



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
REGION XIII (CARAGA REGION)
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February 10, 2012

DILG-13 OPINION NO. 08

MR. DOMINGO E. BULABOG
Provincial Director
DILG, Surigao del Norte

Dear Dir. Bulabog:

This refers to the letter dated February 1, 2012 of Mr. Trifon N. Ruaya, Barangay Kagawad, Barangay Cambas-ac, Dapa, Surigao del Norte relative to his assumption as Punong Barangay which you have endorsed to this level. Kagawad Ruaya also wrote Secretary Jesse M. Robredo pertaining to the same concern which was referred to this Office for appropriate action and disposition. Specifically, his queries are:

- "1) Can the mayor legally deny and refuse my assumption to the Office of the Punong Barangay?
- 2) Will such inaction of the mayor within fifteen (15) working days from receipt of the resignation letter automatically entitled to assume the duties and functions of the Office of Punong Barangay?
- 3) Was there temporary or permanent vacancy in this case when our Barangay Captain did not anymore report for duty as of the date of her resignation and who is now permanently residing in Cebu City with her family?"

In answering the queries, we have to revisit the Local Government Code's provision on resignation. Section 82 of the Code states that:

Section 82. Resignation of Elective Local Officials. – (a) Resignations by elective local officials shall be deemed effective only upon acceptance by the following authorities:

- (4) The x x x municipal mayor, in case of barangay officials.*

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

Based on the abovementioned provision, the mayor is given the period of fifteen working days from receipt of the resignation to approve or disapprove the resignation otherwise the resignation is considered accepted after the lapse of that period. The resignation of Punong Barangay Carmen L. Nebria was dated November 28, 2011. It is therefore material to determine when did the Office of the Mayor receive the resignation letter of the Punong Barangay and from that date, the counting of the 15 day period commences. If no action was taken thereon within the said period, a permanent vacancy exists and the highest ranking sangguniang barangay member may assume as punong barangay pursuant to the rule of succession in Section 44 (b) of the Code which provides that:

“Section 44. Permanent Vacancies in the Offices of the Governor, Vice-Governor, Mayor, and Vice Mayor. – (a)

(b) If a permanent vacancy occurs in the office of the punong barangay, the highest ranking sangguniang barangay member or, in case of his permanent inability, the second highest ranking sanggunian member, shall become the punong barangay.

x x x

For purposes of this Chapter, a permanent vacancy arise when an elective office x x x voluntarily resigns x x x”.

Please be informed that the assumption of the highest ranking sanggunian member is mandatory in character.

We hope to have clarified Mr. Ruaya on this matter.

Very truly yours,



ATTY. RENE K. BURDEOS, CESO III
Regional Director