



REPUBLIC OF THE PHILIPPINES

Department of Budget and Management
Malacañang, Manila

LEGAL OPINION NO. L-G-2001-05

SUBJECT : Local Government Compensation

- ISSUES** : (1) Whether or not Barangay Tanods and members of the Lupong Tagapamayapa are among those included in the phrase '*and other barangay officials*,' Section 391 (a.10) of the Local Government Code of 1991 (Code).
- (2) Whether or not the Sangguniang Bayan through the Municipal Budget Officer can disallow the grant of honorarium and clothing allowance pursuant to the provision of Section 333 of the Code.

FACTS : Barangay Poblacion has been granting its Barangay Tanods and the members of the Lupong Tagapamayapa, honorarium of P250 each per month and P1,000 clothing allowance, pursuant to Sub-paragraph 3.4 of Local Budget Circular (LBC) No. 63, dated 22 October 1996, which provides:

"3.4 Barangay tanods and members of the Lupong Tagapamayapa may be granted with honorarium, allowances or other emoluments provided the total amount shall not exceed the minimum salary rate for SG-I."

It is represented that the said grant is within the 55% Personal Services Limitation contemplated under sub-paragraph 5.3 of the same Circular which runs:

"5.3 Appropriations for personal services of a barangay for one (1) fiscal year shall not exceed fifty-percent (55%) of the total annual income actually realized from local sources during the next preceding fiscal year."

Despite the foregoing legal anchor, the grant of said honorarium and clothing allowance was disapproved by the Municipal Budget Officers.

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OPINION: First Issue. The lupong tagapamayapa and community brigade (barangay tanods), are deemed barangay officials.

Sections 391 (a)(10) and 333 of the Code find application, to wit:

"Sec. 391. The sanggunian barangay, as the legislative body of the barangay, shall:

X X X

X X X

(2) Provide compensation, reasonable allowances or per diems as well as travel expenses for sangguniang barangay members and other barangay officials, subject to the budgetary limitations prescribed under Title Five, Book II of this Code: Provided, however, That no increase in the compensation or honoraria of the sangguniang barangay members shall take effect until after the expiration of the full term of all members of the sangguniang barangay approving such increase."

"SEC. 333. Review of the Barangay Budget. – (a) *Within ten (10) days from its approval, copies of the barangay ordinance authorizing the annual appropriations shall be furnished the sangguniang panlungsod or the sangguniang bayan, as the case may be, through the city or municipal budget officer. The sangguniang concerned shall have the power to review such ordinance in order to ensure that the provisions of this Title are complied with. If within sixty (60) days after the receipt of the ordinance, the sanggunian concerned takes no action thereon, the same shall continue to be in force and effect. If within the same period, the sanggunian concerned shall have ascertained the ordinance contains appropriations in excess of the estimates of the income duly certified as collectible, or that the same has not complied with the budgetary requirements set forth in this Title, the said ordinance shall be declared inoperative in its entirety or in part. Items of appropriation contrary to, or in excess of, any of the general limitations or the maximum amount prescribed in this Title shall be disallowed or reduced accordingly." (Underscoring ours)*

Barangay Tanods and members of the Lupong Tagapamayapa are among those included in the phrase "and other barangay officials" in Section 391

those included in the phrase "*and other barangay officials*" in Section 391 (a)(10) of the Code. In addition, it may be clearly inferred from Section 387 (b) of the Code that a barangay tanod and a member of the Lupong Tagapamayapa are barangay officials, to wit:

"SEC. 387. Chief Officials and Offices. – (a) x x x

(b) There shall also be in every barangay a lupong tagapamayapa. The sangguniang barangay may form community brigades and create such other positions or offices as may be deemed necessary to carry out the purposes of the barangay government in accordance with the needs of public service, subject to the budgetary limitations on personal services prescribed under Title Five, Book II of this Code."
(Underscoring ours)

It should be observed that Section 387 of the Code falls within Chapter 2, Title One, Book III of R.A. No. 7160 which is specifically entitled, "Barangay Officials and Offices". Hence, the officers of the offices stated therein, like the lupon tagapamayapa and community brigade (barangay tanods), are deemed barangay officials.

Second Issue. In the case at hand, the grant of honoraria and clothing allowance to barangay tanods and members of the Lupong Tagapamayapa is in accordance with Paragraph 3.4 of Local Budget Circular No. 63 and within the Personal Services Limitation provided in paragraph 5.3 of the same Circular, implementing Section 325 of the Local Government Code of 1991. Hence, such grant is in order.

The grant of honorarium and clothing allowance should not be contrary to, or in excess of, any of the general limitations or the maximum amount prescribed in Title Five, Book II of the Local Government Code of 1991.

REFERENCE: Letter dated 13 September 2001 to Hon. Paulino P. Fanilag, Barangay Captain, Mahayag, Barangay Poblacion, Zamboanga del Sur

Recommended:


JANET B. ABUEL
Director, LLS

Approved:


EMILIA T. BONCODIN
Secretary