

**BASIC : RESOLUTION NO. 5 S2006 OF THE SANGGUNIANG BARANGAY
OF CORTE-BAUD, GETAFE, BOHOL.**

3rd Indorsement
May 3, 2006

Respectfully returned to Ms. Rustica Masacariñas, DILG Bohol Provincial Director, the herein Resolution No. 5 S2006 of the Sangguniang Barangay of Corte-Baud, Getafe, Bohol, declaring the Office of the Punong Barangay as vacant in view of the alleged permanent incapacity of the duly elected Punong Barangay to discharge his duties and functions.

Although the law (Sec. 44 of RA 7160) provides that permanent incapacity of the elected local official to discharge the functions of the office is one of the events or situations that will give rise to a permanent vacancy, it does not, however, define permanent incapacity or inability. **Such determination is made by the official concerned.** Absent such determination, a sangguniang barangay member who becomes totally blind may continue to hold office (DILG Legal Opinion No. 381-1991).

But when an apparently incapacitated elected local official refuses to admit or accept his present incapacity and clings to his position and continues to hold office, he may be liable for disciplinary action as provided for in Section 60 of the Local Government Code of 1991, the Code of Conduct and Ethical Standards for Public Officials and Employees and other related laws in the event he cannot perform his mandated duties and functions.

RENE K. BURDEOS
Regional Director

.cc : Atty. G. J. Emeterio S. Moreno, Jr.
Director, Legal Service
DILG Central Office

.ord/legal

