RESOLUTION NO. R-960, S. 2017, RULES OF PROCEDURES IN THE CONDUCT OF ADMINISTRATIVE INSPECTIONS AND INVESTIGATIONS

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Adopted: 12 February 2018
Date Filed: 23 March 2018

Attached herewith is HLURB Board Resolution R-960, Series of 2017, Rules of Procedure in the Conduct of Administrative Inspections and Investigations, approved by the Board on 27 November 2017.

The said Board Resolution was published in The Philippine Star on 08 February 2018, and in accordance with the pertinent provisions of law, will take effect fifteen (15) days from its date of publication, on 23 February 2018.

Please be guided accordingly.

(SGD) LLOYD CHRISTOPHER A. LAO
Chief Executive Officer and Commissioner

Attachment:

BOARD RESOLUTION NO. 960
Series of 2017

Pursuant to Section S(c) and (j), Executive Order No. 648, Series of 1981, as amended by Executive Order No. 90, Series of 1986, and Executive Order No. 535, Series of 1979, as amended by Republic Act No. 9904, otherwise known as the "Magna Carta for Homeowners and Homeowners Association" and in revision of Board Resolution No. R-611, Series of 1998, otherwise known as the Administrative Rules of Procedure in the Monitoring of Projects and Imposition of Sanctions, the Housing and Land Use Regulatory Board hereby adopts and promulgates the following:

RULES OF PROCEDURE IN THE CONDUCT OF ADMINISTRATIVE INSPECTIONS AND INVESTIGATIONS

PART I PRELIMINARY PROVISIONS

Rule 1
GENERAL PROVISIONS

Section 1. Title. – This Rules shall be known as the "Rules of Procedure in the Conduct of Administrative Inspections and Investigations," hereinafter referred to as the "Rules."

Section 2. Objectives. – The objectives of this Rules are:

2.1 To ensure the faithful observance by the owners/developers of their obligation to fully develop the project

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on time and in accordance with the approved development plan, contractual stipulations and/or sales representations as well as to comply with the pertinent conditions imposed on clearances, permits, licenses;

2.2 To ensure the efficient and effective monitoring of all activities involving the real estate business or trade to protect legitimate real estate developers and the buying public to achieve a conducive business atmosphere and stability of the real estate trade;

2.3 To adopt adequate and clear procedural guidelines for uniformity and consistency in the monitoring and the imposition of fines, penalties and sanctions if so warranted;

2.4 To ensure the protection of and respect for private rights through the formulation of definitive rules of procedure in the monitoring of development projects and imposition of sanctions for violation of laws, rules and regulations being enforced by the HLURB to provide guidance to both the staff and the public;
2.5 To consolidate, harmonize, and strengthen all existing and relevant rules or guidelines implementing the laws, acts, decrees, executive orders and instructions governing the exercise of jurisdiction, powers and functions of the HLURB.

Section 3. Coverage. – This Rules shall be applicable to the following:

3.1 All land use projects issued locational clearances in municipalities and cities without Comprehensive Land Use Plan or certificates of zoning compliance, variances, exceptions and temporary use permits by the HLURB;

3.2 All subdivisions, condominiums and other real estate development projects issued preliminary approval, development permit, certificate of registration, license to sell, approval of plan alteration or amendment of master deeds of restrictions, mortgage clearance, advertisement approval, certificate of completion and other certifications related or incident thereto;

3.3 All other land use and development projects and real estate transactions including offers or proposals and arrangement for the sale and development of real estate projects, for the purpose of ascertaining applicability of and compliance with the mandates of the HLURB;

3.4 Letters or reports from lot/unit buyers or homeowner’s associations reporting specific alleged violations of the law and requesting for investigation or for advice or assistance for the protection of their rights.

3.5 Other analogous cases involving monitoring and investigation conducted by the Regional Office.

Rule 2
DEFINITION OF TERMS AND CONSTRUCTION

Section 4. Definition of Terms. – The terms used in this Rules shall be defined as follows:

4.1 Adjudicatory mechanism refers to the procedure in settling disputes involving the registration of two or more associations established within the same subdivision/village, community area, or housing project.

4.2 Aggravating Circumstances are circumstances which worsens the severity and effects of the offense committed and may result in increasing the penalty imposed.

4.3 Articles of Incorporation, sometimes called a certification of formation or a charter, refer to the document which contain general information about the association and are submitted to the Regional Field Office for determining the character or nature of the association as a non-stock, non-profit corporate entity formed for the benefit of the homeowners of a subdivision/ village or condominium project, whenever applicable

4.4 Association refers to the homeowners association, which is a non-stock, nonprofit association registered with the Housing and Land Use Regulatory Board, or one previously registered with the Home Insurance Guarantee

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Corporation, now Home Guaranty Corporation (HGC) or the Securities and Exchange Commission (SEC), organized in –

4.4.1 Subdivision/village or other subdivisions of real property used for residential purposes;
4.4.2 Condominium projects unless the Master Deed decrees the formation of a condominium corporation to manage the open spaces/common areas of the project;
4.4.3 Neighborhood associations previously registered with the SEC;
4.4.4 Government socialized or economic housing or relocation project and other urban estates;
4.4.5 Socialized housing projects under the Community Mortgage Program, Land Tenure Assistance Program and other similar shelter programs implemented by the national and local governments

4.5 Association Member refers to a homeowner who is a member of the association where the residential unit or lot is situated and those defined in the articles of association and By-laws of the association.

