

February 12, 2009

HON. VICTOR MINOZA BUENDIA  
Sangguniang Barangay Member  
Labangon Barangay Hall  
Cebu City

Dear Kagawad Buendia:

This has reference to your letter dated January 10, 2009, requesting enlightenment on a number of issues affecting your barangay.

On the first concern, the creation of committees, including the determination of the jurisdiction of each committee and the election of the chairman and members thereof, is within the prerogative of the sanggunian to do so. This is being conferred upon by the explicit provision of Section 50(b)(1) of the Local Government Code of 1991. Hence, it is not for Punong Barangay to designate committee chairmanship. In the absence of an internal house rules, the rules of parliamentary procedure will apply. The bottom line is that the sanggunian is a collegial body; thus, decisions should not be left to just one person.

As regards the appointment and termination of appointive barangay personnel, the authority is vested with the Punong Barangay subject, however, to the concurrence of the majority of all the members of the sangguniang barangay. Without such concurrence, the appointment or termination of barangay personnel will not be effected. This is so provided in the Local Government Code and the ruling of the Supreme Court in the case of *Alquizola vs. Ocol*.

On the third concern, the Presiding Officer of the sanggunain or of any deliberative body for that matter, should not participate in the debate or arguments over matters taken or pending before the body. If he so desires to participate in the discussion and gives his ideas on the issue at hand, he should relinquish the chair temporarily. This is in accord with the established rules on parliamentary procedure.

With regard to the fourth concern, the barangay secretary cannot participate in the discussion during session. He/she can only speak when a question is thrown at her by the Presiding Officer.

On the qualifications of the barangay treasurer, Section 395 of the Local Government Code provides for the basic qualifications which must be followed. A college degree is not one of them. However, the barangay by way of an ordinance may impose other qualifications in addition to the basic qualifications provided in Section 395.

On the passage and approval of resolutions, Article 107(g) of the Rules and Regulations Implementing the Local Government Code provides that no ordinance or resolution passed by the sanggunian in a regular or special session duly called for the purpose shall be valid unless approved by a majority of the members present, there being a quorum. Thus, for a legislative measure to be valid (be it an ordinance or a resolution) the following must concur – 1) it was passed by the sanggunian in a regular or special session, 2) existence of a quorum during such session and, 3) the measure was approved by the majority of the members present (except for certain measures wherein the votes required would be the majority of all the members of the sanggunian or 2/3 votes of all members of the sanggunian).

On the seventh concern, violations or actions contrary to the foregoing discussion may result in the imposition of administrative sanctions such as suspension, after observing due process.

The eight concern has been responded to in the second paragraph hereof.

Truly yours,

PEDRO A. NOVAL, JR.  
Regional Director

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