



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
Francisco Gold Condominium II Bldg., cor EDSA
Mapagmahal Street, Diliman, Quezon City

LEGAL SERVICE

OPINION NO. 86 S. 2010

June 04, 2010

PUNONG BARANGAY REYNALDO D. TRINIDAD
Canumay, Valenzuela City

Dear PB Trinidad:

This refers to your letter seeking our opinion on whether or not a person recommended by the Sangguniang Barangay to fill the vacancy therein may already take his oath as such.

To recall, you represented that a duly elected member of the Sangguniang Barangay of Canumay, Valenzuela City died during his incumbency resulting in a permanent vacancy therein. Because of this, majority of the members of the Sanggunian nominated Mr. Emmanuel DJ Demition to fill the vacancy. However, the Sanggunian's nomination has not been acted upon by the City Mayor. Thus, you now seek our opinion on whether or not Mr. Demition may already take his oath as a member of the Sangguniang Barangay before another government official other than the City Mayor.

In response thereto, please be informed that Section 45 (c) of the Local Government Code of 1991 is explicit that, in case of permanent vacancy in the Sangguniang Barangay, the vacancy shall be filled through appointment by the Mayor upon the recommendation of the Sangguniang Barangay. Thus, the appointment process involves 2 steps, namely: (1) recommendation of the sangguniang barangay, and (2) appointment by the City Mayor. The Sangguniang Barangay's nomination is only the first step in the appointment process. There is still another step to be completed, that is, the issuance of appointment by the City Mayor. Hence, Mr. Demition cannot yet take his oath as a member of the Sangguniang Barangay because he has not been appointed as such by the City Mayor.

Moreover, if ever appointed by the City Mayor, under Executive Order No. 292 as amended by RA No. 6733, the officers who have authority to administer oaths are the following: President; Vice-President; Members and Secretaries of both Houses of the Congress; Members of the Judiciary; Secretaries of Departments; provincial governors and lieutenant-governors; city mayors;

municipal mayors; bureau directors; regional directors; clerks of courts; registrars of deeds; and other civilian officers in the Philippines and are subject for confirmation by the Commission on Appointments; all other constitutional officers; and notaries public.

We hope we have enlightened you on the matter.

Very truly yours,

By Authority of the Secretary:


ATTY. JESUS B. DOQUE IV
Director III

Legal:28/corz
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