4.6 Board refers to the governing body of the Association whether denominated as Board of Directors, Board of Trustees, Board of Governors, and similar nomenclatures.

4.7 By-laws refer to the association's rules of governance, the institution and limitation of powers of its directors and officers, and the establishment of rights and obligations of homeowners.

4.8 Cease and Desist Order refers to the remedy whereby a party is directed to refrain from doing a particular act or acts pending the resolution of the case

4.9 Complainant refers to the party who initiated the action and includes a respondent who has filed a counter-complaint against the complainant insofar as such counterclaim is concerned and/or a respondent who has instituted a cross- complaint against a co-respondent insofar as that crossclaim is concerned

4.10 Election Contest refers to any controversy or dispute involving title or claim to any elective office in an Association, the validation of initiatives, referendum or plebiscite, the validation of proxies, the manner and validity of elections, and the qualifications of voters and candidates, including the proclamation of winners and assumption to the office of directors, trustees or other officers elected by the members where the articles of incorporation or bylaws so provide.

4.11 Homeowner refers to any of the following:

4.11.1 An owner or purchaser of a lot or house and lot, in a subdivision/village who acquired the same primarily for residential purposes;
4.11.2 An awardee, usufructuary, legal occupant and/or lessee of a housing unit and/or lot in a government socialized or economic housing or relocation project and other urban estates;
4.11.3 Underprivileged and homeless citizens as defined under existing laws in the process of being accredited as usufructuaries or awardees of ownership rights under the Community Mortgage Program (CMP), Land Tenure Assistance Program (LTAP) and other similar programs in relation to a socialized housing project actually being implemented by the national and local governments.

4.12 HLURB shall refer to the Housing and Land Use Regulatory Board

4.13 Inspections shall refer to the act of the responsible officers of the Regional Office which forms part of the monitoring process for the purpose of determining whether a project or transaction is compliant with the laws, rules, regulations and standards implemented by the HLURB.

4.14 Investigations shall refer to the act of the responsible officers of the Regional Office, initiated either motu propio or upon complaint or information from a third party, forming part of the monitoring process, for the purpose of determining whether a violation has been by the respondent of the laws, rules, regulations and

standards implemented by the HLURB. The investigations may either be –

4.14.1 Field Investigation refers to the conduct of an ocular investigation to determine the facts incident to the imposition of sanctions for alleged violations of the law, rules, regulations and standards. This type of investigations shall require written authority or pursuant to an order of the Regional Officer or his/her duly authorized representative;
4.14.2 Non-Field Investigation refers to the examination of the documents, things and records of the respondent to determine if sanctions are to be imposed for any alleged violation of the laws, rules, regulations and standards of the HLURB.

4.15 Jurisdiction shall refer to both authority and power granted to a legal body or person to implement the legally established mandates within a defined area of responsibility or to the geographical area to which such authority applies.

4.16 Member in Good Standing refers to a member who has faithfully complied with his/her duties and obligations as provided by law, rules and regulations, and the By-laws.

4.17 Mitigating Circumstances are circumstances which, though not justifying or excusing the offense committed, may reduce the severity and effects of the offense committed.

4.18 Penalties refer to the punishment imposed by law, rule or regulation incurred for a violation of the law, rule or regulation. The penalties imposed may be classified, as follows:

4.18.1 Divisible penalties refer to those penalties which has a minimum and maximum amount or period;
4.18.2 Qualified penalties refer to those penalties which contain a single penalty
but is qualified by either “not more than” or “not less than,” or terms of similar import;
4.18.3 Indivisible penalties refer to those penalties which are fixed without any stated maximum or minimum, or not qualified.

4.19 Respondent is the party against whom the complainant has filed a complaint, and includes a complainant against whom a respondent has filed a claim and/or a respondent who has filed a cross-complaint against a co-respondent. It may also refer to the person or entity subject to administrative inspection or investigation, field or non-field investigation, and/or the subject of administrative proceedings for the purpose of determination of whether to impose administrative penalties for non- compliance with the laws, rules, regulations and standards of the HLURB.

4.20 Verification is the written oath taken by a party before a person authorized to administer the oath establishing the truth, accuracy, validity and authenticity of the allegations of facts and documents.

