



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT

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OFFICE OF THE UNDERSECRETARY FOR LOCAL GOVERNMENT

DILG Legal Opinion No. 38, S. 2013

05 DEC 2013

MR. ARMANDO M. MERILLEN0
President
CABLE LINK AND HOLDINGS CORPORATION
8210 Dr. A. Santos Avenue
Paranaque City

Dear Mr. Merilleno:

This has reference to your letter dated 27 September 2013 requesting this Department's opinion on the legality of the imposition of additional fee by barangay officials to Cable Link, considering the Congressional Franchise granted to it under RA 9382.

In your letter, you averred the following:

- a. Cable Link is a duly registered cable television service provider and was granted a Congressional Franchise to operate as such by virtue of RA 9382. Cable Link provides services to various communities in Metro Manila, Cavite, and Rizal;
- b. Cable Link's mandate is to operate and maintain cable / community antennae television (CATV) system and the distribution or transmission of said service to homes, offices, condominiums, subdivisions, hotels, restaurants and other residential, commercial and industrial structures and other public and private conveyance within the Philippines;
- c. In the course of performing this mandate, Cable Link delivers its cable TV signal to the public through cable lines that are laid out and attached to electrical poles of Meralco¹ rendering it inevitable to traverse different barangays within the city where Cable Link operates;

¹ Made possible through a Joint Pole Agreement with Meralco

- d. Some barangays demand payment of additional fees whenever Cable Link conducts cable-wire attachment activities in their respective areas, a practice viewed as challenging and prohibitive that hinders the mandate of Cable Link to provide high quality service to the public and the paying subscribers.
- e. DILG Opinion No. 21, Series of 2010 was issued upon Cable Link's query on the legality of the imposition of a local franchise tax, to which DILG viewed that Cable Link is exempted from paying local franchise tax provided that this exemption is accorded to existing cable/community antennae television systems pursuant to Section 10, RA 9382.
- f. On 19 September 2013, HLURB also rendered its opinion on the practice by homeowners associations' of imposing and demanding toll fees or requiring stickers before a service vehicle can be allowed to enter and pass thru their villages.

Issue:

The legality of the imposition of additional fees by barangay officials to Cable Link when it conducts cable-wire attachment activities in their respective areas

This Department's Comments / Opinion:

You seem to point out two concerns -- first, the charging of additional fees by barangay officials whenever Cable Link conducts cable wire attachment activities, and the other, the exaction of entrance fees or the requirement of a purchase of stickers before allowing Cable Link's service vehicle to enter the village and perform the aforesaid activity. We shall discuss these issues jointly.

A local government unit (LGU), a barangay including, may impose a tax, fee, or a charge to generate local revenues and such authority is exercised by the respective local sanggunians.² A tax is any imposition under the taxing power primarily to raise revenues³ and in general, all kinds of exactions of monies which become public funds.⁴ As defined under RA 7160 or the Local Government Code ('LG Code'), a fee is a charge fixed by law or ordinance for the regulation or inspection of a business activity⁵ while charges refer to pecuniary liability, as rents or fees against persons or property.⁶

The LG Code also specify subjects upon which an LGU may impose the tax, fee or charges, as the case may be -- Section 134, with respect to a province, Section 142, with

² Section 132, RA 7160 or the Local Government Code of 1991 ('LG Code')

³ Black's Law Dictionary

⁴ Progressive Development Corporation vs. Quezon City, G.R. No. 36081, 24 April 1989

⁵ Section 131 (f), RA 7160

⁶ Section 131 (g), RA 7160

respect to municipality, Section 151, with respect to a city, and Section 152, with respect to a barangay.⁷ Further, an LGU may exercise the power to levy taxes, fees or charges on any base or subject not otherwise specifically enumerated in the LG Code or taxed under the provisions of the National Internal Revenue Code, as amended, or other applicable laws, provided, that the taxes, fees, or charges shall not be unjust, excessive, oppressive, confiscatory or contrary to declared national policy and that the ordinance levying such taxes, fees or charges shall not be enacted without any prior public hearing conducted for the purpose.⁸

With regard to fees and charges that may be imposed by a barangay unit, such fees must be in connection with the regulation or the use of barangay-owned properties or service facilities;⁹ on commercial breeding of fighting cocks, cockfights and cockpits, places or recreation which charge admission fees, and on billboards, signboards, neon signs and outdoor advertisement.¹⁰ Since the power of the barangay on this aspect is only in the nature of fees, the same should be based merely on the cost of inspecting the premises so as to determine their compliance with safety, sanitation, and other government regulations.¹¹

On the hand, Cable Link invokes its Congressional Franchise under RA 9382 which mandates it to construct, install, establish, operate and maintain for commercial purposes and in the public interest, cable/community antennae television (CATV) systems and other related services in and between the different provinces, cities and municipalities in the Philippines and between the Philippines and other countries and territories through the reception of audio, visual and other signals of the different national and local television and radio stations in the Philippines and those of foreign television, radio and other stations and the distribution or transmission of the same to homes, offices, condominiums, subdivisions, hotels, restaurants and other residential, commercial and industrial structures and other public and private conveyance within the Philippines.¹²

Looking at the acts complained of and allegedly committed by the barangay officials, namely, the imposition and collection of fees for the conduct of cable-wire attachment activities in their respective areas, and of entrance fees and/or the requirement to purchase village stickers before allowing entry therein, we are of the view that such imposition and collection of these fees by the barangays are not sanctioned under the LG Code and that Cable Link's activities performed pursuant to its mandate must not be hindered by unnecessary impositions outside an LGUs' authority to tax.

⁷ DILG Opinion No. 026-10 dated 10 March 2010

⁸ Section 186, RA 7160

⁹ Section 152(b), RA 7160

¹⁰ Section 152(d), RA 7160

¹¹ DILG Opinion No. 052-99 dated 08 April 1999, citing Page 178 of Local Government Taxation Annotated. Ursal, 1992)

¹² Section 1 on Nature and Scope of Franchise, RA 9382