



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
REGION XIII (CARAGA REGION)
 1559 Matimco Bldg., Km. 4, Libertad, Butuan City
 Telefax Nos. (085) 342-2134 / 815-1229
 website: caraga.dilg.gov.ph; email address: dilgxiii@yahoo.com



**DILG RO-XIII
 FILE**

July 25, 2014

UBC 1299 (6/24/2014)
**DILG - REGION XIII
 RELEASED**
 DATE: **JUL 28 2014**
 TIME: *9:30 AM*
BTS

DICK VICTOR B. CARMONA
Vice Mayor
 Municipality of Nasipit
 Agusan del Norte

Dear Hon. Carmona:

Peace be with you!

This refers to your letter requesting an opinion from the DILG-Provincial Director of Agusan del Norte, Romeo A. Solis, as regards nepotism and if the Barangay Records Keeper (BRK) is subject to the prohibition on appointments up to the fourth civil degree of consanguinity or affinity.

We opine that nepotism is expressly prohibited by law. Specifically, Section 79 of R.A. 7160 or the Local Government Code (LGC) of 1991, cited in DILG Legal Opinion No. 18 Series of 2010, provides and we quote:

"Section 79. Limitation on Appointment. "No person shall be appointed in the career service of the local government if he is related within the fourth civil degree of consanguinity or affinity to the appointing or recommending authority." (Emphasis supplied).

Clearly, nepotism applies to career service positions. The question left to be resolved then is whether the Barangay Records Keeper is career service or non-career service.

Let us invite your attention to Section 387 of the LGC enumerating the mandatory officials in the barangay, *to wit*:

/amg lo012-2014

Page 1 of 3

Rec'd by: [Signature]
7/28/2014

“SECTION 387. Chief Officials and Offices. – (a) There shall be in each barangay a punong barangay, seven (7) sangguniang barangay members, the sangguniang kabataan chairman, a barangay secretary, and a barangay treasurer.

(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.” (Emphasis supplied)

Based on the quoted provision, we opine that the Barangay Records Keeper (BRK) falls under “such other positions or offices” or in other words, other appointive barangay officials.

In an Opinion dated 28 July 1998 addressed to the DILG Legal Service, the Civil Service in reply to the query on the status of appointments and term of office of Barangay Secretary, Barangay Treasurer and other appointive barangay officials, said and we quote here as quoted in DILG Legal Opinion No. 107 Series of 2007 dated November 9, 2007:

“There is no existing civil service rule or regulation relative to the appointment of Barangay Secretary, Barangay Treasurer, and other appointive officials. We believe, however, that by their nature, the same are either coterminus with the appointing authority or co-existent with the tenure of the appointing authority or at his pleasure.” (Emphasis supplied)

The 2007 DILG Opinion continued saying that:

“Clearly, therefore, the foregoing appointive barangay officials are considered coterminus with or serving at the pleasure of the appointing authority. Such being the case, these kinds of officials belong to the class of non-career service in government. xxx” (Emphasis supplied)

However, although considered non-career, the Barangay Secretary’s and Barangay Treasurer’s qualifications are set forth in Sections 394 (c) and 395 (c) of the LGC, respectively, and thus, they cannot be appointed if they are relatives of the punong barangay within the fourth civil degree of consanguinity or affinity.

Section 396 of the same Code states the qualifications of “other appointive barangay officials”, viz:

The qualifications, duties, and functions of all other barangay officials appointed by the punong barangay shall be governed by the provisions of this Code and other laws of barangay ordinances. (Emphasis supplied)

There being no showing of a law or ordinance contrary to the appointment of the Barangay Records Keeper who is a relative of the punong barangay, the appointing authority, within the fourth civil degree of consanguinity or affinity, we can safely opine that the Barangay Records Keeper (BRK), as “other appointive official”, is coterminus with or serving at the pleasure of the appointing authority and considered non-career service. Being non-career, it is not included in the definition of nepotism or limitation of appointment expressly provided for by law. The appointing authority may, therefore, appoint any person even that within his fourth civil degree of consanguinity or affinity as Barangay Records Keeper (BRK).

We hope that the foregoing sufficiently addressed your concerns. This opinion is rendered without prejudice to the decisions that competent higher authorities and the courts may subsequently decree.

Thank you and God bless!

Very truly yours,


LILIBETH A. FAMACION, CESO IV
Regional Director 

cc: **ROMEO A. SOLIS**
Provincial Director
DILG-Agusan del Norte