Section 5. Construction. – This Rules shall be liberally construed to promote the general welfare and assist the parties in obtaining a just and speedy resolution of every administrative inspection and investigation.

Rule 3
JURISDICTION OF THE REGIONAL OFFICER

Section 6. Jurisdiction. – The Regional Officer shall have sole and exclusive jurisdiction to do and perform the following:

6.1 Inspect/Investigate land use or development projects or real estate transactions previously issued a clearance, permit, license, approval or certificate by the HLURB to determine whether the same has satisfactorily complied with the terms and conditions thereof;
6.2 Inspect/Investigate any newly discovered land use or development project or real estate transactions to determine whether the same is subject to the regulatory jurisdiction of the HLURB, and the

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owner/proponent/developer has secured the mandated clearances, permits, licenses, approvals and certificates therefor;
6.3 Verify reports of alleged violations of the laws, rules, regulations and standards administered by the HLURB;
6.4 Examine corporate records, books of accounts and financial statements to ascertain compliance by developers and associations with the legal requirements; and,
6.5 Issue the appropriate notices/orders and the imposition of corresponding sanctions to ensure compliance with the laws, and/or rules and regulations.

Section 7. Powers. – The Regional Officer shall have the following powers:

7.1 Cease and Desist Orders. To issue cease and desist orders restraining the commission or continuance of the act or acts complained of, or in requiring the performance of an act or acts either for a limited period or perpetually subject, which shall be effective immediately upon service to the party charged.

Within ten (10) days from its issuance, the Regional Officer shall conduct a summary hearing to determine if the COO shall be continued indefinitely until the final resolution of the controversy. The order may be appealed to the Board of Commissioners within fifteen (15) days from notice of its issuance, which appeal, however, shall not stay the implementation of the said order. In case the appeal is granted, the party charged shall post a supersedeas bond in an amount to be fixed by the Board of Commissioners

7.2 To recommend to the Regional Arbiter the imposition of the punishment for contempt to any person on the following grounds:

7.2.1 Those guilty of misbehavior in the presence of the Regional Officer or any of the personnel of the Regional Office which tend to obstruct or interrupt the proceedings, including disrespect toward the said officers, and offensive personalities toward others;
7.2.2 Disobedience of or resistance to a process, award or order;
7.2.3 Any abuse of or any unlawful interference with the processes or administrative proceedings;
7.2.4 Any improper conduct tending, directly or indirectly, to impede, obstruct, or degrade the administrative proceedings;

7.3 To order the search and seizure or cause the search and seizure of all documents, papers, files and records as well as books of accounts of any entity or person under investigation as may be necessary for the proper disposition of the cases before it;

7.4 To impose fines and/or penalties for violation of the laws being implemented by the HLURB, the pertinent rules and regulations, its orders, awards and/or rulings; and,

7.5 To exercise such other powers as implied, necessary or incidental to the carrying out the express powers granted or to achieve the objectives and purposes of the law, rules and regulations

PART II
INSPECTIONS AND INVESTIGATION

Rule 4
PROCEDURE IN ADMINISTRATIVE INSPECTIONS AND INVESTIGATIONS

Section 8. Commencement. – Proceedings for the imposition of penalties may be instituted as follows:

8.1 Upon the instance of any officer or employee of the HLURB when the alleged violation was committed or is being committed in his/her presence, or upon review of the documents and things on record such a violation is probably being committed or has been committed or is being committed; or

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8.2 Upon written authority issued by the Regional Officer, in case of complaints from the general public or any person who is not an officer of the HLURB.

Section 9. Non-Field Inspections/Investigations. – In cases where the alleged violation was committed in the presence of or within the knowledge of an employee or officer of the HLURB upon an examination of the records and documents on file, the procedure for the institution of the appropriate administrative proceedings shall be as follows:

9.1 Referral. Unless the officer or employee is assigned to the Unit which has jurisdiction over the alleged offense, the documents, records and things shall be referred to the Head of the Monitoring or HOA Unit, who shall, in turn, refer the same to a subordinate.

9.2 Evaluation. The designated personnel shall, within ten (10) working days, review all documents, records and things submitted for evaluation, including the conduct of field investigations solely for the purpose of confirming the facts narrated and/or authenticating the aforesaid documents, records and things: However, if there is a need to conduct a more detailed and in-depth investigation to uncover additional facts and circumstances which are not covered by the referral, the matter shall be returned to the Head of the Unit involved for the conduct of field inspection/investigation in accordance with the procedure in the succeeding section.

9.3 Non-Field Inspection/Investigation Report. The assigned inspector/ investigator shall
prepare the Non-Field Inspection Report (NIR) stating the facts appearing on record or borne by the documents and things, the laws, rules and/or regulations allegedly violated and attaching therewith the records, documents and things in support thereof, including the draft Order of dismissal or Notice of Reported Alleged Violation (NORAV) with the Regional Officer as signatory. The NIR shall be submitted to the Head of the Unit within a period of ten (10) days from the completion of the evaluation or the lapse of the 10-day period for evaluation.

