



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

MEMORANDUM CIRCULAR
NO. 2010- 82

August 31, 2010

TO : ALL PROVINCIAL GOVERNORS, CITY MAYORS, MUNICIPAL MAYORS, SANGGUNIAN PRESIDING OFFICERS, DILG REGIONAL DIRECTORS, ARMM REGIONAL GOVERNOR, AND OTHERS CONCERNED

SUBJECT : STATUS OR TERM OF OFFICE OF PCL EX-OFFICIO MEMBERS IN THE SANGGUNIANG PANLALAWIGAN

In reference to the previous Department issuances (DILG MC Nos. 2004-83 and 2004-100) on the above captioned subject, the following opinion is issued for the information and guidance of all concerned officials.

The right of a Provincial President of the Philippine Councilors League (PCL) to sit as ex-officio member of the Sangguniang Panlalawigan emanates from Section 467 (a) of the Local Government Code of 1991 (RA No. 7160). Further, Section 508 thereof provides that "...The duly elected president of the provincial federation of sanggunian members of component cities and municipalities shall be an ex-officio member of the sangguniang panlalawigan concerned and shall serve as such only during his term of office as president of the provincial federation of sanggunian members of component cities and municipalities, which in no case shall be beyond the term of office of the sanggunian panlalawigan concerned".

The phrase, "which in no case shall be beyond the term of office of the sangguniang panlalawigan concerned", is stated for the purpose of reckoning the existence of the sanggunian concerned as a collective body (as in the case of the Presidents of the Liga ng mga Barangay and the Sangguniang Kabataan Federation, DILG Opinion Nos. 73-2001 and 54-2004).

The right to assume or remain in any of the positions enumerated in Section 467 (a) of RA 7160 should not be exclusively associated with "the term of office of the sangguniang panlalawigan concerned". Such term does not necessarily coincide, for example, when: (1) one's proclamation has been deferred due to an election protest, or (2) he has not yet qualified (i.e., has not taken oath and assumed the office), or (3) one is removed or suspended from office, or (4) one's term of office expired pursuant to Section 43 of RA 7160. The case is entirely different for one who is permitted to sit in the *previous term of office of the sanggunian* as well as in the *beginning of the term of office of the new sanggunian* under a "hold-over capacity", as in the case of the presidents of the Liga ng mga Barangay, the SK Federation and the PCL.

Section 509 of RA 7160 authorized the PCL to adopt its own Constitution and By-Laws (CBL) to govern its internal organization. Sections 8 and 9 of Article XVII of the PCL CBL, as amended, reads:

Section 8. The Federation President who ceases to be such for any reason aforementioned, shall be automatically succeeded by the Federation Vice-President and, in the case of representation in the Sanggunian Panlalawigan, the Provincial Federation Vice-President or the next ranking officer shall succeed him as ex-officio member of the Sanggunian Panlalawigan concerned in the order of their succession. (a/2007)

Section 9. For purposes of succession, in cases wherein the preceding section is not applicable, the same be filled automatically by the officer next in rank in the vertical position in the organization of the PCL Provincial Federation, Regional Council, National Executive Officers and National Board as provided in this Constitution.

In view of the above provisions, while the term of office of the officers of the PCL coincides with their term of office as "councilors", an officer of the League does not automatically cease to serve as such, if re-elected or did not lose as "councilor" in the last election. This is consistent with his automatic membership in the League and necessary in order for him to continue the business of the organization, as well as its mandatory representation in the sangguniang panlalawigan pursuant to Section 467 (a) of RA 7160.

Denying the incumbent and qualified officers of the PCL to sit as ex-officio members of the sanggunian because of the view that their term expired as of noon of June 30, 2010, is inconsistent with the public policy that discourages vacancy in government service. In the case of Raul A. Galarosa vs. Eudario B. Valencia, the Supreme Court (G.R. No. 109455) explained the justification of the hold over status, to wit:

"The rule is settled that unless "holding over be expressly or impliedly prohibited, the incumbent may continue to hold over until someone else is elected and qualified to assume the office." This rule is demanded by the "most obvious requirements of public policy, for without it there must frequently be cases where, from a failure to elect or a refusal or neglect to qualify, the office would be vacant and the public service entirely suspended" Otherwise, stated, the purpose is to prevent a hiatus in the government pending the time when the successor may be chosen and inducted into office....."

In view of the foregoing discussions, it can be logically concluded that where a PCL President was re-elected as councilor in the recently concluded local elections, he/she shall continue to serve as PCL Federation President in a hold-over capacity and pursuant to Section 508 of the Local Government Code, shall be entitled to sit as ex-officio member in the sangguniang panlalawigan until his successor is duly elected and qualified, which for the purpose and pursuant to PCL Constitution and By Laws, an election of officers of the PCL provincial federation has to be conducted within ninety (90) days from assumption of office of the regularly elected members of the municipal and component city local legislative councils.

The same rule applies to Liga ng mga Barangay Presidents and Sangguniang Kabataan Federation Presidents, as ex-officio members in the Sangguniang Bayan, Sangguniang Panlungsod and Sangguniang Panlalawigan.

Be guided accordingly.


JESSE M. ROBREDO
Secretary

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AND LOCAL GOVERNMENT
IN REPLYING, PLS CITE:
SILG10-002431
