

Republic of the Philippines  
**DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT**

Francisco Gold Condominium II, EDSA cor. Mapagmahal St.  
Diliman, Quezon City

FILE OPINION NO. 81-01-2007

**OFFICE OF THE UNDERSECRETARY FOR LOCAL GOVERNMENT**

18 September 2007

**MAYOR JUAN M. SANCHEZ**  
Lubang, Occidental Mindoro

Dear Mayor Sanchez:

This pertains to your letter seeking our legal opinion on the proper application and interpretation of the three (3) consecutive term limit rule of elective local officials to hold the same position.

Per your letter, you won as Mayor in the 2001 local elections and served the full term thereof. In the 2004 elections, you again ran for the same position but your opponent was declared winner by the Municipal Board of Canvassers. But due to your honest belief that you were the real winner in the 2004 elections, you filed an election protest which was decided by the RTC thereat in your favor.

By virtue of the court's decision, you assumed on 06 April 2005 as Mayor. However, on 07 April 2005, a Temporary Restraining Order was issued by the COMELEC 1<sup>st</sup> Division, which order expired after the lapse of twenty (20) days, hence, on 27 April 2005, you reassumed the Office of the Mayor. On 12 April 2007, the COMELEC En Banc declared you as the duly elected Mayor, which decision became final and executory.

During the 14 May 2007 national and local elections, you were reelected as Mayor.

Based on the facts given, you now seek our legal opinion regarding the following issues, to wit:

1. Whether or not you are qualified to run as Mayor in the next elections considering that you were not able to serve continuously your second term due to involuntary break in your service as Mayor from 01 July 2004 to 05 April 2005 and 07 April to 27 April 2005.
2. If still qualified to run and will win in the next elections, when will the three term limit start to run?

In reply to your first query, may we invite your attention to Section 43 (b) of the Local Government Code, which we hereunder quote:

*"No local elective official shall serve for more than three (3) consecutive terms in the same position. Voluntary renunciation of the office for any length of*

*time shall not be considered as an interruption in the continuity of service for the full term which the elective official concerned was elected."*



In the leading case of Borja vs. COMELEC (G.R. No. 133495, 03 September 1998) and in several cases decided thereafter up to the present, the Supreme Court consistently ruled that for Section 43 (b) to apply where a local elective official is disqualified to run for the same position after serving the said position for three consecutive terms, two (2) elements must concur, which are: (1) the local official concerned must have been duly elected to that office; and (2) said local official must have fully served that same office for three consecutive terms. If these circumstances are present, then the concerned local official is already disqualified to run for the same position on the supposed fourth consecutive term.

We are of the opinion, therefore, that you are still eligible to run as Municipal Mayor in the next local elections. This is so because the second element as mentioned in the immediately preceding paragraph is not present. Clearly from your narration of facts, you were not able to fully serve the full term of your office corresponding to your first reelection, which is supposedly your second term for the same position. Said term commenced at noon of 30 June 2004 and ended at noon of 30 June 2007. It bears to note that for your reelection in the 10 May 2004 local elections, you were able to assume the position as Mayor only on 06 April 2005 as a result of the court's decision declaring you as the duly elected Mayor. Hence, the continuity of your service for the second term is considered interrupted from the period 30 June 2004 up to 05 April 2005.


In reply to your second query, may we note that Section 43 (b) of the Code mentioned "*three (3) consecutive terms in the same position*". Consecutive means no interruption. Accordingly, we are of the view that if you are still qualified to run in the next local elections, your first term for the same position should be reckoned from noon of 30 June 2007, which is the commencement of your term of office in relation to the 14 May 2007 elections.

Hope we have enlightened you on the matter.

Very truly yours,

  
**AUSTERE A. PANDERO**  
Undersecretary 

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