Section 10. Field Investigations/Inspections. – In the event that the inspection or investigation has been commenced by complaint from the public or from a person who is not an officer or employee of the HLURB, the following procedure shall be followed:

10.1 Authority. The Regional Officer shall issue a written Authority, addressed to the Head of the requesting Unit, specifying the name of the person or entity subject of the inspection/investigation, the name of the designated inspector/investigator, the subject and scope of the inspection/ investigation, the period within which the said inspection/investigation shall be conducted, and signed by the Regional Officer or his/her duly designated representative.

10.2 Powers. – The authorized investigators/inspectors shall have the following powers:

10.2.1 To the free and unimpeded access and entry into the property and premises of the project or transaction inspected/investigated and, for this purpose, he/she may, upon prior and expressed authority of the Regional Officer, open or remove or cause the opening or removal of any gate, door, barrier or railing that prevents, impedes or impairs the conduct of the inspection/ investigation;
10.2.2 To conduct interviews/conferences with the project owner/
developer/proponent or association, or their representatives, as well as residents of the project and/or the adjacent projects or areas for the purpose of ascertaining the ownership, status and degree of operation of the project or transaction, and its perceived effects/implications, as well as issues and problems related thereto;
10.2.3 To require the production of permits, clearances, licenses and approvals, receipts, contracts, corporate records, books of accounts and financial statements relevant to the exercise of the regulatory functions of the HLURB;
10.2.4 To call on any person, office or entity for assistance in the discharge of its functions;
10.2.5 To exercise such other powers as may be delegated by the Regional Officer which may be necessary,

incident, related and/or inherent to the functions of the HLURB.

10.3 Period. The period of the inspection/investigation should not be more than thirty (30) days from the date of the issuance of the Memorandum of Authority. Upon good reasons shown, the Authority may be extended for another thirty (30) days.

10.4 Site Inspection/Investigation Report. – The inspector/investigator shall prepare the Site Inspection/Investigation Report (SIR) and submit the same to the Head of the requesting Unit within a period of ten (10) working days from the termination of the field inspection/investigation.

Section 11. Processing of Investigation Report. – The NIR or SIR shall be processed as follows:

11.1 Contents. The NIR or SIR shall contain the following:

11.1.1 The facts and circumstances pertinent to the inspection/ investigation as supported by the record;
11.1.2 The recommendations and conclusion;
11.1.3 The written or recorded statements of the inspectors/investigators and any other person interviewed on the matters pertinent to the inspection/investigation, and the documents and things in support of the recommendations and conclusions, all of which should be attached;
11.1.4 The draft Order, for the signature of the Regional Officer, which shall likewise contain the pertinent facts and circumstances, recommendations and conclusions, with the clear statement of the dispositive portion.

11.2 Review. The Head of the Monitoring or HOA Unit shall review the NIR or SIR, including all attached documents, and, within five (5) working days, either –

11.2.1 Approve the recommendations provided in the NIR or SIR, including either the endorsement of the draft Order or draft a new Order, if he disagrees or wishes to supplements the former, for the signature of the Regional Officer.
11.2.2 Qualifiedly approve the conclusions of the NIR or SIR, annotating thereon the corrections deemed necessary, as well as draft a different Order, for the signature of the Regional Officer, providing for the corrections.
11.2.3 Disapprove the recommendations and conclusions of the NIR or SIR and
state the facts as borne by the records, documents and things on record and the recommendations and conclusions which may be culled therefrom, including the preparation of new Order for the signature of the Regional Officer.

11.3 Order. The Regional Officer shall evaluate the NIR or SIR within ten (10) working days from receipt thereof. If the Regional Officer agrees with the conclusions of the NIR/SIR or, if to the contrary, the Head of the Monitoring or HOA units, he/she shall sign the appropriate draft Order, either closing the proceedings or directing the issuance of the Notice of Reported Alleged Violation (NORA V). If the Regional Officer disagrees with both or determines that the draft Order or Notice is defective, he/she shall prepare a new Order and/or Notice, and return the same to the unit from whence the inspection or investigation originated.

11.4 Reconsideration. In case the Regional Officer determines that no violation was committed, the person initiating the inspection/investigation or the Inspector/Investigator, or the Head of the Monitoring or HOA Divisions, may seek reconsideration of the Order to the Regional Officer within fifteen (15) days from receipt of the order of dismissal. The Order denying reconsideration may be appealed to the Board of Commissioners within fifteen (15) days from denial of the plea for reconsideration.

Rule 5
PROCEDURE IN THE DETERMINATION OF VIOLATIONS OR OFFENSES

Section 12. Notice of Reported Alleged Violation. – If the Regional Officer, upon evaluation of the NIR or SIR,

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determines that there is a violation of existing laws, rules and regulations, decisions, awards or orders, the NORAV shall be issued stating the findings of fact, the nature of the violation/s, and the act or acts required to be done or undone, attaching therewith any document/s or things in support thereof.

