

October 26, 2009

HON. MARIO PATRICIO P. BARCENAS  
Mayor  
Carcar, Cebu

Dear Mayor Barcenas:

This has reference to your letter dated October 21, 2009, requesting legal opinion as to what constitutes two-thirds (2/3) vote in a sanggunian composed of ten (10) members.

In determining the two-thirds (2/3) vote of the sanggunian with a total membership of 10, the vote of 7 of its members is required. This is so because in instances where the Local Government Code requires the sanggunian to garner at least a two-thirds (2/3) vote, what is important is that the result thereof, when mathematically expressed, is greater and not less than that which is required by law. While it is true that a mathematical computation in determining the two-thirds vote in a ten-member sanggunian would yield the result of 6.66, we cannot go down to 6 because definitely it is less than what is required two-third of the sanggunian membership. Thus, the voting requirement to muster two-thirds vote of all the ten-membership suangguniang shall be seven (7).

However, let it be pointed out that if your are referring to the saggunian of Carcar, the total composition thereof is 11; there are 8 regularly elected members, then the ABC President, the SK Federation President and the Vice Mayor. Since the Vice Mayor is included in the composition of the sanggunian as provided in the Local Government Code, he shall likewise be included in the determination of the presence of quorum and in the determination of the number of votes required. With an 11-membership sanggunian including the Vice Mayor, the 2/3 vote is 8 (DILG Legal Opinion No. 121 S2002).

Truly yours,

PEDRO A. NOVAL, JR.  
Regional Director

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