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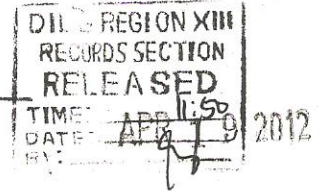
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DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT  
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JRS

April 16, 2012

DILG-13 OPINION NO. 13



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

Dear Dir. Bulabog:

This refers to the letter of Mayor Simplicia P. Bacol of San Francisco, Surigao del Norte seeking opinion on whether Section 11 of the Local Government Code of 1991 (R.A. No. 7160) should be applied in case the municipality allows Barangay Poblacion to temporarily transfer its Barangay Office in the municipal stage situated at the municipal park.

We answer in the negative. Section 11 of the Code is applicable only if the municipal government itself would transfer its seat of government to another site within its territorial jurisdiction. It is not applicable if it allows a barangay to use its property. If it will allow the barangay to use municipality's property, then their respective sanggunian should pass a resolution authorizing the same. Also nowhere in Section 444 of the Code which obliges the municipal mayor to allocate and assign office space to barangay officials.

However, even with the concurrence or authority of the sangguniang bayan, the mayor cannot allow anybody to hold office in the stage of the municipal plaza albeit temporary. Public plaza is beyond the commerce of man and so it cannot be the subject of lease or any other contractual undertaking (Villanueva, et.al. vs. Castañeda, G.R. No. L-61311, September 21, 1987). It is a property of public domain, to be devoted to public use and to be made available to the public in general (Espiritu, et. al. vs. Municipal Circuit Court of Pozorrubio, Pangasinan, et.al., G.R. No. L-11014, January 21, 1958).

We recommend that the mayor and the punong barangay, with the concurrence of their respective sanggunians to enter into an agreement, may allocate a temporary office to the barangay in areas other than the public plaza. The terms and conditions, like payment of electric bill and duration of occupation should be stipulated in the agreement.

While we are concerned of the plight of the barangay, the local government officials should recognize that in the truly democratic society, the interests of the few

should yield to those of the greater number in deference to the principle that the welfare of the people is the supreme law and overriding purpose.

We hope to have clarified you on this matter.

Very truly yours,

  
LILIBETH A. FAMACION, GESO IV  
OIC- Regional Director