

CITY ORDINANCE NO. 460
March 18, 2008

AN ORDINANCE REQUIRING ALL VERTICAL AND HORIZONTAL CONTRACTORS EITHER FUNDED BY THE GOVERNMENT OR PRIVATE FUNDS TO HIRE AT LEAST TWENTY PERCENT (20%) OF THEIR WORK FORCE FROM THE BARANGAY WHERE THEIR CONSTRUCTIONS ARE SITUATED AND PAY THE AMOUNT OF ONE HUNDRED PESOS (P100.00) TO THE BARANGAY TREASURY AS CONSTRUCTION CLEARANCE FEE AND OTHER PURPOSES", DOCKETED AS SP CORRESPONDENCE NO. 07-853-F.

WHEREAS, Section 389, (B) (1) of the Local Government Code of 1991, states that the Punong Barangay can enforce all laws and ordinances which are applicable within the Barangay;

WHEREAS, it has been observed that some big vertical and horizontal contractors are hiring workers living outside the Barangay and even outside the City where their construction are situated;

WHEREAS, there is a need to promote local employment by requiring vertical and horizontal contractors and/or owners of structure being built to give priority to barangay residents, who are qualified as construction worker;

WHEREAS, the enacting ordinance of this nature will encourage the barangay and the city to conduct manpower training and pooling listing of its skilled and unskilled workers for future employment as construction work force;

WHEREAS, hiring at least twenty percent (20%) of their work force from the local barangay will be beneficial to the contractor and the barangay in being peace, security and harmony in the construction site;

WHEREAS, the payment of contractor clearance fee will be used to assist the contractors in maintaining peace, sanitary protection, environmental control and protections.

NOW THEREFORE, BE IT ORDAINED, AS IT IS HEREBY ORDAINED, by the City Council assembled, that:

Section I. – All applicants for vertical and horizontal constructions are mandated to hire at least twenty percent (20%) of skilled or unskilled worker in the Barangay depending on the total number of workforce that will undertake the project and to secure a barangay construction clearance fee in the amount of One Hundred Pesos (P100.00) to the Barangay Treasury before the start of the project.

Section II. – The Barangay Council is hereby mandated to present a pool listing of all skilled and unskilled workforce to the contractor to choose from and in case none is available, a certificate will be issued to the contractor, and the contractor shall hire from other source of workforce.

Section III. – The Barangay Council is also mandated to require all applicants for construction clearance to issue a Certification specially stating therein the total number of workforce that will undertake the project and copy furnished their Building Permit.

Section IV. – The Punong Barangay or his/her duly authorized representative, shall conduct an ocular inspection once a month to ensure at least twenty (20%) percent of the workers are hired from their Barangay.

Every ocular inspection that will result in the non-compliance of the requirement shall constitute an offense and be properly reported by the Punong Barangay to the Treasurer and/or Building Permit Office of the City for the imposition of a fine as herein provided.

Section V. - All contractors are required to take full responsibility for the proper safekeeping and disposal of construction materials and equipments used for the entire duration of the construction projects and to assume liability for any untoward accident that may result from failure to observe the necessary precautionary measures. Contractors shall likewise clear all construction debris away from the area.

Section VI. – All construction projects both vertical and horizontal in the barangay either funded by the city funds or congressional allocation, is exempted for the payment of clearance fee, but it is required to hire at least twenty percent (20%) of their workers from the barangay where their construction is situated.

Section VII. – Penalties – Contractors found violating the provisions of the Ordinance shall be fined with:

First Violation	-	P 500.00
Second Violation	-	1,000.00

Section VIII. – Effectivity: This Ordinance shall take effect fifteen (15) days after publication in any newspaper of general circulation in the City of Bacolod.

CARRIED BY THE VOTE OF:

Affirmative:

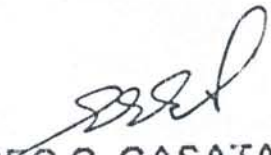
Councilors: Jocelle Batapa-Sigue, Wilson C. Gamboa, Jr.,
Catalino T. Alisbo, Roberto M. Rojas, Alex A.
Paglumotan, Reynold I. Iledan, Diosdado A.
Valenzuela.

