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Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
REGION XIII (CARAGA REGION)
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January 26, 2012 ^{03-A}
DILG-13 OPINION NO. _____

HON. VICENT RIZAL C. ROSARIO
Punong Barangay
Libertad, Butuan City

Thru : Mr. Romeo A. Solis
OIC-City Director, DILG



Dear Punong Barangay Rosario:

This refers to your letter seeking opinion on whether the majority members of the sangguniang barangay can validly dismiss from service barangay appointive officials without any hearing or investigation.

Under the rules, the barangay appointive officials may be removed from office, with or without cause. If the barangay appointive official is removed without cause, concurrence of the majority of all the sangguniang barangay members is necessary. If the removal is with cause, it must comply civil service laws, rules and regulations, and the concurrence of the majority of all the sangguniang barangay members concurrence is not anymore required. (DILG Opinion No. 10, s. 2008).

We believe that the resolution to dismiss the barangay health worker, barangay nutrition scholar and barangay sanitation worker is without cause, the investigation is not anymore necessary considering that "lack of confidence" is the perception of the sangguniang barangay members and does not require any evidence.

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*).

Thus, the termination, or replacement should emanate or originate from the punong barangay and not from the sangguniang barangay. The sangguniang barangay cannot appoint, dismiss or replace barangay appointive officials without any imprimatur of the punong barangay. Therefore,

the Resolution terminating the employees has no legal effect since it was passed without your recommendation.

We hope to have clarified you on this matter.

Very truly yours,

ATTY. RENE K. BURDEOS, CESO III
Regional Director

By:


LILIBETH A. FAMACION
Asst. Regional Director ✓