



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

December 4, 2017

**MILLARD P. TAWAKAL, LIB**  
Barangay Cuarinta, San Jose  
Province of Dinagat Islands

*RG 66 74539 66*

DILG REGION XIII	
RELEASED	
Date: <i>DEC 13 2017</i>	
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**Dear Mr. Tawakal:**

This refers to your request for clarification as to the required number of votes of the Sangguniang Panlalawigan to concur your appointment as Provincial Information Officer, the law and jurisprudence applicable to your case and your entitlement to compensation from the date of your appointment.

We would like to join the first and second issues for clarification. We invite your attention to the Local Government Code (R.A. 7160) provision quoted, to wit:

**Section 463. Officials of the Provincial Government.**

(a) xxx

(b) xxx

(c) xxx

(d) *Unless otherwise provided herein, heads of departments and offices shall be appointed by the governor with the concurrence of the **majority of ALL the sangguniang panlalawigan members**, subject to civil service law, rules and regulations. xxx*

The Implementing Rules and Regulations of the same law also reiterates, viz:

**ARTICLE 119. Appointment of Appointive Local Officials.** — (a) *Unless otherwise provided in this Rule, heads of offices and departments in the LGUs shall be appointed by the local chief executive concerned with the concurrence of a **majority of ALL the members of the sanggunian**, subject to civil service laws, rules and regulations.*

The law clearly states "majority of ALL the members of the sanggunian". This is also called "**qualified majority**". Following the ruling of the Court in **Javier, et al. vs. Cadiao, et al.** (GR No. 185369, August 3, 2016), the Vice Governor, who is the presiding officer of the sanggunian and who can vote only to break a tie, is **NOT** included in the counting to determine the required number of votes to uphold the matter before the sanggunian. Thus, in your case, there are ten (10) members for consideration.

**"Matino, Mahusay at Maaasahan"**



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**Majority** has been defined in **Santiago vs. Guingona, et al.** (GR No. 134577, 18 November 1998) as that which is greater than half of the membership of the body. Half of 10 being 5, that which is greater than half is six (6). Otherwise stating, fifty percent plus one is  $5 + 1 = 6$ . Thus, six (6) votes from the sanggunian would be needed to concur your appointment.

Finally, we think you may be compensated from the day you were appointed by the Local Chief Executive as an officer *de facto* until your appointment was not confirmed, subject to applicable civil service laws, rules and regulations. You may inquire from the Civil Service Commission as to this particular matter, the CSC being in a better position to opine on this issue.

This clarificatory letter 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

cc : PD Domingo Bulabog

/amg dlo 2017-019

**"Matino, Mahusay at Maaasahan"**

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