



Republic of the Philippines  
**DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT**  
Francisco Gold Condominium II  
EDSA Cor. Mapagmahal St., Diliman  
Quezon City



AND LOCAL GOVERNMENT  
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**LEGAL SERVICE**

DILG Legal Opinion No. 20 s. 2012

**FEB 23 2012**

**Hon. ROMUALDO S. GODIN**  
Vice Mayor  
Municipality of Bayog  
Province of Zamboanga Del Sur

Dear Vice Mayor Godin:

We are in receipt of your letter seeking legal opinion and advise on the resolution of your predicament wherein the **Sangguniang Panlalawigan of Zamboanga Del Sur** thru its Resolution No. 2K11-579 **declared invalid Bayog's Municipal Ordinance No. 11-92-11** for being **contrary to RA 7942** or the Philippine Mining Act of 1995.

Bayog's Municipal Ordinance No. 11-92-11 entitled "An Ordinance Protecting and Conserving the Integrity of the Land and Water Resources in the Municipality of Bayog, Zamboanga Del Sur" was passed and enacted on 18 July 2011.

Said municipal ordinance prohibits Open Pit and Open Cut Land Surface Mining Operations, and provides, among others, the directive to companies engaged in said operation within the municipality to STOP such activity within one (1) year from the effectivity of the ordinance, and allows the Municipal Mayor to recommend to the Provincial Governor the issuance of a Cease and Desist Order to stop mining operations in violation of the ordinance.

Upon review, the Sangguniang Panlalawigan of Zamboanga Del Sur noted that the municipal ordinance did not bear the signature of the Municipal Mayor, and there was nothing on record to show that the Municipal Mayor exercised his veto powers.

Finally, on 24 November 2011, the Sangguniang Panlalawigan passed the assailed resolution declaring invalid the said ordinance for being **contrary to RA 7942** or the Philippine Mining Act of 1995.

In reply to your request, we regret to inform you that the Department has no mandate to hold valid or not the resolution passed by a sangguniang panlalawigan declaring invalid a municipal ordinance, nor pass any determination as to propriety of the act of the Sangguniang Panlalawigan in doing so.

For academic discussion, however, it is of significant matter to note the present state of the law on the subject -- the only ground upon which a provincial board may declare any municipal resolution, ordinance, or order invalid is when such resolution, ordinance, or order is 'beyond the powers conferred upon the council or president making the same.' Absolutely no other ground is recognized by the law. (*Moday vs Court of Appeals, G.R. No. 107916, 20 February 1997*)

The assailed resolution enjoys the presumption of validity under the law. Judicial recourse may be sought to resolve the issue of validity of the said resolution.

Thank you very much.

Very truly yours,

*[Signature]*  
**JESUS B. DOQUE IV**  
Director III