

BASIC : LETTER DATED FEBRUARY 24, 2010, FROM PUNONG BARANGAY ANTONIO D. CARUZCA OF PAHINA SAN NICOLAS, CEBU CITY

2nd Indorsement
February 26, 2010

Respectfully returned to Dr. Patricio Gabuya, City Director, DILG Cebu City Office, the herein basic communication from Punong Barangay Antonio D. Caruzca of Pahina San Nicolas, Cebu City inquiring whether or not he as Punong Barangay has the authority to approve sangguniang barangay resolution recommending a person to be appointed by the Mayor to fill the vacancy in the barangay concerned.

The answer to the query raised is in the negative. Let it be emphasized that the Punong Barangay is not only the local chief executive of the barangay, but also the Presiding Officer of the sangguniang barangay. Hence, he is part and parcel of the collegial body, the sangguniang barangay. In the matter of filling a vacancy in the sanggunian barangay, the Local Government Code of 1991 provides a condition sine qua non, the recommendation of the sanggunian concerned of the person to be appointed by the Mayor. The Mayor cannot just appoint anybody without such recommendation. The law did not say the recommendation of the Punong Barangay, but of the sangguniang barangay as a collegial body. If the resolution is approved by the majority of the members of the sanggunian, it is valid and effective even without the approval of the Punong Barangay.

To emphasize further, the Punong Barangay is not given the power to veto ordinances passed and approved by the sangguniang barangay. This is due to the fact that he/she is a member of the sanggunian barangay. The action of the sanggunian as a collegial body binds the Punong Barangay (DILG Legal Opinion Nos. 128-1995 & 15-1996). A punong barangay who refuses to sign ordinances enacted by the sangguniang barangay may be administratively sanctioned for gross negligence/dereliction of duty (DILG Legal Opinion Nos. 126-1995 & 15-1996). Despite such refusal, the ordinance is considered valid.

PEDRO A. NOVAL, JR.
Regional Director