



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

**OFFICE OF THE SECRETARY**

MEMORANDUM NO. 88 S. 2007

15 October 2007

**PUNONG BARANGAY IRENEO G. TUBALLA, JR.**

Barangay Puhagan, Valencia  
Negros Oriental

Dear Sir:

This has reference to your earlier letter seeking our clarification on the proper application of the three-consecutive term limit rule. You specifically asked the following queries;

1. Whether the suspension of five (5) months given by the municipal mayor thru SB resolution, can be considered as an interruption in the continuity of your service for the full term for which you were elected.
2. Would it be possible that you have still another term of office or can you still run on the same position as Punong Barangay this coming Synchronized Barangay and SK elections.

Before dealing squarely with your queries, we deem it proper to give some discussions on the pertinent provisions of law applicable in the case at hand.

**Section 8, Art. X of the 1987 Constitution**

*"SEC. 8. The term of office of elective local officials, except barangay officials, which shall be determined by law, shall be three years and no such official shall serve for more than three consecutive terms. Voluntary renunciation of the office for any length of time shall not be considered as an interruption in the continuity of his service for the full term for which he was elected."*

**Section 43 (b) of the Local Government Code**

*SEC. 43. Term of Office.- (b) 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 for which the elective official concerned was elected. xxx"*

The foregoing provisions are the bases for the so-called three-consecutive term limit rule among local elective officials, which disqualifies them from running for the same position after serving the same for three consecutive terms.

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 9b) to apply, two (2) elements must concur, which are: (1) the local official concerned must have been elected to that office; and (2) said local official must have fully served the term of 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 his supposed fourth consecutive term.

Hence, in reply to your first and second queries, may we quote hereunder portion of the Supreme Court pronouncement in the same case of *Benjamin U. Borja, Jr. vs. COMELEC, et al.* (G.R. No. 133495, 03 September 1998), as follows:

*"To recapitulate, the term limit for elective local officials must be taken to refer to the right to be elected as well as the right to serve in the same elective position. Consequently, it is not enough that an individual has served three consecutive terms in an elective local office, he must also have been elected to the same position for the same number of times before the disqualification can apply. This point can be made clearer by considering the following cases or situations:*

*Case No. 1. Suppose A is a vice-mayor who becomes mayor by reason of the death of the incumbent Six months for the next election, he resigns and is twice elected thereafter. Can he run again for mayor in the next elections?*

*Yes, because although he has already first served as mayor by succession and subsequently resigned from office before the full term expired, he has no actually served three full terms in all for the purpose of applying the term limit. Under Art. X, Section 8, 1987 Constitution, voluntary renunciation of the office is not considered as an interruption in the continuity of his service for the full term only if the term is one "for which he was elected". Since A is only completing the service of the term for which the deceased and not he was elected, A cannot be considered to have completed one term. His resignation constitutes an interruption of the full term.*

*Case No. 2. Suppose B is elected mayor and, during he first term, he is twice suspended for misconduct for a total of 1 year. If he is twice reelected after that, can he run for one more term in the next election?*

*Yes, because he has served only two full terms successively.*

*In both cases, the mayor is entitled to run for reelection because the two conditions for the application of the disqualification provisions have not concurred, namely, that the local official concerned has been elected three consecutive times and that he has fully served three consecutive terms. In the first case, even if the local official is considered to have served three full terms notwithstanding his resignation before the end of the first term, the fact remains that he has not been elected three times. In the second case, the local official has been elected three consecutive times, but he has not fully served three consecutive terms." (underlining ours)*

Thus, applying the above pronouncement of the Supreme Court, we are of the view that a Punong Barangay, who has been suspended for five (5) months as a result of an administrative case filed against him, is considered to have not fully served his full term of office under which he was elected, since a suspension from office is considered by the Supreme Court as an interruption of the full service of the incumbent.

Hence, you are still qualified to run on the 29 October 2007 Barangay and SK elections.

We hope that we have addressed your concern accordingly.

Very truly yours,

By Authority of the Secretary:

  
**PASCUAL V. VERON CRUZ, JR.**  
Head Executive Assistant

cc: RD RENE K. BURDEOS  
DILG Region VII  
Sudlan, Lahug, Cebu City

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