

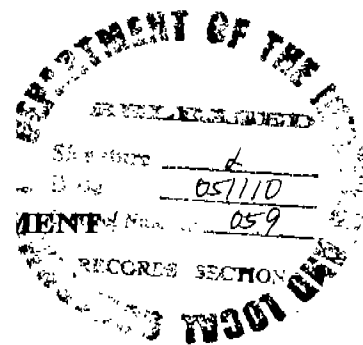
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REPUBLIC OF THE PHILIPPINES
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT

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OFFICE OF THE SECRETARY



LEGAL OPINION NO. 52 S. 2005

September 2005

MR. JAYSON G. PASCUAL
Unit 426 Chateau Verde Condominium
Valle Verde I, Pasig City

Dear Mr. Pascual:

This pertains to your letter seeking our legal opinion on the propriety of the Revenue Ordinance No. 01 s-97 passed by the Sangguniang Barangay of Barangay Socorro, Cubao, Quezon City.

In reply thereto, please be informed that laws, whether national or local (ordinance) enjoy the presumption of validity and legality. Questioning a law or ordinance cannot be made via a request for legal opinion from this Department but through proper court proceedings. Moreover, it has been the consistent stand of this Department to adhere to the rule on the presumption of regularity and validity of the action the concerned Sangguniang barangay members have undertaken in the enactment of Revenue Ordinance pursuant to Rule 131, Section 3 (m) of the Rules of Court.

Parenthetically, Section 187 of the Local Government Code of 1991 (RA 7160) provides for the procedure on how to question or contest a tax ordinance. It states that:

"SECTION 187. Procedure for Approval & Effectivity of Tax Ordinances and Revenue Measures; Mandatory Public Hearings -
The procedure for approval of local tax ordinances and reverse measures shall be in accordance with the provisions of this Code: Provided, That public hearings shall be conducted for the purpose or to the

enactment thereof: Provided further, That any question on the constitutionality or legality of tax ordinances or revenue measures may be raised on appeal within thirty (30) days from the effectivity thereof to the Secretary of Justice who shall render a decision within sixty (60) days from the date of receipt of the appeal: Provided, however, That such appeal shall not have the effect of suspending the effectivity of the ordinance and the accrual and payment of the tax, fee, or charge levied therein: Provided, finally, That within thirty (30) days after receipt of the decision or the lapse of the sixty-day period without the Secretary of Justice acting upon the appeal, the aggrieved party may appropriate proceedings with a court of competent jurisdiction."

It is clear from the above-mentioned provision that you should have exercised your right to question the said revenue ordinance within 30 days from the effectivity thereof and that is on September 8, 1997.

If however, you are bent in questioning the propriety of the subject ordinance, proper judicial intervention must be undertaken as only the courts are empowered to declare the invalidity of laws.

Hope we have enlightened you on the matter.

Very truly yours,

ANGELO T. REYES

Secretary

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Office of inquiry



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