



REPUBLICA NG PILIPINAS
SANGGUNIANG PANLUNGSOD
LUNGSOD NG ORMOC



EXCERPT FROM THE MINUTES OF THE REGULAR SESSION OF THE SIXTH
SANGGUNIANG PANLUNGSOD NG ORMOC HELD AT THE HONORABLE
PLACIDO ENECIO SESSION HALL, SANGGUNIANG PANLUNGSOD
BUILDING ON SEPTEMBER 22, 1994



PRESENT:

Hon. Benjamin F. Tugonon,	Vice-Mayor & Presiding Officer
Hon. Sotero M. Pepito,	Majority Floor Leader, Kagawad
Hon. Jose B. Conejos,	Assistant Majority Floor Leader, Kagawad
Hon. Celso P. Adolfo,	Kagawad
Hon. Sixto T. Pongos,	Kagawad
Hon. Benjamin B. Lladoc,	Kagawad
Hon. Mariano Y. Corro,	Kagawad
Hon. Nestor C. Penserga,	Kagawad
Hon. Claudio P. Larrazabal,	Kagawad
Hon. Jose C. Alfaro, Jr.,	Kagawad
Hon. Alfredo F. Capahi,	Kagawad
Hon. Fernando P. Parrilla,	Chapter Pres. Liga ng mga Barangay ng Ormoc, Ex-Officio, Kagawad
Hon. Angelyn R. Paca,	SK Fed. Pres., Ex-Officio, Kagawad

ABSENT:
NONE

RESOLUTION NO. 157

A RESOLUTION DISAPPROVING ORDINANCE NO. 04 OF THE
SANGGUNIANG BARANGAY OF BARANGAY CABINGTAN, ENTITLED "AN
ORDINANCE IMPOSING A FINE OF P50.00 ON ALL OR ANY RESIDENT
OF BARANGAY CABINGTAN CALLED TO AND FAILS TO ATTEND
A MEETING CALLED BY THE BARANGAY COUNCIL".

WHEREAS, submitted to this august Body for review pursuant to Sec.
57 of Republic Act 7160, otherwise known as the Local Government Code of
1991, is Ordinance No. 04 of the Sangguniang Barangay of Barangay
Cabingtán, Ormoc City, entitled: "AN ORDINANCE IMPOSING A FINE OF
P50.00 ON ALL OR ANY RESIDENT OF BARANGAY CABINGTAN CALLED TO AND FAILS
TO ATTEND A MEETING CALLED BY THE BARANGAY COUNCIL";

WHEREAS, the validity and legality of Sections 1 and 2 thereof, are
highly questionable, on the following grounds, to wit:

RE: SECTION 1 -

There is no provision in the Local Government Code of 1991 or
in any existing law which empowers Sangguniang Barangays to impose
a penalty on any person who fails to attend a meeting called by the
Barangay Council.

It should be remembered that Sangguniang Barangays are mere
creation of law, and therefore possess only delegated powers.
Unlike Congress of the Philippines which is the repository of the
legislative power under our Constitution, and as such can cite for
contempt any person who refuses to appear thereat when so required.
The Local Government Code of 1991 does not grant local legislative
bodies the power to subpoena witnesses and the power to punish for
contempt. As stated by the Supreme Court in the case of *Negros
Oriental II Electric Cooperative versus Sangguniang Panlungsod* (155

SCRA 421), "To allow local legislative bodies or administrative agencies to exercise these powers without express statutory basis would run afoul of the doctrine of separation of powers. X X X There being no provision in the Local Government Code explicitly granting local legislative bodies, the power to issue compulsory process and the power to punish for contempt, the Sangguniang Panlungsod of Dumaguete is devoid of power to punish the petitioners Torres and Umbac for contempt".

RE: SECTION 2 -

This is violative of the due process provision of the Constitution in that there is no guarantee against the exercise of arbitrary power. For, who will determine whether the failure to attend is due to "plausible reasons or circumstances beyond human control" to be exempted from the provision of the ordinance? And besides, there are no standards provided for in the determination whether the reasons or circumstances beyond human control are "PLAUSIBLE" or not.

WHEREFORE, foregoing premises considered, on motion of Kagawad Mariano Y. Corro, Chairman, Committee on Laws and Ordinance, duly seconded by Kagawad Benjamin B. Lladoc; be it,

RESOLVED, AS IT IS HEREBY RESOLVED, to pass a resolution DISAPPROVING ORDINANCE NO. 04 OF THE SANGGUNIANG BARANGAY OF BARANGAY CABINGTAN, ENTITLED: "AN ORDINANCE IMPOSING A FINE OF ₱50.00 ON ALL OR ANY RESIDENT OF BARANGAY CABINGTAN CALLED TO AND FAILS TO ATTEND A MEETING CALLED BY THE BARANGAY COUNCIL";

RESOLVED, FURTHER, to furnish copies of this resolution, one each, to the Honorable City Mayor Eufrocino M. Codilla, Sr.; the Sangguniang Barangay of Brgy. Cabingtán through its Presiding Officer, the Honorable Punong Barangay Eulogio P. Paquiao; and all others concerned, -all in Ormoc City;

ENACTED, September 22, 1994.

CARRIED UNANIMOUSLY.

I HEREBY CERTIFY to the correctness of the foregoing resolution.

ATTESTED:

OSCAR P. LASAM
City Secretary

BENJAMIN B. TUGONON
Vice-Mayor & Presiding Officer

APPROVED:

EUFROCINO M. CODILLA, SR.
City Mayor

9/22/94
(Date)