON LOT NO. 3904-A LOCATED AT BRGY. PARAG-UM, CARIGARA, LEYTE, FOR RECLASSIFICATION UNDER ORDINANCE NO. 2022-132.**

**RESOLVED FURTHER**, TO CLARIFY DISPARITY OF NAMES IN THE TAX DECLARATION AND THE APPLICANT FOR CONVERSION OF THE SUBJECT LOT UNDER ORDINANCE NO. 2022-132 OF CARIGARA, LEYTE.

-over-

NARAN

x


Page 2/2 – Res. No. 2022-130 dated March 4, 2022  
requiring submission of Tax Clearance and Estate Tax  
Clearance on Lot No. 3904 located at Brgy. Parag-u,,  
Carigara, Leyte

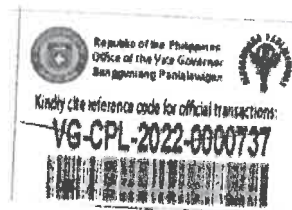
**Approved unanimously.**

**I HEREBY CERTIFY** to the correctness of the foregoing resolution.

**ATTESTED:**

  
**ATTY. CARLO P. LORETO**  
Vice-Governor  
Presiding Officer

  
**FLORINDA JILL S. UYVICO**  
Secretary to the Sanggunian



Copy furnished:

1. LCE and the Sangguniang Bayan  
of Carigara, Leyte
2. Ma. Victoria Narido Bolong  
Carigara, Leyte

FJSU: ASS  
Naom08March2022

*Naom*



Republic of the Philippines  
**DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT**  
DILG-NAPOLCOM Center, EDSA corner Quezon Avenue, West Triangle, Quezon City  
<http://www.dilg.gov.ph>

**DILG OPINION NO. 19 S. 2018**  
19 APR 2018

MR. JOSE O. PEPINO, JR.  
Secretary to the Sanggunian  
Office of Sanggunian Bayan of Hinatuan  
Hinatuan, Surigao del Sur

Dear Mr. Pepino:

This is in reference to the request for this Department's assistance to resolve issues and concerns regarding the review of ordinances by the Sangguniang Panlalawigan of Surigao del Sur. Per representations in the letter, the concerned Sangguniang Panlalawigan has a common practice of requesting additional documentary evidence on the conduct of public hearings for every ordinance passed by the Sangguniang Bayan and submitted before it for review.

Specifically, the following questions were raised:

1. *Whether the opinion set by the former Caraga DILG Regional Director Atty. Rene K. Burdeos in reply to the letter of former Vice Mayor Cristina M. Camba operates and still consistent to the prevailing jurisprudence regarding legislation;*
2. *What is now the effect of S.P. Ordinance No. 26, Series of 2014 of the Sangguniang Panlalawigan of Surigao del Sur considering that the Supreme Court has decided on the issue in Villacorta vs. Bernardo (143 SCRA 480) vis-à-vis to the opinion of Atty. Burdeos;*
3. *Is it correct to say that the Sangguniang Panlalawigan has no power and control over Sangguniang Bayan as the same is retained by congress as former DILG Secretary Angelo T. Reyes put it in DILG Opinion No. 21, Series of 2005?*
4. *Lastly, does RA 7160 or any related order requires the attendance of SB Members/Barangay Council in the committee hearing or in the review of ordinances by the higher Sanggunian?"*

As to the first question, the assailed legal opinion issued by the former Caraga Regional Director, Atty. Rene K. Burdeos, was reviewed insofar as the issue addressed by it is concerned. The discussion therein proved to be consistent with the existing position of the Department on the matter. It correctly cited Section 56 of R.A. No. 7160, otherwise known as the "Local Government Code of 1991", giving emphasis on the first sentence of Paragraph C thereof, which reads *"If the Sangguniang palalawigan finds that such*

*ordinance or resolution is beyond the power conferred upon the xxx sangguniang bayan concerned, it shall declare such ordinance or resolution invalid in whole or in part."*

Accordingly, it rendered an opinion which reads:

