RESOLUTION NO. R-655, AMENDING THE 1996 HLURB RULES OF PROCEDURE

HLURB ADMINISTRATIVE ORDER NO. 02, S. 2000, February 18, 2000

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1. Attached is a copy of the subject resolution, approved by the Board of Commissioners on 15 December 1999 for your reference.

2. Basically, the resolution amending the 1996 HLURB Rules of Procedure embodies, among others, the following procedural changes:

> 2.1 Provision of rules for the disposition or resolution of contested applications for clearance, permits and licenses as well as for cases filed for the revocation thereof (the procedural flowchart of which is hereto attached);
>
> 2.2 Vesting of power in the Executive Committee of the Board to resolve, among others, cases impressed with significant economic, social, environmental or national policy implications;
>
> 2.3 Vesting of power in the Regional Officer to resolve contested applications not otherwise falling under the jurisdiction of the Executive Committee; and
>
> 2.4 Vesting of power in the Regional Officer to approve or disapprove decisions of the Arbiter in other cases.

3. The amendatory resolution was published in Malaya on 16 February 2000 and, accordingly, shall take effect 15 days thereafter or on 02 March 2000. In accordance with Section 15 thereof, proceedings of cases pending at the effectivity of these amendments shall be governed by the Rules of Procedure as amended, except when in the opinion of the Board their application would work injustice, in which case, the former Rules shall apply.

4. The Regional Offices are hereby directed to adjust operational procedures in accordance with the Rules as amended and/or provide for smooth transition.

5. The Board Secretariat shall subsequently issue copies of the HLURB Rules of Procedure with the amendments integrated.

Please be guided accordingly.

Adopted: 18 Feb. 2000

(SGD.) ROMULO Q.M. FABUL
Chief Executive Officer

Board of Commissioners

Resolution No. R-655, Series of 1999

AMENDING THE 1996 RULES OF PROCEDURE

WHEREAS, in the light of recent developments the Board finds it necessary to reexamine its existing Rules of Procedure so as to afford oppositors with the proper channel and expeditious means to ventilate their objections and oppositions to applications for permits, clearances and licenses, as well as to protect the rights of applicants against frivolous oppositions that may cause undue delay to their projects;

WHEREAS, in order to promote expeditious disposition of these cases and judicious grant of relief owing, concededly, to the economic impact of such oppositions to a project, the Board finds the need for a specialized body within the Board to take cognizance thereof;

WHEREAS, there is a need to foster closer coordination between the various offices of the Board in order to ensure cohesiveness and consistency in the implementation of the Board's mandates and policies at various levels; and

WHEREAS, pursuant to Section 2. Rule XXII of the 1996 Rules of Procedure, the Board may issue from time to time supplementary rules to govern matters not covered by the present rules or to amend provisions thereof;

WHEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, that pursuant to Section 5 (c) and (j) of Executive Order No. 648, Series of 1981, as amended by Executive Order No. 90, Series of 1986, THAT the 1996 Rules of Procedure of the Housing and Land Use Regulatory Board, specifically:

1. Rule II, Parties;
2. Rule III, Commencement of Action, Summons and Answer;
3. Rule VII, Cease and Desist Order;
4. Rule VIII, Powers of the Arbiter;
5. Rule X, Procedure in Regional Offices Without Arbiters;
6. Rule XI, Decision;
7. Rule XII, Petition for Review;
8. Rule XVII, Proceedings Before the Board of Commissioners;
9. Rule XIX. Entry of Judgment; and
10. Rule XX, Execution.

BE AMENDED AS THE SAME ARE HEREBY AMENDED, as follows (Text in ALL CAPITAL LETTERS are new or additional provisions; entirely new provisions are also indicated by "(n)" at the end thereof; text to be deleted from the existing Rules of Procedure are enclosed in brackets "[ ]"):

Section 1. The following shall be appended as Section 2 of Rule II, Parties:

> "SECTION 2. APPLICANT AND OPPOSITOR. — ANY PERSON, NATURAL OR JURIDICAL, OR ENTITIES AUTHORIZED BY LAW, WHO FILES AN APPLICATION BEFORE ANY REGIONAL FIELD OFFICE OF THE BOARD FOR THE ISSUANCE OF ANY LICENSE. DEVELOPMENT PERMIT AND/OR LOCATIONAL CLEARANCE OR THE AUTHORITY TO EXERCISE ANY RIGHT OR PRIVILEGE GRANTED UNDER ANY LAW, PROCLAMATION, DECREE OR EXECUTIVE ORDER ADMINISTERED, ENFORCED AND/OR IMPLEMENTED BY THE BOARD SHALL BE CALLED THE APPLICANT.
>
> ANY PERSON, NATURAL OR JURIDICAL, OR ENTITIES AUTHORIZED BY LAW WHO CLAIMS AN ADVERSE INTEREST IN ANY APPLICATION FILED WITH THE BOARD OR IN THE SUBJECT MATTER THEREOF SHALL BE CALLED THE OPPOSITOR." (n)

