



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.com.ph>

**DILG OPINION NO. 37** 7-20-18

**HON. ALLAN L. RELLON, DPA, Ph.D**  
Office of the City Mayor  
Tagum City, Province of Davao del Norte

09 JUL 2018

Dear **Mayor Rellon**:

This pertains to your request for guidance and urgent legal opinion concerning the proper interpretation of Section 56 of the Local Government Code (LGC) of 1991. Specifically, the request was prompted by the actions taken by the present Sangguniang Panlalawigan (SP) of Davao del Norte when your City Ordinance No. 820, S-2017 which underwent mandatory review by that Body were allegedly acted upon beyond the thirty (30) day period required by law<sup>1</sup> and existing jurisprudence.<sup>2</sup> Thus, you put forward the observation that the aforesaid ordinance which were allegedly acted after thirty days but which the provincial council contented that they have exercised the power of review through its approved Resolution No. 566 series of 2017 on November 8, 2017 should already be deemed consistent with law and therefore valid.

In addressing your request, stating the applicable provision of law which is pertinent and edifying on the issue raised is no less instructive. As you correctly

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<sup>1</sup> **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 the 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.

(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.

<sup>2</sup> *Acaac vs. Azcuna*, G.R. No. 187378, September 30, 2013.

pointed out, Section 56 of the LGC is the law which deals with the provincial council's review of ordinances coming from component cities and municipalities. The review is mandatory. In express terms, the afore-said provision directs the manner, procedure, timeline and type of legislative measures covered by the action to be undertaken by the sangguniang panlalawigan concerned. Specifically, the action to be taken consists of declaring the ordinance or resolution invalid in whole or in part for being ultra vires within thirty (30) days from its receipt by the higher sanggunian. Conversely, if no action is taken by the sangguniang panlalawigan within the reglementary period of thirty (30) days, the ordinance or resolution being reviewed is then presumed valid and consistent with law. Please take note that the procedures cited are statutory and explicitly espoused by law.

In your letter, it was represented that on August 15, 2017, the Sangguniang Panlungsod of Tagum passed City Ordinance No. 820, S-2017, entitled "An ordinance entering into a loan agreement with the DBP in the amount of P680M to fund the acquisition of Heavy Equipment, Acquisition of Service Vehicles, Acquisition of Various Equipment for Environmental Programs, Development of Sanitary Landfill, Acquisition of Patrol Cars, Traffic Signalization Projects and Various Multi-Sectoral Vertical Projects and thereby authorizing the LCE to sign for and in behalf of the City Government of Tagum" which was endorsed to the Sangguniang Panlalawigan on August 30, 2017. The said ordinance were declared modified by the Sangguniang Panlalawigan of Davao del Norte through its approved Resolution No. 566 series of 2017 signed on 8 November 2017 beyond the thirty day period mandated by law. On January 18, 2018, the Sangguniang Panlungsod approved Resolution No. 862, S-2018, "A Resolution declaring City Ordinance No. 820, S-2017 as deemed approved pursuant to R.A. 7160, Title II, Chapter III, Section 56 and the execution of the items for the purpose of the loan shall be the subject to the strict compliance of relevant ordinance and other applicable laws". In support, you included as attachments the following documents consisting of the following:

1. City Ordinance No. 820, s-2017, entitled "An ordinance entering into a loan agreement with the DBP in the amount of P680M to fund the acquisition of Heavy Equipment, Acquisition of Service Vehicles, Acquisition of Various Equipment for Environmental Programs, Development of Sanitary Landfill, Acquisition of Patrol Cars, Traffic Signalization Projects and Various Multi-Sectoral Vertical Projects and thereby authorizing the LCE to sign for and in behalf of the City Government of Tagum", enacted and passed on 15 August 2017; and
2. Resolution No. 566, entitled "Returning Ordinance No. 820, S-2017 of the Sangguniang Panlungsod of Tagum, this Province An ordinance entering into a loan agreement with the DBP in the amount of P680M to fund the acquisition of Heavy Equipment, Acquisition of Service Vehicles, Acquisition of Various Equipment for Environmental Programs, Development of Sanitary Landfill, Acquisition of Patrol Cars, Traffic Signalization Projects and Various Multi-Sectoral Vertical Projects and thereby authorizing the LCE to sign for and in behalf of the City Government of Tagum", for modification and/or amendment".



Accordingly, may we emphasize that the Department has been very consistent with its legal opinion that the phrase "take action" in Section 56 (d) of R.A. 7160 should mean that the Sangguniang Panlalawigan, within thirty days upon receipt of the copy of the ordinance, should have rendered its legislative action in the form of a resolution containing their *approval* or *disapproval* in whole or in part of the ordinance or resolution submitted to them for review. It is not enough that the measure be deliberated, debated and voted upon or simply referred to committee for further action because what is required of them is the enactment of a legislative product that will formally and finally put to rest a given measure or issue. This legislative product is imbued with public interest so much so that the same shall serve as basis of the general public to rely upon in performing their respective obligations or asserting their rights in a given territory. Absent this product or document, all legislative debates are left as silent records becoming unenforceable as against third persons. Thus, the afore-stated ordinances should now be deemed consistent with law and perforce valid.

In the case of the said ordinance of Tagum City, Davao del Norte, the lapse of the thirty day period as shown above coupled with the Sangguniang Panlalawigan failure to act thereon within the period fixed by law is loud and clear. Inarguably, such ordinance under review is now presumed consistent with law and therefore valid.

In sum, the Department's interpretation as to the mandatory character of the thirty day period is impelled by public policy considering that ordinances and similar legislative measures should attain stability at a given point in time. In the same vein, it is also settled that whenever power is given and it has to be exercised within a certain period of time, then such period is construed a limitation to such power.<sup>3</sup> The foregoing eschews discretion and the same proceeds from a mandatory command. As explicated in **Acaac**, viz:

***"In this case, petitioners maintain that the subject ordinance cannot be deemed approved through the mere passage of time considering that the same is still pending with the Committee on Fisheries and Aquatic Resources of the SP. It, however, bears to note that more than 30 days have already elapsed from the time the said ordinance was submitted to the latter for review by the SB; hence, it should be deemed approved and valid pursuant to Section 56 (d) above.***

x x x

***Par. (d) should be read in conjunction with par. (c), in order to arrive at the meaning of the disputed word, "action." It is clear, based on the foregoing provision, that the action that must be entered in the minutes of the sangguniang panlalawigan is the declaration of the sangguniang panlalawigan that the ordinance is invalid in whole or in part. x x x.***

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<sup>3</sup> DILG Legal Opinion No. 13, s. 2015, dated May 21, 2015.

*This construction would be more in consonance with the rule of statutory construction that the parts of a statute must be read together in such a manner as to give effect to all of them and that such parts shall not be construed as contradicting each other. x x x laws are given a reasonable construction such that apparently conflicting provisions are allowed to stand and given effect by reconciling them, reference being had to the moving spirit behind the enactment of the statute."*

We hope to have guided you accordingly.

Very truly yours,

By Authority of the Secretary

A handwritten signature in dark ink, appearing to read 'Austere A. Panadero', written in a cursive style.

AUSTERE A. PANADERO  
Undersecretary