

December 2, 2010

ATTY. DIONISIO B. BALITE, Ph.D.  
Member  
Sangguniang Panlalawigan  
Bohol Provincial Capitol  
Tagbilaran City

Sir:

This has reference to your letter dated October 20, 2010, addressed to Atty. Jesus B. Duque IV, Legal Service, DILG Central Office, requesting for legal opinion on the designation by the Vice Governor of an Officer-in-Charge in the Office of the Vice Governor during the time when the former assumed as the Acting Governor in view of the absence of the Governor. Said letter was referred to us for response.

Although Section 46 of the Local Government Code is silent as to the mode of succession in case of temporary vacancy in the office of the vice governor, the Supreme Court, in the case of *Menzon vs. Petilla* (G.R. No. 90762, May 20, 1991), ruled that in order to obviate the dilemma resulting from an interregnum created by the temporary vacancy, the mode of succession provided for permanent vacancy in the same office under Section 44 of the Local Government Code may also be analogously applied in case of temporary vacancy therein. In which case, the Court declared that the highest ranking sanggunian member shall be the acting vice governor. This rule was reiterated by the Supreme Court in the case of *Gamboa vs. Aguirre*, G.R. No. 134213, July 20, 1999. Hence, applying by analogy, the highest ranking sangguniang panlalawigan member shall, although temporarily, automatically exercise the powers and perform the duties and functions of the vice governor as acting vice governor during the temporary vacancy in the office of the vice governor by reason of the latter's temporary assumption as acting governor. And unlike the local chief executive who may designate an OIC pursuant to Section 46 (c) if travelling within the country but outside his territorial jurisdiction, vice governors have not been conferred with such power by the Local Government Code. Therefore, in no case can they designate an OIC Vice Governor.

Truly yours,

PEDRO A. NOVAL, JR.  
Regional Director