Negative : None.


Author : Councilor Catalino T. Alisbo

Passed : March 18, 2008 (38th Regular/Special Session)

Comments: P a s s e d .
Vice Mayor Jude Thaddeus A. Sayson was designated as Acting City Mayor.
Councilors Homer Q. Bais, Dindo C. Ramos, Napoleon A. Cordova and Kevin Daniel L. Ramos were not yet around when this ordinance was passed.


GREG G. GASATAYA
Acting Vice Mayor
Presiding Officer

ATTESTED:


ATTY. NILO T. ALEJANDRINO
Secretary to the Sanggunian

APPROVED: _____, 2008.

EVELIO R. LEONARDIA
City Mayor

NTA/HPL/ljbz

*w/ veto of the city mayor
SR on # 07-852-H.*


Author : Councilor Catalino T. Alisbo

Passed : March 18, 2008 (38th Regular/Special Session)

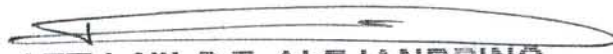
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APPROVED: _____, 2008.

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City Mayor

NTA/HPL/ljbz

*w/ veto of the City Mayor
S.P. No. # 07-853-H.*



Republic of the Philippines
OFFICE OF THE CITY MAYOR
 Bacolod City

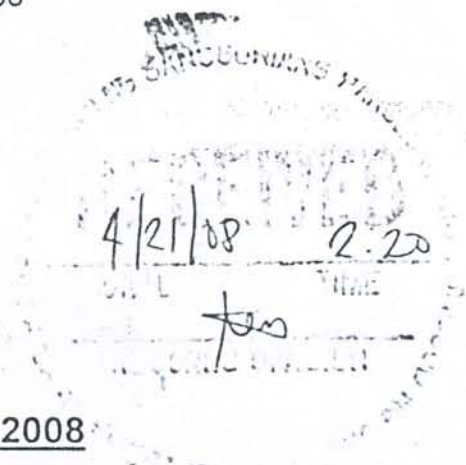
07-853-7



April 15, 2008

4/15

THE HONORABLE VICE MAYOR
and THE HONORABLE MEMBERS
 Sangguniang Panlungsod
 Bacolod City



Re: VETO OF C.O. NO. 460, SERIES OF 2008

Greetings:

This refers to City Ordinance No. 460, Series of 2008, which was passed during the session last March 18, 2008. A copy of which was received by the Office of the City Mayor last April 9, 2008.

Pursuant to Section 54 of the Local Government Code of 1991, I am formally communicating to you the veto of City Ordinance No. 460, Series of 2008, on the ground that it was issued *ultra vires*. The power sought to be exercised in the subject Ordinance was expressly and clearly included in the scope of taxing powers granted to the Barangay under Section 152 of the Local Government Code of 1991. Thus, City Ordinance No. 460, Series of 2008, is beyond the authority of the city to enact.

It is well settled that the City, just like any other local government unit, should exercise its power of taxation within the given limits, that is, as the law may provide. The power to tax cannot be implied and the source of the authority to impose the tax claimed must be pointed out.

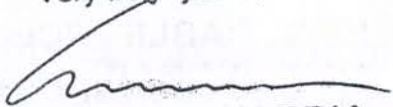
Further, to require the contractors to hire at least 20% of their work force from the barangay where their constructions are situated is violative of the freedom to contract of an individual. The vain attempt to show that the passage of the Ordinance was for the purpose of promoting local employment is futile as the means employed does not justify the end sought to be accomplished. Even with the presence of the Ordinance, promotion of local employment cannot be guaranteed since there is no corresponding program established intended to provide or improve the skills of our local workers. The Ordinance is also incomplete because of the absence of a provision as to the consequences of the third violation committed by the contractor

and it does not contain a provision that will assure compliance by the barangay.

In view of the foregoing reasons cited, the undersigned hereby vetoes City Ordinance No. 460, Series of 2008.

For your guidance and information. Thank you.

Very truly yours,



EVELIO R. LEONARDIA
City Mayor