



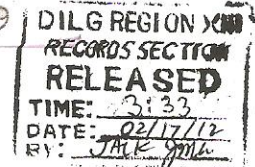
Republic of the Philippines  
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT  
REGION XIII (CARAGA REGION)

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February 17, 2012

DILG-13 OPINION NO. 09



Mr. LITO M. DAGAMAC  
Legal Assistant II  
Office of the Sangguniang Bayan  
Veruela, Agusan del Sur

Dear Mr. Dagamac:

This refers to your letter dated January 6, 2012 which we received on February 6, 2012 seeking opinion from this office on whether Sangguniang Bayan Member Rogelio D. Luzana is still qualified to run for re-election this coming 2013 National and Local Election for purposes of the three-term limit.

You mentioned that Mr. Rogelio D. Luzana was elected sangguniang bayan member for three consecutive terms (2004-2007, 2007-2010 and 2010-2013). However, during his first term, particularly on July 4, 2005, Mayor Vicente del Rosario died. As a consequence, Vice Mayor Emmanuel L. Dairo became Mayor and Mr. Luzana, as the highest ranking sangguniang bayan member, assumed as Vice Mayor.

Thus, your query.

Please be informed that the 1987 Constitution bars and disqualifies local elective officials from serving more than three consecutive terms in the same post. Section 8, Article X thereof states:

“Section 8. The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected.”

Section 43 (b) of the Local Government Code also provides:

“Sec. 43. Term of Office.

(b) No local elective official shall serve for more than three consecutive terms in the same position. Voluntary renunciation of the office for any length of time shall not be

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considered as an interruption in the continuity of service for the full term for which the elective official concerned was elected.

In *Lonzanida v. Commission on Elections* (G.R. No. 135150, July 28, 1999), the Court held that the two conditions for the application of the disqualification must concur: 1) that the official concerned has been elected for three consecutive terms in the same local government post; and 2) that he has fully served three consecutive terms. In *Borja, Jr. v. Commission on Elections*, (G.R. No. 133495, September 3, 1998) the Court emphasized that the term limit for elective officials must be taken to refer to the right to be elected as well as the right to serve in the same elective position. Thus, for the disqualification to apply, it is not enough that the official has been elected three consecutive times; he must also have served three consecutive terms in the same position.

While it is undisputed that Mr. Luzana was elected Sangguniang Bayan Member for three consecutive terms, the issue lies on whether he is deemed to have fully served his first term in view of his assumption of office as vice-mayor of Veruela on July 4, 2005.

Succession in local government offices is by operation of law. Section 44 of Republic Act No. 7160, otherwise known as the Local Government Code, provides that if a permanent vacancy occurs in the office of the vice mayor, the highest ranking sanggunian member shall become vice mayor. Thus:

“Section 44. *Permanent Vacancies in the Offices of the Governor, Vice Governor, Mayor, and Vice Mayor.* – (a) If a permanent vacancy occurs in the office of the governor or mayor, the vice governor or vice mayor concerned shall become the governor or mayor. If a permanent vacancy occurs in the offices of the governor, vice governor, mayor or vice mayor, the highest ranking sanggunian member or, in case of his permanent inability, the second highest ranking sanggunian member, shall become the governor, vice governor, mayor or vice mayor, as the case may be. Subsequent vacancies in the said office shall be filled automatically by the other sanggunian members according to their ranking as defined herein. x x x.”

In this case, a permanent vacancy occurred in the office of the vice mayor since the incumbent vice mayor assumed as mayor due to the death of incumbent mayor. Mr. Luzana, being the highest ranking sangguniang bayan member, assumed office as vice mayor in accordance with law. It is clear therefore that his assumption to office as vice-mayor can in no way be considered a voluntary renunciation of his office as sangguniang bayan member.

In *Lonzanida v. Commission on Elections*, the Court explained the concept of voluntary renunciation as follows:

“The second sentence of the constitutional provision under scrutiny states, ‘Voluntary renunciation of office for any length of time shall not be considered as an interruption in the continuity of service for the full term for which he was elected.’ The clear intent of the framers of the constitution to bar any attempt to circumvent the three-term limit by a voluntary renunciation of office and at the same time respect the people’s choice and grant their elected official full service of a term is evident in this provision. Voluntary

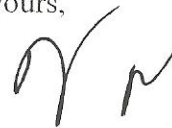
renunciation of a term does not cancel the renounced term in the computation of the three term limit; conversely, **involuntary severance from office for any length of time short of the full term provided by law amounts to an interruption of continuity of service.**"

Thus, Mr. Luzana's assumption of office as vice-mayor on July 4, 2005 was an involuntary severance from his office as sangguniang bayan member, resulting in an interruption in the service of his 2004-2007 term. It cannot be deemed to have been by reason of voluntary renunciation because it was by operation of law.

Therefore, Mr. Luzana is still qualified to run as sangguniang bayan member in the next 2013 National and Local Elections.

Please be guided accordingly.

Very truly yours,



ATTY. RENE K. BURDEOS, CESO III  
Regional Director X

cc: **Ms. Arleen Ann R. Sanchez**  
Provincial Director  
DILG, **Agusan del Sur**