Section 2. Rule III. Commencement of Action, Summons and Answer, is hereby amended to include the

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following as Sections 2, 3 and 4 thereof:

"SECTION 2. OPPOSITION TO APPLICATION FOR PERMIT/LICENSE/CLEARANCE. — WHEN AN OPPOSITION IS FILED TO AN APPLICATION FOR A LICENSE, PERMIT OR CLEARANCE WITH THE BOARD OR ANY OF ITS REGIONAL FIELD OFFICE, THE REGIONAL OFFICER SHALL MAKE A PRELIMINARY EVALUATION AND DETERMINATION WHETHER THE CASE IS IMPRESSED WITH SIGNIFICANT ECONOMIC, SOCIAL, ENVIRONMENTAL OR NATIONAL POLICY IMPLICATIONS. IF HE/SHE DETERMINES THAT THE CASE IS SO IMPRESSED WITH SIGNIFICANT ECONOMIC, SOCIAL ENVIRONMENTAL OR NATIONAL POLICY IMPLICATIONS, SUCH AS, BUT NOT LIMITED TO:

1) PROJECTS OF NATIONAL SIGNIFICANCE, FOR PURPOSES OF THIS RULE, A PROJECT IS OF NATIONAL SIGNIFICANCE IF IT IS ONE OR FALLS UNDER ANY OF THOSE ENUMERATED IN RULE III, SECTION 3 OF THESE RULES AS AMENDED.

2) THOSE INVOLVING ZONING VARIANCES AND EXCEPTIONS;

3) THOSE INVOLVING SIGNIFICANT PUBLIC INTEREST OR POLICY ISSUES;

4) THOSE ENDORSED BY THE ZONING ADMINISTRATORS OF LOCAL GOVERNMENT UNITS; (n)

THE REGIONAL OFFICER SHALL CAUSE THE RECORDS OF THE CASE TO BE TRANSMITTED TO THE EXECUTIVE COMMITTEE WHICH SHALL ASSUME ORIGINAL JURISDICTION OVER THE CASE, OTHERWISE THE REGIONAL OFFICER SHALL ACT ON AND RESOLVE THE OPPOSITION.

SECTION 3. A PROJECT IS OF NATIONAL SIGNIFICANCE IF IT INVOLVES ANY OF THE FOLLOWING:

a. POWER GENERATING PLANTS (E.G. COAL-FIRED THERMAL PLANTS) AND RELATED FACILITIES E.G. TRANSMISSION LINES:
b. AIRPORT/SEAPORTS; DUMPING SITES/SANITARY LANDFILLS; RECLAMATION PROJECTS;
c. LARGE-SCALE PIGGERY AND POULTRY PROJECTS:
d. MINING/QUARRYING PROJECTS;
e. NATIONAL GOVERNMENT CENTERS;
f. GOLF COURSES:
g. FISH PONDS AND AQUACULTURE PROJECTS;
h. CELL SITES AND TELECOMMUNICATION FACILITIES;
i. ECONOMIC ZONES, REGIONAL INDUSTRIAL CENTERS, REGIONAL AGRO-INDUSTRIAL CENTERS, PROVINCIAL INDUSTRIAL CENTERS;
j. ALL OTHER INDUSTRIAL ACTIVITIES CLASSIFIED AS HIGH-INTENSITY USES (1-3 PROJECTS)

SECTION 4. ANY PARTY AGGRIEVED, BY REASON OF THE ELEVATION OR NON-ELEVATION OF ANY CONTESTED APPLICATION BY THE REGIONAL OFFICER MAY FILE A VERIFIED PETITION FOR REVIEW THEREOF WITHIN THIRTY (30) DAYS FROM RECEIPT OF THE NOTICE OF ELEVATION OR NON ELEVATION OF THE CONTESTED APPLICATION WITH THE EXECUTIVE COMMITTEE WHICH SHALL RESOLVE WHETHER IT SHALL ASSUME JURISDICTION THEREON.