*"(T)he Sangguniang panlalawigan cannot compel the sangguniang bayan to submit proof that public hearing was conducted since the Local Government Code only mentioned that what should be submitted is a copy of approved ordinance. The reviewing authority cannot ask additional requirement/s other than those mentioned in the Code. The Supreme Court already ruled that an ordinance cannot provide additional requirements on top of the requirements already required under a national law as it shall impede the exercise of rights granted to it in a general law and/or make a general law subordinate to a local ordinance (Villacorta vs. Bernardo, 143 SCRA 480). The only ground upon which a provincial board may declare any ordinance or resolution is invalid is when such ordinance or resolution is beyond the powers conferred upon the council making the same. Absolutely no other ground is recognized by law. If the provincial board passes these limits, it usurps the legislative functions of the municipal council. (Moday vs. Court of Appeals, G.R. No. 107916, February 20, 1997)."*

The foregoing opinion sufficiently presented a comprehensive interpretation of Section 56 (C). This level finds no compelling reason or legal basis to deviate from said position.

Further, not all ordinances require conduct of public hearing. In DILG Opinion No. 54 series of 2007, the Department discussed that *"under the Local Government Code of 1991 (RA 7160), prior public hearings are required where: (1) local government site, offices and facilities are to be transferred (par. B and par. C, Section 11, RA 7160); (2) reclassification of agricultural lands (Sec. 20, ibid); (3) contribution of funds, real estate, equipment, and other kinds of property and appointment or assignment of personnel in support of undertakings commonly beneficial to local government units which have grouped themselves, consolidated or coordinated their efforts, services and resources (Sec. 33, ibid); (4) levy of taxes, fees or charges on any base or subject not otherwise specially enumerated in the Local Government Code as taxed under the NIRC, as amended, or other applicable laws (Sec. 186, ibid); and (5) enactment of local tax ordinances and revenue measures (Sec. 187, ibid)".*

As to the second question, Sangguniang Panlalawigan Ordinance No. 26, Series of 2014 remains valid in the absence of any declaration that the same is unconstitutional or invalid. We adhere to the time-honored principle of presumption of validity of legislative enactments remains controlling. Legislative enactments remain valid and effective unless and until declared otherwise by competent authority. Incidentally, the decision in

*Villacorta vs. Bernardo*<sup>1</sup> cannot be construed to have any effect against SP Ordinance No. 26 s. of 2014 in the sense that the ruling therein applies solely to Sangguniang Panlungsod Ordinance No. 22 of Dagupan City. At the very least, the case shall serve merely as a precedent. Hence, SP Ordinance No. 26 Series of 2014 can likewise be challenged.

As to the third question, we opine on the affirmative. We have to reiterate the statement enunciated in DILG Opinion 21 series of 2005, *"The Sangguniang Panlalawigan xxx has no control over lower sanggunians as the same is retained by Congress over all legislative bodies. What was given by Congress to the Sanggunian Panlalawigan is the power to review municipal ordinances or resolutions approving the local development plans or public investment programs pursuant to Section 56 of R.A. No. 7160, which cannot be stretched to include the power to repeal"*.

Finally, as to the fourth question, we found no provision in the Local Government Code or other related laws which expressly requires the attendance of Sangguniang Bayan or Sangguniang Barangay members in the committee hearing or in review of ordinances by the higher Sanggunian. The governing law on the matter is the herein below cited Section 56 of the Local Government Code.

*"SECTION 56. Review of Component City and Municipal Ordinances or Resolutions by the Sangguniang Panlalawigan. - (a) Within three (3) days after approval, the secretary to the Sanggunian Panlungsod or Sangguniang bayan shall forward to the Sangguniang Panlalawigan for review, copies of approved ordinances and the resolutions approving the local development plans and public investment programs formulated by the local development councils.*

*(b) Within thirty (30) days after receipt of copies of such ordinances and resolutions, the Sangguniang Panlalawigan shall examine the documents or transmit them to the provincial attorney, or if there be none, to the provincial prosecutor for prompt examination. The provincial attorney or provincial prosecutor shall, within a period of ten (10) days from receipt of the documents, inform the Sangguniang Panlalawigan in writing of his comments or recommendations, which may be considered by the Sangguniang Panlalawigan in making its decision.*

*(c) If the Sangguniang Panlalawigan finds that such an ordinance or resolution is beyond the power conferred upon the Sangguniang Panlungsod or Sangguniang bayan concerned, it shall declare such ordinance or resolution invalid in whole or in part. The Sangguniang Panlalawigan shall enter its action in the minutes and shall advise the corresponding city or municipal authorities of the action it has taken.*

<sup>1</sup> G.R. No. L-31249, 19 August 1986.



