



Republic of the Philippines
DEPARTMENT OF THE INTERIOR AND LOCAL GOVERNMENT
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MAYOR ROBERTO M. DEL MUNDO
Municipal Mayor
Municipality of Kalayaan
Province of Palawan

DILG OPINION NO. 36
06 JUL 2018

S. 2018

Dear Mayor Del Mundo:

This is in reference to your letter dated 8 June 2018 seeking for legal opinion on the following issues which we quote *in verbatim*:

1. *Whether or not the Sangguniang Bayan of our Municipality is duty bound to allow the SK Chairperson to sit as Ex-Officio Member of the Sangguniang Bayan despite the inconsistency or absurdity given the fact that there are only Three (3) SK Members;*
2. *Consequently, whether or not the Municipality of Kalayaan shall be compelled to allocate funds for the salary of SK Chairperson or SK Federation President who shall sit as Ex-Officio Member of the Sangguniang Bayan;*
3. *Whether or not the existing Youth Development Office in the Municipality is sufficient to take care of the issues and concerns of the youth.*

This Department will discuss the issues in seriatim.

On issue no. 1, this Department answers in affirmative.

R.A. 10742 otherwise known as the Sangguniang Kabataan Reform Act of 2015 (SK law) explicitly provides this provision:

SEC. 22. *Membership in the Sanggunian and Local Special Bodies.* –(a) The duly elected president of the Pederasyon ng Sangguniang Kabataan, at all levels, shall serve as *ex officio* member of the Sangguniang Bayan, Sangguniang Panlungsod and Sangguniang Panlalawigan, respectively;

It is your opinion that the said representation is an absurdity given the fact that you have an SK Chairman and only three (3) members. This Department, however, has a separate view. The passing of SK law has its purpose as embodied in its Section 2, which provides:

SEC. 2. Declaration of State Policies and Objectives. – The State recognizes the vital role of the youth in nation-building and thus, promotes and protects their physical, moral, spiritual, intellectual and social well-being, inculcates in them patriotism, nationalism and other desirable values, and encourages their involvement in public and civic affairs.

Towards this end, the State shall establish adequate, effective, responsive and enabling mechanisms and support systems that will ensure the meaningful participation of the youth in local governance and in nation-building.

As provided in the above-cited law, the purpose of having an SK is for the meaningful participation of the youth in local governance and in nation-building. Therefore, if you will not allow youth representation in the Sanggunian, it is the same as undermining the purpose of the passage of this law.

Moreover, the issue of representation or *ex-officio* membership in the Sangguniang Bayan had been settled by this Department in our Legal Opinion No. 2 s. 2009. This opinion discussed the rationale why the elected Punong Barangay for lone barangay should be the automatic representative to the Sangguniang Bayan in the Municipality of Kalayaan.

In the present case, this Department will reiterate the logic why the Sangguniang Bayan should allow the *ex-officio* members, even for lone barangay, to sit in the said body. It provides:

“Based on the foregoing and as indicated by the term itself, the “Liga ng mga Barangay” is an organization of all barangays. The member-barangays within a municipality shall be represented therein by their Punong Barangays who shall organize themselves and elect from among them the President and other officers of liga at the municipal level as provided in the National Liga Constitution and By-Laws. The elected President of the liga at the municipal level shall concurrently serve as ex-officio member of the sangguniang bayan.

As an organization, the Liga ng mga Barangay in a municipality presupposes a plurality of Barangays thereat. In your case, having a lone barangay in the municipality, in effect, renders this plurality and process of election of the President and the other officers of the liga in that municipality practically impossible. However, considering that the primary purpose of organizing the Liga ng mga Barangay is to represent the barangays in the

sangguniang bayan and at the same time, to serve as medium for ventilating, articulating and crystallizing issues affecting barangay government administration and securing, through proper and legal means, solutions thereto, we are of the considered view that the lone Punong Barangay can legally be considered as the automatic President of the Liga at the municipal level and therefore, per Section 446 (a) of the Local Government Code of 1991, should concurrently serve as an ex-officio member of the sangguniang bayan. The reason for this is the fact that there is still one barangay left which needs to be represented in the sangguniang bayan and which governance may still be confronted with issues that must be ventilated, articulated and crystallized consistent with the primary purpose for the organization of the Liga ng mga Barangay at the sangguniang bayan level. Refusal to recognize the lone Punong Barangay would deprive the lone barangay the right to be represented in the sangguniang bayan."