The NORAV shall be furnished the respondent within a period of ten (10) days from its issuance. If the investigation was initiated by the complaint of a third party, the latter shall be entitled to copies of the Inspection/investigation Report, and the NORAV.

Section 13. Comment. – The NORAV shall include an order directing the respondent to comment thereon within a period of ten (10) days from receipt thereof. The Regional Officer may resolve the matter on the basis of the documents on record within a period of fifteen (15) working days from receipt of the comment or the lapse of the period within which the said comment ought to have been submitted.

Section 14. Clarificatory Conference/Joint Ocular Inspection. – If it has been determined that there are matters to be clarified, the Regional Officer or the authorized inspector/investigator shall schedule, within a period of five (5) working days from receipt of the comment, either or both of the following:

14.1 Clarificatory Conference. Questions may be propounded to the parties or any other person invited to the conference for the purpose of clarifying certain specific matters, which must be stated in the order directing the conduct of the conference, to obtain a judicious evaluation of the evidence.

14.2 Ocular Inspection. The inspection shall be conducted with prior written notice to the parties requesting their participation or their expert witnesses on matters which may require technical evaluation and/or the confirmation of facts alleged in the NIR or SIR, the NORAV and the reply thereto.

Section 15. Issuance of Order, Award or Resolution. – In case the facts or conclusions are contested, the Regional Officer shall resolve the dispute under the following procedure:

15.1 Recommendation. The Inspector/investigator assigned to conduct the proceedings shall draft an Order, within a period of ten (10) working days from the termination of the proceedings, stating the findings of fact, the issues for resolution and the grounds upon which the recommendation are based, which shall either terminate any further proceedings or impose sanctions or penalties, and/or command the commission or omission acts.

15.2 Recommending Approval. The draft Order shall be submitted to the Head of either the Monitoring or Association Divisions who shall have a period of five (5) working days within which to approve or disapprove the recommended draft Order. In the event of disapproval, the Head shall draft a separate Order contrary to that prepared by the Inspector/Investigator.

15.3 Resolution. The Regional Officer shall, within five (5) working days from receipt, either approve or disapprove the draft Order, or choose between which of the two (2) draft Orders will be approved, or draft a new Order stating the findings of fact, the issues resolved and the basis for the resolution.

Section 16. Order. –

16.1 Contents.

16.1.1 The Order shall be in letter form addressed to the respondent/s providing for a brief summary of the proceedings conducted, the facts and conclusions adduced and the disposition of the matter;

16.1.2 If penalties are imposed, the Order shall also state if there are mitigating, aggravating or alternative circumstances provided that, in case the complaint was instigated by a private complainant, he/she shall not be entitled to damages.

16.2 Notice. Within five (5) working days from the resolution of the case, the Regional Officer shall cause,

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through whatever means available and expeditious, furnish a copy of the order to the parties.

16.3 Reconsideration. No motion for reconsideration shall be entertained and any such motion filed shall not toll the period within which to appeal.

Rule 6
APPEALS AND IMPLEMENTATION OF FINAL ORDERS AND RESOLUTIONS

Section 17. Application of HLURB Rules of Procedure. – The HLURB Rules of Procedure shall be applied in all appeals before the Board of Commissioners.

Section 18. Modes of Review. – The orders and resolutions of the Regional Officer may be reviewed as follows:

18.1 Ordinary Appeal. The final orders and resolutions of the Regional Officer, in the exercise of his/her regulatory jurisdiction may be appealed to the Board of Commissioners within fifteen (15) days from receipt thereof by the aggrieved party.

18.2 Appeal by Petition for Review.

18.2.1 The issuance of a cease and desist order may be the subject of an appeal by way of a petition for review filed with the Board of Commissioners within fifteen (15) days from receipt of the said interlocutory order or cease and desist order.
18.2.2 Appeals from the acts of the local and regional planning and zoning bodies may be revisited by the Board of Commissioners upon petition for review filed by the aggrieved party within a period of fifteen (15) days from receipt of the order or resolution. The appeal memorandum shall be filed with the Regional Arbiter who shall be responsible for receipt of all pleadings, documents and things, which shall be forwarded to the Board of Commissioners upon completion thereof, with a brief summary of the proceedings undertaken and the contents/facts adduced.

