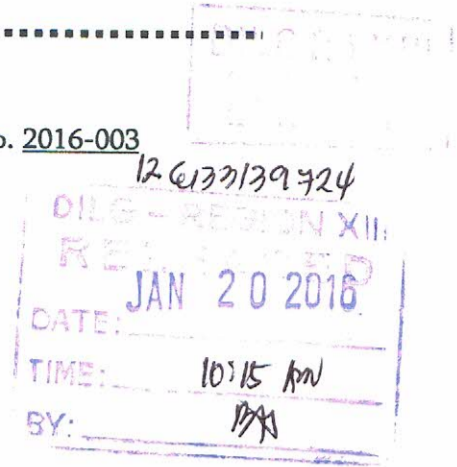




DILG 13 Legal Opinion No. 2016-003
 January 19, 2016

DICK VICTOR B. CARMONA
 Municipal Vice Mayor
 Nasipit, Agusan del Norte

file



Dear Hon. Carmona:

This refers to your letter inquiring on the role of the SB or the LGU on the matter on (*sic*) the appointment of Engr. Arcelo Tamayo as SB member to fill up the vacancy caused by the demise of Hon. Rodrigo C. Cuhit.

The manner, procedure and requirement in filling up permanent vacancies in the Sanggunian are mandated and provided for by law, particularly the Local Government Code, viz:

Section 45. Permanent Vacancies in the Sanggunian. -

(a) Permanent vacancies in the sanggunian where automatic succession provided above do not apply shall be filled by appointment in the following manner:

xxx

(2) The governor, in the case of the sangguniang panlungsod of component cities and the sangguniang bayan:

xxx

(b) Except for the sangguniang barangay, only the nominee of the political party under which the sanggunian member concerned had been elected and whose elevation to the position next higher in rank created the last vacancy in the sanggunian shall be appointed in the manner hereinabove provided. The appointee shall come from the same political party as that of the sanggunian member who caused the vacancy and shall serve the unexpired term of the vacant office. In the appointment herein mentioned, a nomination and a certificate of membership of the appointee from the highest official of the political party concerned are conditions sine qua non, and any appointment without such nomination and certification shall be null and void ab initio and shall be a ground for administrative action against the official responsible therefore.

JAN 20, 2016

FARJON SERRANO

The manner, procedure and requirement enumerated above appeared to have been satisfied in the appointment of Mr. Arcelo Tamayo as a member of the Sangguniang Bayan of Nasipit, Agusan del Norte. Understandably, like any and all elective and appointive official assuming government service, he takes his Oath of Office before an authorized officer and assumes office.

This opinion is rendered without prejudice to any contrary decision or opinion of competent higher authorities and the courts.

Truly yours,


LILIBETH A. FAMACION, CESO III
Regional Director 

cc: *Romeo A. Solis*
Provincial Director
DILG Agusan del Norte