THE CONTESTED APPLICATION FOR CLEARANCE, PERMIT OR LICENSE SHALL BE TREATED AS A COMPLAINT AND ALL OTHER PROVISIONS OF THESE RULES ON COMPLAINTS NOT INCONSISTENT WITH THE PRECEDING SECTION SHALL, AS FAR AS PRACTICABLE be made applicable TO OPPOSITIONS EXCEPT THAT THE DECISION OF THE BOARD EN BANC ON SUCH CONTESTED APPLICATIONS SHALL BE FINAL AND EXECUTORY AS PROVIDED IN RULE XIX, SECTION 2 OF THESE RULES AS AMENDED.

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THE RULES PERTAINING TO CONTESTED APPLICATIONS FOR LICENSE, PERMIT OR CLEARANCE SHALL, BY ANALOGY, APPLY TO CASES FILED PRIMARILY FOR THE REVOCATION THEREOF." (n)

Section 3. Section 4 of Rule VII, Cease and Desist Order, is hereby amended to read as follows:

"Section 4. Review of Cease and Desist Order. — The party against whom a CDO has been issued can elevate the said order to the Board for review by way of a petition for review in accordance with Rule XII of these Rules. The filing of such a petition shall not have the effect of automatically staying such CDO, unless ORDERED BY THE BOARD AND a supersedeas bond executed in favor of the enjoining party, equal to twice the amount of the original CDO bond, is also posted with the Board."

Section 4. The title of Rule VIII, Powers of the Arbiter, is hereby amended to read as "RULE VIII, Powers of the Arbiter AND THE REGIONAL OFFICER."

Section 5. Section 1 of Rule VIII, Powers of the Arbiter, is hereby amended to read as follows:

"Section 1. Powers of the Housing and Land Use Arbiter. The housing and Land Use Arbiter shall have the following powers:

a. To hear, and decide SUBJECT TO THE APPROVAL OF THE REGIONAL OFFICER, cases cognizable by the Board, consistent with these Rules.

b. To issue subpoena and subpoena duces tecum;

c. To cite and or declare any person in direct or indirect contempt in accordance with Article IV, Section 5. q), 1) and 2) of Executive Order No. 648, dated 07 February 1981 as amended by Executive Order No. 90 dated 17 December 1986;

d. TO HEAR AND RESOLVE MOTIONS; (n)

e. To issue, WITH THE APPROVAL OF THE REGIONAL OFFICER, cease and desist order, TEMPORARY RESTRAINING ORDER, and such other similar ancillary writs and orders;

f. To perform such other functions and powers as may be assigned by the Board."

Section 6. The following shall be appended to Rule VIII, Powers of the Arbiter, as Section 2 thereof.

"SECTION 2. POWERS OF THE REGIONAL OFFICER. THE REGIONAL OFFICER SHALL HAVE THE FOLLOWING POWERS:

a. TO HEAR AND DECIDE CONTESTED APPLICATIONS FOR A LICENSE, PERMIT OR CLEARANCE EXCEPT CASES INVOLVING CONTESTED APPLICATIONS AND OTHER CASES IMPRESSED WITH SIGNIFICANT ECONOMIC, SOCIAL, ENVIRONMENTAL OR NATIONAL POLICY IMPLICATIONS, WHICH SHALL BE ELEVATED TO THE EXECUTIVE COMMITTEE IN ACCORDANCE WITH RULE II, SECTION 2 OF THESE RULES AS AMENDED.

b. TO ISSUE SUBPOENA AND SUBPOENA DUCES TECUM; (n)

c. TO CITE OR DECLARE ANY PERSON IN DIRECT OR INDIRECT CONTEMPT IN ACCORDANCE WITH ARTICLE IV, SECTION 5, Q), 1) AND 2) OF EXECUTIVE ORDER NO. 648 DATED NO. 90 DATED 17 DECEMBER 1986. (n)

d. TO HEAR AND RESOLVE MOTIONS; (n)

e. TO ISSUE CEASE AND DESIST ORDER, TEMPORARY RESTRAINING ORDER, AND SUCH OTHER SIMILAR ANCILLARY WRITS AND ORDERS; n)

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f. TO APPROVE OR DISAPPROVE THE RECOMMENDED RESOLUTION/DECISION OF THE ARBITER; (n)

g. TO DECIDE CASES COGNIZABLE BY THIS BOARD, IF HE DISAPPROVES THE ARBITER'S RECOMMENDED RESOLUTION/DECISION."

