

September 29, 2009

HON. RAMON R. EWICAN
Vice Mayor
Barili Municipal Hall
6036 Cebu

Dear Vice Mayor Ewican:

This has reference to your letter dated September 28, 2009, raising the query on the effect of the filing of a certificate of candidacy for a higher elective position particularly that of a Punong Barangay who is at the same time the ABC President and that of an SK Chairman who is also the SK Municipal Federation President running for a seat in the municipal council.

In reply thereto, please be advised that Section 26 of COMELEC Resolution No. 3636 dated March 01, 2001 (promulgated pursuant to RA 9006 otherwise known as the Fair Election Act) explicitly provides that any elective official, whether national or local, who has filed a certificate of candidacy for the same or any other office shall not be considered resigned from office. Hence, barangay officials who will run but will lose in the May 2010 elections will not be considered resigned from their positions as such and are therefore still entitled to go back to their respective elective offices until the end of the term thereof. The same is true with the SK Chairman since SK officials are elective barangay officials (Marquez vs. Comelec, G.R. No. 127318, August 25, 1999; Art. 71, Rule XIV of the IRR of R.A. 7160). Both can continue also to discharge their respective functions as federation presidents.

Truly yours,

PEDRO A. NOVAL, JR.
Regional Director