

November 12, 2010

HON. WILSON Q. BACOR
Punong Barangay
Binaliw Barangay Hall
Cebu City

Dear Punong Barangay Bacor:

This has reference to your letter dated November 11, 2010, requesting legal opinion on the following concerns –

- The scope and limitation of the appointing authority of the punong barangay. Do all appointments issued by the Punong Barangay have to be approved or concurred by the majority of all the members of the sangguniang barangay?
- On the creation of barangay-based institutions/committees, can the Punong Barangay take sole or full responsibility in creating them and the appointment of the chairpersons thereof without the concurrence/approval of the sanggunian?

In reply to the first concern, there are two types of appointive barangay officials other than the barangay secretary, barangay treasurer and the lupong tagapamayapa, which are: 1) the barangay tanod whose appointment would require the approval of the sangguniang barangay per Section 389 (b)(5) of the Local Government Code, and 2) those barangay appointive officials occupying or to occupy positions created by the barangay government. In the latter case, the barangay ordinance creating the office may or may not require the approval of the sangguniang barangay on the appointment issued by the Punong Barangay, depending on the provisions of the barangay ordinance which created the new positions (DILG Legal Opinion No. 43 S2008, June 12 , 2008).

On the second issue, we would like to point out that the creation or establishment of barangay-based institutions are provided by law (such as the Local Government Code for the lupong tagapamayapa and barangay development council and the Juvenile Justice & Welfare Act for the Local Council for the Protection of Children) or Presidential Issuance such as the creation of the peace and order council. Hence, the composition and membership are already provided, and if the legal bases for the creation of this barangay-based institutions or bodies do not call prior approval or authorization from the sanggunian, then the creation thereof can be made by the Punong Barangay through the issuance of an Order only. But please do not confuse the barangay-based institutions with the different sangguniang barangay committees, since the latter are creations of the sanggunian concerned as may embodied in its Internal Rules of Procedure.

Truly yours,

PEDRO A. NOVAL, JR.
Regional Director

