



REPUBLIC OF THE PHILIPPINES

## Department of Budget and Management

Malacañang, Manila

### LEGAL OPINION NO. L-B/C-2002-03

**SUBJECT : Local Government Budgeting and Compensation**

**ISSUE :** Whether or not Vice-Mayor Armando Abuntal and the other Members of the Sangguniang Bayan (SB) of the Municipal Government of Lucban, Quezon, who have pending cases before the Office of the Ombudsman, are entitled to the Anniversary Bonus (AB) granted by the Municipality to its officials and employees pursuant to Administrative Order (A.O.) No. 263, as implemented by Local Budget Circular (LBC) No. 65 dated 03 March 1997.

**FACTS :** Vice-Mayor Abuntal and other SB Members were charged with Malicious Prosecution before the Office of the Ombudsman (OMB) and the Municipal Circuit Trial Court after a case filed by the said officials before the OMB against Mr. Charlie Obleada was dismissed.

Consequently, the subject officials were denied the grant of AB in view of the pending cases filed against them pursuant to Paragraphs 3.1.3 and 3.1.1 of LBC No. 65 which stated, among others, those who are exempted/excluded from the grant of AB, to wit:

"3.0 Exemption

x x x

3.1.3 When they have cases pending before the Office of the Ombudsman, the Prosecutor's Office or other administrative bodies which related to acts omissions in connection with their official duties or functions and where it has already been omissions in connection with their official duties or functions and where it has already been resolved by the Offices concerned that there exist prima facie cases; and

3.1.4 When there is pending criminal information filed

- 3.1.4 exist prima facie cases; and  
 When there is pending criminal information filed against them in Courts which related to acts or omissions in connection with their official duties or functions." (underscoring ours)

Vice-Mayor Abuntal contends that the cases filed against them are not in connection with the performance of their duties. Thus, they should not be excluded from the grant of AB.

**OPINION :** Vice-Mayor Abuntal and the SB Members concerned are entitled to receive AB since the charges filed against them are not in connection with their official functions.

In the case of *Inting v. Tanodbayan*, 97 SCRA 497, the Supreme Court held that for an offense to be "in connection with employment in the government", the act constituting the offense must be "**intimately connected with such employment.**" In that case, the respondent was held to have committed an offense related to her employment when he made untruthful statements in her Personal Data Sheet.

Using this principle, the charge of Malicious Prosecution is not intimately connected with employment of the defendants because the alleged offense may still have been committed albeit they are not holding such office. It is noted that in the Complaint filed against these public officials, it was alleged that the Complaint filed by the latter before the OMB made Mr. Obleada appear that he has cheated or secured the influence of someone in the payment of rentals for the use of the Municipal bulldozer.

**REFERENCE :** Memorandum of the Secretary dated 18 January 2002 to DBM RO-IV

*Recommended:*

  
**JANET B. ABUEL**  
 Director, LLS

*Approved:*

  
**EMILIA T. BONCODIN**  
 Secretary