



DILG 13 Legal Opinion No. 2016-007

February 17, 2016

HARRIS GLENN D. PUYOT  
 City Vice Mayor  
 City of Cabadbaran  
 Agusan del Norte



Dear Vice Mayor Puyot:

This refers to your letter seeking legal opinion relative to the resignation through *email* of Raykito M. Kittilstvedt, member of the Sangguniang Panlungsod.

The Local Government Code of 1991 provides:

*Section 82. Resignation of Elective Local Officials. -*

*(a) Resignations by elective local officials shall be deemed effective only upon acceptance by the following authorities:*

- (1) The President, in the case of governors, vice-governors, and mayors and vice-mayors of highly urbanized cities and independent component cities;*
- (2) The governor, in the case of municipal mayors, municipal vice-mayors, city mayors and city vice-mayors of component cities;*
- (3) The sanggunian concerned, in the case of sanggunian members; and*
- (4) The city or municipal mayor, in the case of barangay officials.*

*(b) Copies of the resignation letters of elective local officials, together with the action taken by the aforesaid authorities, shall be furnished the Department of the Interior and Local Government.*

*(c) The resignation shall be deemed accepted if not acted upon by the authority concerned within fifteen (15) days from receipt thereof.*

*(d) Irrevocable resignations by sanggunian members shall be deemed accepted upon presentation before an open session of the sanggunian concerned and duly entered in its records: Provided, however, That this subsection does not apply to sanggunian members who are subject to recall elections or to cases where existing laws prescribed the manner of acting upon such resignations.*

Thus, 1. A member of the sanggunian may resign through a letter and such resignation is effective upon acceptance by the *sanggunian* concerned or such is deemed

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accepted if not acted upon by the same sanggunian within 15 days from receipt thereof; and, 2. Irrevocable resignations by sanggunian members shall be deemed accepted upon presentation before an open session of the sanggunian concerned and duly entered in its records.

Nowadays, there is a widespread use of emails as letters, even as enforceable contracts, legal documents and/or evidence in courts. Working on the presumption that the sanggunian ascertained the authenticity of the received resignation letter through email of Hon. Kittilstvedt, the resignation may be considered official and legal.



This opinion is rendered as an integral part of that we gave to the same requesting party on the same subject matter in RLO 2015-030 dated December 11, 2015, and we reiterate that:

*However, the non-action of the Sangguniang Panlungsod on the consecutive absences of the subject member in accordance with the Internal Rules of Procedure and with Section 50 (b) (5) is another matter entirely. You reasoned that the non-action was due to the accumulated leave credits of the subject member. From your presentation of facts, we noted that there was no action done by the body from July 15, 2015 to October 21, 2015 as regards the continuous and consecutive ABSENCE WITHOUT OFFICIAL LEAVE of the subject member. We recommend that you seek the advice of the Civil Service Commission or revisit the relevant CSC rules, particularly the effect of AWOL on the accumulated leave credits, and especially that the same member presumably continued to receive his monthly salary on the mentioned dates/months.*

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

We hope to have sufficiently assisted your good office in this matter.

Truly yours,

  
LILIBETH A. FAMACION, CESO III  
Regional Director 

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