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February 10, 2014

THE HONORABLE MEMBERS
 Sangguniang Barangay
 Barangay Quirino, Santa
 Ilocos Sur



Dear SB Members:

This pertains to your letter request seeking clarification regarding the appointment made by your Punong Barangay for the position of barangay treasurer.

On the first issue, the Sangguniang Barangay members are liable for not approving/concurring the reappointment of the barangay treasurer. The law provides that:

Section 395 of the Local Government Code of 1991, *Barangay Treasurer: Appointment, Qualification, Powers and Duties.* -

- (a) The barangay treasurer shall be appointed by the Punong Barangay with the concurrence of the majority of all the sangguniang barangay members. The appointment of the barangay treasurer shall not be subject to attestation by the Civil Service Commission.
- (b) The barangay treasurer shall be of legal age, a qualified voter, and an actual resident of the barangay concerned.
- (c) No person shall be appointed barangay treasurer if he is a sangguniang barangay member, a government employee, or a relative of the Punong Barangay within the fourth civil degree of consanguinity or affinity.

xxx

Upon the presentation of Punong Barangay Advincula regarding the reappointment of the incumbent treasurer, the Sangguniang Barangay (SB) unreasonably failed to give concurrence to such reappointment. It is unreasonable and without basis since the reservation and oppositions of the SB were not based on the qualifications (Section 395, b and disqualifications (Section 395 c).

The enumerated oppositions of the SB per submitted Manifesto were not valid grounds not to give their concurrence. In fact, Punong Barangay Advincula answered every allegations made by the SB in not giving their concurrence thereto. And Punong Barangay Advincula is correct in saying that issues relating to trust and confidence in the performance of work can be answered in a proper forum which your incumbent treasurer shall be given the opportunity to defend herself.



DILG Opinion No. 17, series of 2009 laid down the principle regarding the power of appointment of Punong Barangay with the concurrence of the SB. It provides that *“while the power to concur is given to the SB, said body is not vested with so much plenary discretionary powers. The power to concur is intended for the Sanggunian to determine whether or not the appointee of the Punong Barangay possesses all the qualifications prescribed for Barangay secretary under Section 394 of the Local Government Code and such other qualifications provided for by existing laws such as relative within the 4th civil degree xxx if the appointee possesses all the qualifications provided for by law, then the Sangguniang Barangay has no other far-reaching powers except to issue the concurrence. Exceeding that limitation, the Sangguniang Barangay would already be in effect exercising the appointing authority and prerogative of a Punong Barangay, who is vested the power by the Local Government Code to appoint the Barangay Secretary.”*

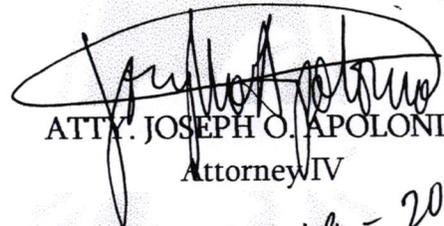
In addition, the Punong Barangay is not liable for gross negligence or dereliction of duty as discussed above. He cannot be compelled by the Sangguniang Barangay to appoint somebody else for the position of treasurer unless the appointee fails to qualify as provided for by law.

The SB should take note that the power to appoint is vested with the Punong Barangay and not shared with the SB. The power given to SB is the power to concur not the power to appoint. The power to concur is the power to determine whether or not the appointee of the Punong Barangay possesses all the qualifications and none of the disqualifications as provided for by law.

If the SB finds the Barangay Treasurer committing irregularities in the performance of her duties, they can file a criminal, administrative or civil case against the barangay treasurer. Irregularities in the performance of official duty or lost of trust and confidence are not valid grounds for the SB not to give their concurrence to the appointee of Punong Barangay.

I hope to have enlightened you on the issues at hand. This opinion, however, is without prejudice to any ruling or opinion rendered by a higher authority or a competent tribunal.

For your information and reference.


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2-19-2014

CC:

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