



Office of the Speaker
TINA ROSE MUÑA BARNES
I Mina' Trentai Singko Na Liheslaturan Guahan



10/14/19

Senator James Moylan

TRANSMITTED VIA ELECTRONIC MAIL: senatormoylan@guamlegislature.org

Letter to AG on 10/14/19 regarding Acting Lt. Governor

Dear Senator Moylan, *Jim*

Hafa Adai! It was brought to my attention that you had inquired with the Attorney General's office regarding my role as Acting Lt. Governor and my authority to vote when assuming the role of Acting Lt. Governor. In the spirit of being proactive, I had reached out to our Legal Bureau seeking clarification. For your convenience, I am attaching their response to this email.

Should you have further questions concerning my office, feel free to reach out to my office directly.

Sincenru yan Magahit,

Tina Rose Muña Barnes

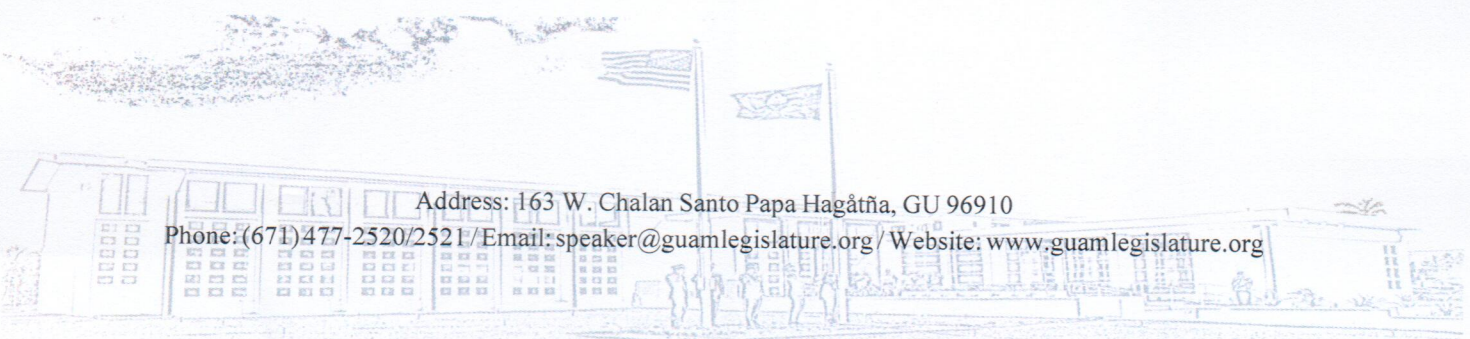
Speaker, 35th Guam Legislature

*P.S.
Next time
just call me!*

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Query re: separation of powers issue

Legislative Counsel <guamlegislativecounsel@gmail.com>
To: Speaker's Office <speaker@guamlegislature.org>

Tue, Jul 16, 2019 at 12:03 PM

Speaker,

You have asked whether a separation of powers exists by virtue of your acting as both Speaker of the Legislature and Acting Lieutenant Governor. Specifically, you've asked whether, under the Organic Act, you must vacate your position as Speaker while temporarily serving as Lieutenant Governor. Upon initial review, we do not believe that vacating your position as Speaker is warranted, or that a separation of powers issue exists. The analysis is as follows.

Under the framework provided by 48 U.S.C.A. § 1422b, in the event of a temporary absence of the Governor, the Lieutenant Governor shall assume the powers of the Governor, while the Speaker of the Legislature shall act as Lieutenant Governor. The language of subsections (a) and (b) of § 1422b are unambiguous, and thus the plain language of the statute prevails. Further, even assuming there were a local law to the contrary, it would be trumped by the aforementioned Organic Act provision. Further still, while we have found no Guam case on this exact question, at least one other jurisdiction has passed on a similar question, effectively supporting our conclusion that you would not have to vacate your legislative position in this case. *See Ackerman Dairy Inc. v. Kandle*, 253 A.2d 466 (N.J. 1969) (opining that when Senate President became Acting Governor under constitutional provision providing for vacancy in the latter office, he was not precluded from simultaneously acting as Senator).

Thus, in the absence of any other controlling provision, it is our initial opinion that you may serve in the two roles concurrently. We trust this suffices, but we can continue researching the matter if you like.

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