(d) If no action has been taken by the Sangguniang Panlalawigan within thirty (30) days after submission of such an ordinance or resolution, the same shall be presumed consistent with law and therefore valid."

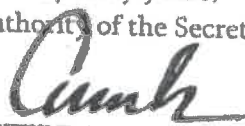
The aforesaid law does not require the attendance of Sangguniang Bayan/Sangguniang Barangay Members in any legislative hearing of the Sangguniang Panlungsod.

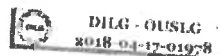
This issue had long been settled through an EN BANC Ruling of the Supreme Court in *Negros Oriental II Electric Cooperative vs. Sangguniang Panlungsod of Dumaguete City*<sup>2</sup> when it discussed that there is no provision in the Local Government Code explicitly granting local legislative bodies, the power to issue compulsory process and the power to punish for contempt. However, it is noteworthy that there is also no provision expressly prohibiting the Sangguniang Panlungsod from inviting the Sangguniang Bayan/Sangguniang Barangay members concerned, or any resource person for that matter, to a legislative hearing. Yet, it is even more unjustifiable for the concerned Sanggunian members to decline said invitation if the agenda is the review of its municipal ordinances.

This opinion is being rendered without prejudice to any contrary opinion of competent authorities and the courts.

Thank you.


Very truly yours,  
By Authority of the Secretary:

  
AUSTERE A. PANADERO  
Undersecretary ✓



CC: RD LILIBETH A. RAMACION, CESO III  
DILG Regional Office XIII  
1559 Matimco Bldg., Km. 4  
Libertad, Butuan City

Office of the Provincial Council  
Tandag City, Surigao del Sur

Legal/RA  


<sup>2</sup> *Negros Oriental II Electric Cooperative vs. Sangguniang Panlungsod of Dumaguete City*, 155 SCRA 421.



Republic of the Philippines  
Province of Leyte  
MUNICIPALITY OF CARIGARA  
-oOo-

*Office of the Sangguniang Bayan*

COMMITTEE REPORT NO. 2024-26

Submitted by : The Committee on Games and Amusement, and Franchise

Subject : To discuss the following:

1. To discuss the request of Patrick V. Makabenta, CAC Operations Manager to hold Pintakasi on April 2, 3, 9, 10, 16 & 17, 2024 at Canggara Amusement Center, Brgy. Parag-um, Carigara, Leyte, to showcase the different breed of fighting cocks and to boost the local economy. *cooperative*
2. To discuss the request of Patrick V. Makabenta, CAC Operations Manager to hold 3-Cock Double Barrel Derby on April 19, 2024 at Canggara Amusement Center, Brgy. Parag-um, Carigara, Leyte, to showcase the different breed of fighting cocks and to boost the local economy. *0.17 no cock fighting*
3. To discuss the letter request dated March 7, 2024 of Mr. Rolly C. Borrico, President of ECO2TODA, for the grant of Provisional Authority to Operate MCH to new members of their association.
4. To discuss the letter request dated March 3, 2024 of Mr. Roger H. Fallera, President of CABATODA, for the grant of Provisional Authority to Operate MCH to new members of their association. AND
5. To discuss the letter request dated March 11, 2024 of Mr. Renante C. Advincula, President of CATMODA, for the grant of Provisional Authority to Operate MCH to new members of their association.

To : The Presiding Officer

The Committee to which the above-mentioned items was referred conducted a meeting last March 25, 2024 at about 1:00 PM at the SB Session Hall. Present thereto are the Chairman, Hon. Joselu N. Guia, and members: Hon. Kim Anthony G. Agner and Hon. Arvin N. Urmeneta. Absent are Hon. Raul Z. Lloren (Vice-Chair) and Hon. Leny T. Ong. Also present thereto are: Reynante C. Advincula, President of CATMODA; Roger H. Fallera, President of CABATODA; Pomposo Capalar, representative of ECO2TOA; and Teofilo Lucelo, Chief CATEMO .

On ITEMS No. 1 & 2, After careful study on the documents submitted and exhaustive deliberation, this body found no cogent reason to deny the above mentioned events. PD 449 and the local cockfighting ordinance, allows the holding of Pintakasi or Derby, or any other

form of cockfighting, with intention to promote the different breeds of gamecocks in the municipality and at the same time boost its' local economy, provided they shall be held only in the license cockpits, and for purposes not contrary to law, rules and regulations.