Section 19. Final Orders. Decisions or Judgments. – Orders, decisions or judgments shall be final and executory under the following circumstances:

19.1 Regional Officer. If no appeal has been filed with the Board of Commissioners within fifteen (15) days from receipt of the appealed order or the order denying its reconsideration.
19.2 Board of Commissioners. If no motion for reconsideration has been filed within fifteen (15) days from receipt of the judgment or, upon denial of the motion, the party fails to appeal, within the same period, to the Office of the President in case of real estate development cases or to the Court of Appeals, in case of homeowners association cases.
19.3 Office of the President. If no appeal is filed from the judgment of the Office of the President or, if an appeal has been filed, the appealed judgment has not been further appealed to the Court of Appeals within the period as mandated under the Rules of the Office of the President.
19.4 Court of Appeals. If no petition for the review of the decision of the Court of Appeals is elevated to the Supreme Court within the period and in accordance with the procedure as stated in the Rules of Court.
19.5 Supreme Court. The final judgments, orders or resolutions of the Supreme Court.

Section 20. Execution. – In cases where the order or resolution has become final and executory under any of the circumstances as aforementioned, or in cases where the judgment may be executed pending appeal subject to the posting of a bond, the records of the case shall be returned to the Regional Office of origin. In such instances, the Regional

Officer shall endorse the case to the Regional Arbiter for the issuance of the order and writ of execution.

PART III

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SPECIAL ADMINISTRATIVE INSPECTIONS AND INVESTIGATIONS

Rule 7
MONITORING OF NEW REAL ESTATE DEVELOPMENT

Section 21. Purpose. – The Regional Office shall conduct inspections/ investigations of real estate developments regulated by the HLURB after six (6) months from the date of the issuance of locational clearances and development permits, in cases where it is still authorized to issue, certificates of registration and licenses to sell for the purpose of verifying that the development/construction of the project is in accordance with the approved plans, the work schedule and compliance with the requirements: Provided, That even before the said 6-month period, the Regional Office may conduct an inspection/investigation upon information of any alleged violation of the laws, rules, regulations and standards of the HLURB.

Section 22. Procedure. – The conduct of inspections and investigations shall be as follows:

22.1 Pre-Inspection/Pre-Investigation. The Inspector/investigator shall secure the written Authority of the Regional Officer to conduct inspection/ investigation and shall secure from the Records Section the list of projects issued locational clearances, development permits, certificates of registration and licenses to sell, or those where reported violations have been committed.

22.2 Notice. The Inspector/investigator shall notify the owner/developer of the conduct of the site inspection/investigation and may require the submission of additional documents necessary for the conduct of the inspection/ investigation within a period of five (5) days from receipt of the notice.

22.3 Site Inspection/Investigation. – The inspection/investigation shall be conducted on the date/s as stated in the notice sent to the developer/ owner and shall be completed within a period of thirty (30) days from the date of issuance of the Authority from the Regional Officer.

22.4 Post-Inspection/Investigation. – The Inspector/investigator shall prepare or cause to be prepared the SIR within a period of five (5) working days from the date of completion of the site inspection/investigation:

> 22.4.1 If the inspector/investigator finds that there is no violation committed, the SIR shall be prepared recommending that the SIR be admitted into the records for records purposes only; or, if the project has been completed, the SIR shall recommend that the owner/developer be required to procure from the Regional Office a Certificate of Completion; or
> 22.4.2 If the Inspector/investigator determines that a violation has been
> committed, the Inspector/Investigator shall prepare the draft NORAV, to be signed by the Regional Officer, stating the findings of fact, the violations of the law, rules, regulations and standards, and the acts required to be done or undone.
>
> 22.5 Review of Site Inspection Report. The Head of the Monitoring Division of the Regional Office shall review the SIR and the attached documents thereto, and, within a period of five (5) working days from receipt thereof, submit to the Regional Officer a recommendation: such approval or amend the draft Order of Termination of Proceedings or
> the NORAV, by citing additional facts, as appearing on the records, and the grounds for the proposed amendments; or,
> 22.5.2 Disapproving the proposed actions in the SIR either by recommending the termination of the proceedings and drafting the Order for such purpose, stating in the SIR the grounds for the recommendation; or
> 22.5.3 Recommending the issuance of a NORAV, and drafting the said Notice for the signature of the Regional Officer, and stating in the SIR the grounds for the issuance of the said notice.

Section 23. Resolution. – The Regional Officer shall act on the documents reviewed by the Head of the

Monitoring Division, within a period of five (5) working days from receipt thereof, either by terminating the proceedings or issuing a NORAV by –

23.1 Approval. Approving the recommendations as stated in the SIR which has been recommended for approval by the Head of the Monitoring Division; or
23.2 Disapproval. Disapproving the recommendations as stated in the SIR which has been recommended for approval by the Head of the Monitoring Division and annotating or attaching to the SIR the contrary findings of fact or grounds for the disapproval; or
23.3 Conflicting Recommendations. In case of conflicting recommendations, approving either of the recommendations of the Inspector/ Investigator or the Head of the Monitoring Division.

