

**BASIC : QUERY INDORESED BY MLGOO NEFETERI L. VILLAGONZALO
OF DILG CARMEN (CEBU) OFFICE**

3rd Indorsement

July 25, 2008

Respectfully returned to Mr. Edmundo J. Jamisola, Provincial Director, DILG Cebu Provincial Office, the herein basic communication from MLGOO Nefeteri L. Villagonzalo of DILG Carmen Office on the issue of vacancy and succession in the sagguniang bayan.

As regards the first concern, the highest ranking sangguniang bayan member who succeeds the Office of the Vice Mayor to fill the permanent vacancy therein is unable to complete his full term as elected sangguniang bayan member. As such, he may still run as member of the same sanggunian in the next election even if in the last election he was elected as sanggunian member for his 3rd successive term. As ruled by the Supreme Court in the case of Lonzanida vs. COMELEC G.R. No. 135150, July 28, 1999, for the prohibition on three-term limit to apply, two conditions must concur – 1) the official concerned has been elected for three consecutive terms in the same local government post; and 2) that he/she has fully served three consecutive terms. However, voluntary renunciation of the office (such as resignation) is not considered as an interruption of the term.

On the issue as to who will be appointed to fill the vacancy in the sanggunian after the highest ranking member has been elevated to the Office of the Vice Mayor, Section 45 of the Local Government Code of 1991 provides that only the nominee of the political party under which the sanggunian member concerned had been elected and whose elevation to the position next higher in rank created the last vacancy shall be appointed. The appointee shall come from the same political party as that of the sanggunian member who caused the vacancy and shall serve the unexpired term of the vacant office. The nomination and the certificate of membership of the appointee from the highest official of the political party concerned are conditions sine qua non, and any appointment without such nomination and certification shall be null and void. In case the permanent vacancy is caused by a sanggunian member who does not belong to a political party, the sanggunian concerned shall make the recommendation as to who will be appointed to fill the vacancy. All these can be found in the aforementioned Section of the Local Government Code. If only our field officers will take time to read and review the Code, they can respond immediately to the queries raised by local officials.

PEDRO A. NOVAL, JR.
Regional Director

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