Section 7. Rule X, Procedure in Regional Offices Without Arbiters or Legal Officers, is hereby amended to read as follows:

"Section 1. Procedure in Regions Without Arbiters/Legal Staff. — In case a Regional Office does not have a duly designated arbiter or legal officer who can perform the powers and functions of an arbiter, the following rules shall apply:

1. The Regional Officer shall act as hearing officer who shall be responsible for the conduct of preliminary conference/amicable settlement proceedings; and the issuance of initial compulsory processes such as summons, subpoena and [temporary] cease and desist orders;

2. In case the complaint is not settled amicably and the case is already submitted for resolution, the Regional Officer shall certify and elevate the records of the case to the Legal Services Group of the Board for resolution, in which case the procedure in Section 4 of Rule IX shall apply:

3. THE CASE SHALL BE RAFFLED BY THE COMMISSIONER FOR LEGAL AFFAIRS OR THE GROUP DIRECTOR TO A LAWYER/ARBITER IN THE LEGAL SERVICES GROUP FOR THE PREPARATION OF THE DECISION / RESOLUTION. THE LAWYER / ARBITER SHALL SIGN SAID DECISION / RESOLUTION AND THE SAME SHALL BE SUBJECT TO THE APPROVAL OF THE DIRECTOR OF THE LEGAL SERVICES GROUP. (n)

4. After resolution of the case by the Legal Services Group the records of the case shall be remanded to the regional office of origin for release and service of the decision."

Section 8. Section 1 of Rule XI, Decision, is hereby amended to read as follows:

"Section 1. Decisions/RESOLUTIONS, ORDERS AND WRITS — EXCEPT CASES PROVIDED FOR UNDER SECTION 2, RULE Ill OF THESE RULES AS AMENDED, ALL DECISIONS AS WELL AS RESOLUTIONS, ORDERS, AND WRITS GRANTING PROVISIONAL OR ANCILLARY REMEDIES SIGNED BY THE ARBITER SHALL BE SUBJECT TO THE APPROVAL OF THE REGIONAL OFFICER. NO DECISION, RESOLUTION, ORDER, AND WRIT GRANTING PROVISIONAL OR ANCILLARY REMEDIES SHALL BE EFFECTIVE WITHOUT THE PRIOR APPROVAL OF THE REGIONAL OFFICER. (n)

The case shall be decided within thirty (30) calendar days from the date it is submitted for resolution, in accordance with Executive Order No. 26, Series of 1992. FOR THE PURPOSE OF COMPLYING THEREWITH, THE ARBITER SHALL SUBMIT TO THE REGIONAL OFFICER THE RECOMMENDED RESOLUTION/DECISION WITHIN TWENTY (20) DAYS FROM THE DATE THE CASE IS SUBMITTED FOR RESOLUTION. THE REGIONAL OFFICER SHALL HAVE TEN (10) DAYS FROM THE DATE OF SUBMISSION BY THE ARBITER OF HIS RECOMMENDED DECISION WITHIN WHICH TO APPROVE THE RECOMMENDATION OR DECIDE ON THE CASE.

All pending motions as well as those filed after the submission of the case for resolution shall be resolved in the resolution/decision."

Section 9. Section 1, Rule XII, Petition for Review, is hereby amended to read as follows:

"Section 1. Petition for Review. — [The aggrieved party] ANY PARTY AGGRIEVED BY THE DECISION OF THE REGIONAL OFFICER, on any legal ground and upon payment of the review fee may file with the

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Regional Office a verified Petition for Review of [the arbiter's] SUCH decision within thirty (30) calendar days from receipt thereof. IN CASES DECIDED BY THE EXECUTIVE COMMITTEE PURSUANT TO RULE II, SECTION 2 OF THESE RULES AS AMENDED, THE VERIFIED PETITION SHALL BE FILED WITH THE EXECUTIVE COMMITTEE WITHIN THIRTY (30) CALENDAR DAYS FROM RECEIPT OF THE COMMITTEE'S DECISION. Copy of such petition shall be furnished the other party and the Board of Commissioners. No motion for reconsideration or mere notice of petition for review of the decision shall be entertained.

Within ten (10) calendar days from receipt of the petition, the Regional Officer, OR THE EXECUTIVE COMMITTEE, AS THE CASE MAY BE, shall elevate the records to the Board of Commissioners together with the summary of proceedings before the [arbiter] REGIONAL OFFICE. THE PETITION FOR REVIEW OF A DECISION RENDERED BY THE EXECUTIVE COMMITTEE SHALL BE TAKEN COGNIZANCE OF BY THE BOARD EN BANC."