Rule 8
ADJUDICATORY MECHANISM

Section 24. Application. – The procedure through which the issue of which of two (2) or more homeowners associations existing within the same or substantially the same area of the subdivision or condominium, shall be certified is applicable to the following situations:

24.1 One of the associations is registered with the SEC and another with the HGC;
24.2 One of the associations is registered with either the Securities and Exchange or the HGC, and the other with the HLURB; or
24.3 Both or all the associations are registered with the HLURB.

Section 25. Procedure. – The procedure for adjudicatory mechanism is as follows:

25.1 Preliminary Conference. Upon receipt of a complaint or information that there are two or more Associations existing in the same subdivision or condominium, the Regional Office shall call the parties to a mediation conference for the purpose of reaching an amicable settlement of the controversy, the minimum requirement of which is that only one of the claimants shall be allowed to represent the homeowners thereof.

25.2 Confirmation of Legal Existence. In the event that the dispute is not settled amicably, the Regional Office shall conduct a non-field investigation to determine the legal existence of the contending associations by –

25.2.1 Procuring from either the SEC or the HGC the registration documents of the involved Association, if any one of them claims to be so registered with either government agency;
25.2.2 Retrieving from the records the registration documents of any of the said Associations claiming ascendancy in the subdivision or condominium;
25.2.3 If, in the course of the investigation, it has been determined that the certificate of registration of one or more of the claimants has been revoked, or does not exist, an Order shall issue confirming the authority of the legitimate Association over the subdivision or condominium.

25.3 Conference. If the legal existence of the Associations is confirmed, the Regional Officer shall issue a notice to the parties to be present at the conference, which should not be more than fifteen (15) days after the conclusion of the non-field investigation, requiring the parties to submit the names, addresses and contact numbers of their members.

During the conference, the parties shall be asked to make a final effort at reaching an amicable settlement. Failing that, the parties shall be required to submit their comment to the list of members submitted by the other party within a period of ten (10) days from the date of the last hearing

25.4 Membership confirmation. The Regional Office shall, within a period of ten (10) days from its commencement, conduct a survey for the purpose of confirming the claims of membership by the parties.

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Thereafter, a written report shall be submitted, within five (5) working days after completion of the survey, to the Head of the HOA Unit, who shall, in turn, submit a recommendation to the Regional- Officer within a period of five (5) working days from receipt of the survey report.

25.5 Factors. In the determination of which Association will be accredited, the following factors shall be considered:

25.5.1 The date of registration;
25.5.2 The number of members;
25.5.3 The financial viability of the Association; and,
25.5.4 The history of governance (or non-governance).

Section 26. Order. – Upon receipt of the recommendation of the Head of the HOA Unit, the Regional Officer shall issue an Order, as follows:

26.1 Recognition.

26.1.1 If it is clear after a review of the records and documentary evidence, as well as the recommendations of the HOA inspector/investigator that one of the associations has a clear right to represent the homeowners of the subdivision or condominium, the Order to be signed by the Regional Officer shall state which of the associations shall be accredited.
26.1.2 If there is no clear ascendant association the Regional Officer shall order
the conduct of a referendum among the homeowners and certify the association which has received the most number of votes as the authorized association representing the homeowners of the subdivision or condominium.

26.2 Effects. The association accredited shall be authorized to exercise the rights and perform the duties and responsibilities of a HOA in the subdivision or condominium. Although its registration shall not be revoked, the defeated association shall not be allowed to be registered with the HLURB and, additionally, shall be directed to refrain from exercising the rights and performing the duties and responsibilities of an accredited Association in the subdivision or condominium.

If the by-laws of the accredited association require all homeowners to be members, the members of the other HOAs shall be required to register as members of the accredited Association.

Rule 9
INSPECTION OF BOOKS AND RECORDS

Section 27. Procedure. – The rights of a homeowner to inspect association books and records and/or to be furnished with financial statements and reports may be enforced as follows:

27.1 Petition. A homeowner or group of homeowners may file a petition with the
Regional Office that –

27.1.1 He/she is a homeowner of the subdivision or condominium of which the Association is the duly accredited HOA and has paid his/her dues and other assessments;
27.1.2 He/she has previously demanded for the inspection and photocopying of books and records and/or to be furnished with financial statements;
27.1.3 The Association, through its authorized officer/s has refused to grant the said demands;
27.1.4 The refusal of the Association to grant the demands of the complainant is
unjustified and illegal, stating the law and/or jurisprudence in support thereof; and,
27.1.5 The letter of demand and the answer thereto, if any, and such other documents and affidavits which would tend to prove the allegations stated in the petition shall be attached thereto.

27.2 Notice of Conference. If the petition is sufficient in form and substance, the Regional Officer shall set the conference not later than twenty (20) days from receipt of the petition and shall duly notify the parties by written notice thereof and directing the Association to answer the petition within ten (10) days from receipt of the said notice.

