



October 9, 2012

**RENATO MA. R. PERALTA**  
Provincial Chairman  
Liberal Party Provincial Headquarters  
7A H.T. CID St., Laoag City



Dear Mr. Peralta:

This refers to your letter seeking the Department's clarification on issue as to the rightful person to fill up the vacancy in the Office of the Sangguniang Bayan of Bacarra, Ilocos Norte- Is it the person who belongs to the political party of the former Vice Mayor Pacifico C. velasco or the person who belongs to the political party of the seventh (7<sup>th</sup>) SBM?

Before dwelling on the issue, may we first invite your attention to our published opinion on the matter (DILG Opinion No. 39, s. 2000), to wit:

“xxx in appointments to permanent vacancies in the sangguniang bayan, Section 45 (b) of the Local Government Code of 1991 expressly requires 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 in the sanggunian shall be appointed’. In several of our earlier legal opinions, we have consistently opined that the appointee shall come from the same political party as that of the sanggunian member who caused the vacancy. xxx In the case of FARIÑAS vs. BARBA (G.R. No. 116763, April 19, 1996), the Supreme Court had the occasion to rule that where the permanent vacancy is caused by a sanggunian member belonging to a political party, the Governor shall issue the appointment upon the nomination and certification of the political party to which the member who caused the vacancy belonged, as provided for under the aforecited provision of the Code.”

The Supreme Court, in the case of Navarro vs. Court of Appeals, G.R. No. 141397, March 28, 2001, categorically ruled that the vacancy should be filled up by a nominee coming from the political party of the member who caused the permanent vacancy in the sanggunian opining that “the reason behind the right given to a political party to nominate a replacement where a permanent vacancy occurs in the sanggunian is to **maintain the party representation as willed by the people in the election**”.

Dwelling on the issues, this Office opines that the office of the Vice Mayor was vacated due to the disqualification of the Vice Mayor elect. However, the vacancy was filled up by the 1st ranking SBM (SBM Ramit, a member of *Lakas Party*).

The elevation of SBM Ramit as Vice Mayor of Bacarra, Ilocos Norte, again, created a vacancy in the Office of the SB of Bacarra because he succeeded the office of the Vice Mayor. The vacancy was created by virtue of succession to higher office. This is the vacancy that must be filled up pursuant to Section 45 (b) of the Local Government Code of 1991.



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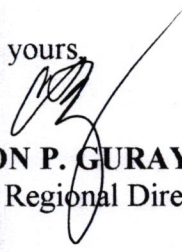


However, the elevation of the 7<sup>th</sup> rank SB Member to 6<sup>th</sup> rank did not create vacancy because such elevation is not tantamount to elevation to higher Office but only elevation in rank. Such movement did not create any vacancy as defined by law. Thus, the official who caused the last vacancy is SBM Ramit (*Lakas*), since he became a Vice Mayor, which is a higher position than an SB position.

Therefore, the vacancy in the SB of Bacarra should be filled up by a nominee coming from the political party of the member who caused the last vacancy (SBM Ramit). The nominee should come from the political party of SBM Ramit which is *Lakas Party*. This is to maintain party representation of *Lakas* in the SB of Bacarra, Ilocos Norte as willed by the people of Bacarra, Ilocos Norte in the last election.

We hope that we have addressed your concern accordingly.

Very truly yours,

  
**CORAZON P. GURAY, CESO III**  
Regional Director

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