



Republic of the Philippines  
**DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT**  
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Diliman, Quezon City

**OFFICE OF THE UNDERSECRETARY FOR LOCAL GOVERNMENT**

WFO UPANALOG 98 S. 2007  
24 October 2007

**MR. DOMINIC A. DIÑO**  
c/o EUGENIO F. FAELNAR  
3<sup>rd</sup> Floor, City Savings Financial Plaza  
Osmeña Boulevard, Cebu City

Dear Sir:

This pertains to your letter seeking our legal opinion on the issue, to wit:

***“Is Eugenio F. Faelnar, the incumbent Punong Barangay of Guadalupe, Cebu City qualified to run this coming 2007 Barangay Election?”***

Per your letter, he was elected to the aforementioned position during the 1994, 1997 and 2002 elections, respectively. However, during the 1997 election, he was not able to assume the position as he was not proclaimed winner by reason of the pending two (2) criminal cases for violation of the Election Code filed before the RTC of Cebu City.

The sangguniang barangay member who received the highest number of votes, assumed as the Punong Barangay. It was only sometime in February 1998 that he was finally able to assume the office of the Punong Barangay of Guadalupe.

Hence, this query.

In reply thereto, we deem it proper to give some discussions on the pertinent provisions of law applicable in the case at hand.

***“SEC. 43. Term of Office.- (a) The term of office of all local elective officials elected after the effectivity of this Code shall be three (3) years, starting from noon of June 20, 1992 or such date as may be provided for by law; except that of elective barangay officials: Provided, that all local officials first elected during the local elections immediately following the ratification of the 1987 Constitution shall serve until noon of June 30, 1992.***

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

consecutive term limit rule, is to be reckoned from the 1994 barangay elections. Important to note is the provision under Section 2 of RA 9164 as aforementioned providing that voluntary renunciation of 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 was elected. Resignation is one instance where there is voluntary renunciation of an office by the elective local official concerned.

Going now to your query, we are of the view that the 1997 term of the Punong Barangay concerned cannot be considered as one term since he was not able to fully serve the 1997-2002 term.

Hence, the Punong Barangay concerned is still eligible/qualified to run for reelection to the same position in 29 October 2007 barangay and SK elections.

We hope to have enlightened you on the matter.

Very truly yours,

  
**AUSTERE A. PANADERO**  
Undersecretary 

Legal:12/rb#13

cc: Director Pedro A. Noval  
DILG Regional Office No. 07  
Cebu City

*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" (Emphasis Supplied)*

*(c) The term of office of barangay officials and member of the sangguniang kabataan shall be for three (3) years, which shall begin after the regular election of barangay officials on the second Monday of 1994."*

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 (b) 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.

At this juncture, it is not amiss to point out that the aforequoted Section 43 of the Local Government Code did not expressly mandate that elective barangay officials are covered by the three-term limit rule. However, the issue as to whether or not elective barangay officials are covered by the three-consecutive term limit rule to hold the same position was finally put into rest when on 19 March 2002, RA 9164 was approved, entitled: "*An Act Providing for Synchronized Barangay and Sangguniang Kabataan Elections, Amending Republic Act No. 7160, as amended, otherwise known as the Local Government Code of 1991, and For Other Purposes*". Section 2 thereof provides that:

*"The term of office of all barangay and sangguniang kabataan officials after the effectivity of this Act shall be three (3) years.*

*No barangay elective official shall serve for more than three (3) consecutive terms in the same position: Provided, however, That the term of office shall be reckoned from the 1994 barangay elections. Voluntary renunciation of office for any length of time shall not be considered as an interruption in the continuity of service of the full term for which the elective official was elected."*

As clearly provided for in the aforequoted provision, the first term of office of elective barangay officials, for purposes of computing the three-