Since you also mentioned the issue regarding the incomplete number of SK members, this Department deemed it proper also to discuss how the same should be filled-up as provided under the SK Law, to wit:

SEC. 19. Succession and Filling up of Vacancies. – (a) In case a Sangguniang Kabataan chairperson refuses to assume office, fails to qualify, voluntarily resigns, dies, is permanently incapacitated, is removed from office, the Sangguniang Kabataan member who obtained the highest number of votes in the election immediately preceding shall assume the office of the chairperson for the unexpired portion of his or her term. In case said member refuses to assume the position or fails to qualify, the Sangguniang Kabataan member obtaining the next highest number of votes shall assume the position of the chairperson for the unexpired portion of the term.

(b) After the vacancy shall have been filled, the Sangguniang Kabataan chairperson shall, within thirty (30) days, call for a special Katipunan ng Kabataan assembly to elect a Sangguniang Kabataan member to complete the membership of said sanggunian: Provided, That, such special assembly is coordinated with the Office of the Local Government Operations Officer and the COMELEC of the municipality or city where the concerned barangay belongs. Such Sangguniang Kabataan member shall hold office for the unexpired portion of the term of the vacant seat. For this purpose, any citizen of the Philippines residing in the said barangay for at least six (6) months who attains the age of fifteen (15) years old at the time of the special election and who registers as member of the Katipunan ng Kabataan before the Sangguniang Kabataan secretary shall be entitled to vote in the said special election.

(c) All other vacancies in the office of the Sangguniang Kabataan shall be filled in accordance with the immediately preceding provision. (emphasis supplied)

Based on the above, the special Katipunan ng Kabataan Assembly should be called by the Chairperson for purposes of filling up the vacancy in the office of the Sangguniang Kabataan.

On your second issue, based on the discussions above, your municipality is required to allocate funds for the salary of the ex-officio members of the Sangguniang Bayan.

On your third issue relative to the Youth Development Office in the Municipality, it is hereby advised that the same should be consistent with the provision of RA 10742, viz:

CHAPTER IV THE LOCAL YOUTH DEVELOPMENT OFFICE

SEC. 25. Creation. – There shall be in every province, city and municipality a Youth Development Office which shall be headed by a youth development officer with the rank of at least division chief. Such may be put under the Office of the Local Chief Executive, the Office of the Planning and Development, the Office of the Social Welfare, or in any other office deemed appropriate by the local government unit. If the funds of the local government unit are sufficient, it can be a separate department with divisions and units for policy and planning, administration and finance, and programs and operations. In the event when the local government unit has exceeded the prescribed personal services limitations, the local chief executive may designate existing personnel whom he or she deems fit to serve this purpose until such time that the local government unit can already create this office.

SEC. 26. Funding. – The local government unit shall incorporate in its annual budget such amount as may be necessary for the operation and effective functioning of the Local Youth Development Office.

In addition, your municipality is also mandated to create this council:

THE LOCAL YOUTH DEVELOPMENT COUNCIL (LYDC)

SEC. 23. Creation. – To ensure wide and multi-sectoral youth participation in local governance, there shall be in every province, city and municipality a Local

Youth Development Council (LYDC) "which shall be called, Provincial Youth Development Council, City Youth Development Council and Municipal Youth Development Council, respectively. The LYDC shall be composed of representatives of youth and youth-serving organizations in the provincial, city, and municipal level. The LYDC shall assist the planning and execution of projects and programs of the Sangguniang Kabataan, and the Pederasyons in all levels.

SEC. 24. Local Youth Development Council Funds. – The LYDC shall be funded by their respective Sangguniang Bayan, Sangguniang Panlungsod and Sangguniang Panlalawigan.

We hope we addressed your concerns accordingly.

Very truly yours,
BY AUTHORITY OF THE SECRETARY:

MARTIN B. DIÑO
Undersecretary

Copy furnished:

Dir. Florida M. Dijan, CESO III
DILG-MIMAROPA

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