Section 10. The third paragraph of Section 15. The Executive Committee, of Rule XVII, Proceedings Before the Board of Commissioners, is hereby amended to read as follows:

"Section 15. The Executive Committee. — The Executive Committee shall be composed of the four regular Commissioners and the Ex-Officio Commissioner from the Department of Justice.

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The Executive Committee shall act for the Board on policy matters, measures or proposals concerning the management and substantive administrative operations of the Board subject to ratification by the Board en banc, AND SHALL ASSUME ORIGINAL JURISDICTION OVER CASES INVOLVING OPPOSITION TO AN APPLICATION FOR LICENSE, PERMIT OR CLEARANCE FOR PROJECTS OR CASES IMPRESSED WITH SIGNIFICANT ECONOMIC, SOCIAL, ENVIRONMENTAL OR NATIONAL POLICY IMPLICATIONS OR ISSUES IN ACCORDANCE WITH SECTION 2, RULE II OF THESE RULES AS AMENDED. It shall also approve the proposed agenda of the meetings of the Board en banc."

Section 11 . The following shall be appended to Rule XVII, Proceedings Before the Board of Commissioners, as Section 17 thereof:

"SECTION 17. LEGAL AND TECHNICAL SUPPORT STAFF OF THE EXECUTIVE COMMITTEE. — IN THE EVALUATION OF CASES REFERRED TO THE EXECUTIVE COMMITTEE IN ACCORDANCE WITH RULE II, SECTION 2 OF THESE RULES AS AMENDED, THE EXECUTIVE COMMITTEE SHALL BE ASSISTED BY THE BOARD SECRETARIAT AND SUCH OTHER GROUPS AS MAY BE TASKED BY THE COMMITTEE." (n)

SECTION 12. Section 2a of Rule XIX, Entry of Judgment, is hereby amended to read as follows:

"Section 2. Rules on Finality — For purposes of determining when a decision or order has become final and executory for purposes of entry in the Book of Judgment, the following shall be observed:

a. Unless otherwise provided in a decision or resolution RENDERED BY [of an arbiter] THE REGIONAL OFFICER, THE EXECUTIVE COMMITTEE, or the Board of Commissioners, AS THE CASE MAY BE, the orders contained therein shall become final as regards a party thirty (30) calendar days after the date of receipt thereof and no petition for review or appeal therefrom has been filed within the said period:

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Section 12. Section 2 of Rule XX, Execution, is hereby amended to read as follows:

"Section 2. Enforcement of Decision. — All writs of execution shall be issued by the [Arbiter or] Regional Officer and directed to the provincial or city sheriff concerned.

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Section 13. Repealing Clause . — All provisions of the existing Rules of Procedure inconsistent with these amendments are hereby repealed and/or modified accordingly. All other references in the 1996 Rules of Procedure to the arbiter shall be construed to mean the Regional Officer unless the power, authority, function or duty referred to is expressly or by necessary implication granted to the arbiter.

Section 14. Separability Clause . — If any part of this Resolution for any reason is declared void or unconstitutional by a competent court, the same shall not affect the validity of the other parts hereof.

Section 15. Effectivity . — These amendments shall take effect fifteen (15) days from publication in a newspaper of general circulation. Proceedings of cases pending at the effectivity of these amendments shall be governed by the Rules as amended, except when in the opinion of the Board their application would be impractical or would work injustice, in which case, the former rules shall apply.

APPROVED.

Adopted: 15 December 1999

Approved:

(SGD.) LEONORA VASQUEZ-DE JESUS
Acting Chair, HUDCC

(SGD.) REGIS V. PUNO
Undersecretary, DOJ
Ex-Officio Commissioner

(SGD.) ROMULO Q. M. FABUL
Commissioner and Ex-Officio Commissioner

(SGD.) JESUS I. INGENIERO
Assistant Secretary, DILG
Ex-Officio Commissioner

(SGD.) TERESITA A. DESIERTO
Commissioner

(SGD.) JOEL L. ALTEA
Assistant Secretary, DPWH
Ex-Officio Commissioner

(SGD.) FRANCISCO L. DAGNALAN
Commissioner

(SGD.) FORTUNATO R. ABRENILLA
Representative, NEDA

(SGD.) ROQUE ARRIETA MAGNO
Commissioner

Attested:

(SGD.) CHARITO M. BUNAGAN
Board Secretary

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