Amid some speculation and adverse reaction questioning the validity and legality of: a) **Municipal Ordinance No. 2022-132** – “An Ordinance Reclassifying Parcel of Land from Agricultural to Commercial Use, Particularly Lot No. 3904-A, Owned by Ma. Victoria Bolong located at Brgy. Parag-um, Carigara, Leyte, with a total land area of 10,000 square meters”, absence of a final order from the Sangguniang Panlalawigan of Leyte declaring valid the aforementioned Ordinance, in view of SP Resolution No. 2022-130 dated March 4, 2022 – “A Resolution Requiring Submission of Tax Clearance and Estate Tax Clearance for Reclassification on Lot No. 3904-D located at Brgy. Parag-um, Carigara, Leyte under Ordinance No. 2022-132”, and b) **Municipal Ordinance No. 2022-133** – “An Ordinance Granting Franchise to Patrick V. Makabenta to Establish, Operate and Maintain Cockpit Arena in the Municipality of Carigara, Leyte”, which was referred to the SP Committee on Games and Amusement on May 24, 2022, as per SP Resolution No. 2022-260, it is our presumption that the ordinances aforementioned are valid and effective.

Following the DILG Opinion No. 19, s. 2018 (as hereto attached in this report), this Body opined that the Sangguniang Panlalawigan of Leyte cannot compel the Sangguniang Bayan to submit tax clearance and estate tax clearance since the Local Government Code only mentioned that what should be submitted is a copy of approved ordinance. *The reviewing authority cannot ask additional requirement/s other than those mentioned in the Code. The Supreme Court already ruled that an ordinance cannot provide additional requirements on top of the requirement already required under the national law as it shall impede the exercise of rights granted to it in a general aw and/or make a general law subordinate to a local ordinance (Villacorta vs. Bernardo, 143 SCRA 480. The only ground upon which a provincial board may declare any ordinance or resolution invalid is when such ordinance or resolution is beyond the powers conferred upon the council making the same. Absolutely no other ground is recognized by law. If the provincial board passes these limits, it usurps the legislative functions of the municipal council. (Moday vs. Court of Appeals G.R. No. 107916, February 20,1997). (Italics supplied).*

Thus, it is the stand of this Committee that **Municipal Ordinance No. 2022-132** remains valid based on the time-honored principle of presumption of validity of legislative enactments which remain valid and effective unless and until declared otherwise by competent authority.

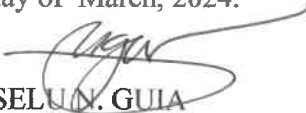
Relatedly, **Municipal Ordinance No. 2022-133**, remain valid and effective unless and until declared otherwise by competent authority. Section 56 (d) of the Local Government Code of 1991 provides – *(d) If no action has been taken by the sangguniang panlalawigan within thirty (30) days after submission of such an ordinance or resolution, the same shall be presumed consistent with law and therefore valid.” (Italics Supplied).* The aforementioned Ordinance was referred to the SP Committee on Games and Amusement on May 24, 2022, and since then to date no action was undertaken by the later, therefore the same is deemed to be valid and effective by operation of law, until declared to the contrary by competent authority.

In view of the foregoing, this Body unanimously recommends approval of the request of Patrick Makabenta to: a) hold Pintakasi on April 2, 3, 9, 10, 16 & 17, 2024, and b) hold 3-Cock Double Barrel Derby on April 19, 2024, all at Canggara Amusement Center, Brgy. Paragum, Carigara, Leyte, to promote the different breed of gamecocks in the municipality and boost local economy.


This Body, likewise recommend to give authority to the Local Chief Executive, Hon. Eduardo T. Ong, Jr. to issue Special Permit for the said purpose/s.

On ITEMS No. 3, 4 & 5, After careful study on the documents submitted by the above mentioned TODAs and exhaustive deliberation, this body decided to held in abeyance approval to grant the Provisional Authority to Operate MCH pending submission of their respective board resolution approving the request of additional member drivers/ operators in their association.

Respectfully submitted this 27<sup>th</sup> day of March, 2024.

  
JOSELUN X. GUIA  
Chairman

  
KIM ANTHONY G. AGNER  
Member

  
ARVIN N. URMENETA  
Member

RAUL Z. LLOREN  
Vice Chair  
(Absent)

LENY T. ONG  
Member  
(Absent)