

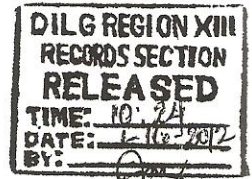


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DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
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January 8, 2012

DILG-13 OPINION NO. 01



Ms. MARIA FE S. SELADES
Ms. MARISOL C. TALIDRO
Barangay La Fraternidad
Tubay, Agusan del Norte

Dear Mesdames Selades and Talidro:

This refers to your letter seeking opinion on whether your dismissal as barangay secretary and barangay treasurer are valid and whether the incumbent punong barangay, who just reassumed, can replace those appointed employees of the barangay.

Due to the suspension of the incumbent Punong Barangay Aliore P. Page from June 29, 2011 to December 29, 2011, Julieta G. Maraon, as the highest ranking sangguniang bayan, had assumed as acting Punong Barangay during the same period with the power to appoint since the suspension was more than thirty (30) working days. This is supported by Section 46 of the Local Government Code of 1991.

Please be informed that the Local Government Code of 1991 explicitly vests on the punong barangay, upon approval by a majority of all the members of the sangguniang barangay, the power to appoint or replace the barangay treasurer, the barangay secretary, and other barangay appointive officials. Thus, the power of appointment is to be exercised conjointly by the punong barangay and a majority of all the members of the sangguniang barangay. Without such conjoint action, neither an appointment nor a replacement can be effectual (*Alquizola vs. Ocol, G.R. No. 132413, August 27, 1999*).

The act of acting punong barangay and that of the sangguniang barangay dismissing the barangay secretary and barangay treasurer and appointing their replacement is presumed valid. With the assumption of the Punong Barangay Page, he may also replace those existing appointive barangay officials provided that majority of all the members of sangguniang barangay concurs the same.

We would not dwell on the effect of the temporary restraining order on your dismissal considering that the issue is still pending in the court.

We hope to have clarified you on this matter.

Very truly yours,


ATTY. RENE K. BURDEOS, CESO III
Regional Director