



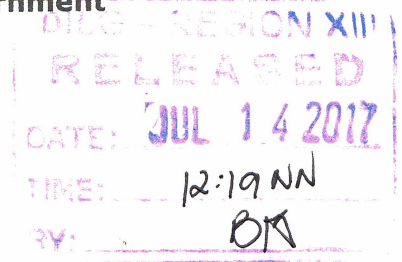
Republic of the Philippines
Department of the Interior and Local Government
Region 13 (Caraga)



CHARISSA T. GUERTA
City Director
Butuan City

July 11, 2017

file



Dear Ms. Guerta:

This refers to your letter dated July 6, 2017 seeking legal opinion on the following:

1. In case the incumbent Punong Barangay serves a punitive suspension for nine months, is it necessary for the 1st ranking barangay kagawad to take his oath of office before he assumes as acting Punong Barangay?
2. In relation to the first query, what are the required documents to be submitted to our office by the Acting Punong Barangay to show proof that he has assumed office?

The Local Government Code of 1991, particularly Section 46, states:

"Section 46. Temporary Vacancy in the Office of the Local Chief Executive. -

- (a) **When the governor, city or municipal mayor, or punong barangay is temporarily incapacitated to perform his duties for physical or legal reasons such as,** but not limited to, leave of absence, travel abroad, and **suspension from office,** the vice-governor, city or municipal vice-mayor, or **the highest ranking sangguniang barangay member shall automatically exercise the powers and perform the duties and functions of the local chief executive concerned,** except the power to appoint, suspend, or dismiss employees which can only be exercised if the period of temporary incapacity exceeds thirty (30) working days."

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To answer your first question, we are of the view that taking oath by the 1st Ranking Kagawad before he assumes office as the ACTING Punong Barangay is not necessary. The law itself expressly states that he "shall automatically exercise the powers and functions" of the office.

With regard your second query, there is no hard and fast rule as to the required documents to prove that the 1st ranking kagawad has assumed office. He may submit any proof, such as but not limited to, a Certification or Affidavit that he has assumed office, or a resolution from the council certifying or stating the fact that first ranking kagawad has assumed office, together with a copy of the Decision or execution of the Decision suspending the incumbent Punong Barangay.

"Matino, Mahusay at Maaasahan"


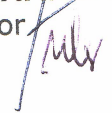


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This opinion is rendered without prejudice to any contrary decision or opinion of competent higher authorities and the courts.

Thank you and God bless!

Truly yours,


LILIBETH A. FAMACION, CESO III
Regional Director 

/amg dlo 2017-009

"Matino, Mahusay at Maaasahan"

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