27.3 Answer. The answer of the Association duly furnished the complainant, shall state the following:

27.3.1 The grounds for the refusal of the respondent to grant the demands of the complainant;
27.3.2 The conditions or limitations on the exercise of the right to inspect, which should be imposed by the Arbiter, if the right to inspect is granted;
27.3.3 The cost of inspection, including manpower and photocopying expenses, if the right to inspect and to be furnished copies of the documents is granted; and,
27.3.4 The affidavits of witnesses and any other documentary evidence which would tend to disprove the material allegations of the petition.

27.4 Conference. On the date set for the conference, the Regional Officer shall render judgment if, as of that date, the Association has not filed its Answer. Otherwise, the Regional Officer shall attempt to mediate the dispute, failing which, the Regional Officer shall inform the parties that the petition is deemed submitted for resolution.

Section 28. Decision. – The Regional Officer, or his duly authorized representative, shall render a decision based on the pleadings, affidavits, documentary and other evidence attached thereto within thirty (30) days from the date of the conference. A decision ordering the respondent to allow the inspection of books and records and/or to furnish copies thereof shall also order the complainant to deposit the estimated cost of the manpower to be engaged to produce the books and records and the cost of copying, and state, in clear and categorical terms, the limitations and conditions to the exercise of the right allowed or enforced.

Rule 10
REMOVAL OF DIRECTORS

Section 29. Nature of proceedings. – The proceedings for the removal of directors and the dissolution of the Board as provided in the succeeding Sections under this Rule are administrative and non-adversarial in nature and the order granting or denying such removal shall be directly appealable to the Board of Commissioners.

Whenever the petition for the removal of director(s) shall result in the absence of a quorum for the Board to legally conduct business, the action shall be considered as a petition for the dissolution of the Board and shall be considered and resolved in accordance with the procedure for such dissolution.

The petition for the removal of director(s) or for the dissolution of the Board filed within the period of three (3) months before the expiration of the term of office of the director(s) or the Board shall be dismissed, without prejudice to the right of the petitioner to invoke the adjudicatory jurisdiction of the HLURB.

Section 30. Petition. – The proceedings for the removal of a director is commenced by the filing of a letter petition with the Regional Office having jurisdiction over the Association as follows:

30.1 Contents.

30.1.1 The name/s of the director(s) sought to be removed, their addresses, positions if also officers, date of election and expiration of term of office;
30.1.2 The acts committed which would constitute a violation of the laws, rules and regulations, and the By-laws resulting in the loss of confidence in the director(s) sought to be removed from office;
30.1.3 Signature of at least five (5) members in good standing seeking the removal of the director(s);
30.1.4 Verification by the signatories before a duly authorized notary public;

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30.2 Supporting Documents

30.2.1 The list of members and their signatures, with proof of their signatures as appearing in any government-issued document, and collectively attesting that they are all members in good standing, and that they are joining the petitioners as co-petitioners to remove the director(s);
30.2.2 The list of members in good standing of the association, their addresses and contact numbers, as attested by the Secretary or Treasurer and, if both refuse to certify thereto, the sworn statement of any member describing the circumstances of his/her knowledge of the list, certifying to its truthfulness and stating the reasons for the failure to obtain the required certification;
30.2.3 Any other document which would support the substantial allegations of
the petition; and
30.2.4 Proof of service of the letter petition, and its attachments, to the director(s) sought to be removed.

Section 31. Initial Evaluation. – Upon filing and payment of the required fees, the Regional Office shall evaluate the petition for sufficiency in form and substance, and make a determination, within ten (10) days from the filing thereof, as follows:

31.1 Formal Requirements. The petition contains all the necessary formalities as stated in the preceding subsection.

31.2 Substantial Requirements.

31.2.1 The petitioners, including those members in good standing who have joined them, constitute a simple majority of the total number of members in good standing based on the certified list of members in good standing of the association; and,

31.2.2 The alleged ground(s) for which the removal is sought constitute violation(s) of the laws, rules and regulations, and the provisions of the By-laws, and are substantial enough to cause the removal from office of the director(s).

Section 32. Conference. – If the petition is sufficient in form and substance, the
Regional Office shall conduct a conference as follows:

32.1 Notice. Notice shall be sent to the parties, within five (5) days from the determination of sufficiency in form and substance, stating the following:

32.1.1 The date, time and place of the conference, which is not transferable;
32.1.2 The director(s) sought to be removed may submit a reply to the petition which should not be later than two (2) working days before the date of the conference;
32.1.3 The possibility of reaching an amicable settlement;
32.1.4 The submission of evidence, documentary or testimonial by way of affidavits, to prove or contest the allegations stated in the petition;
32.1.5 The instruction that the parties should be personally present without a lawyer unless the parties themselves are lawyers by profession; and,
32.1.6 There shall be no continuances and all matters shall be resolved on the date of the conference.

32.2 Manner of Conduct. The conference shall be conducted in a non-litigious manner, giving both parties equal opportunity to present their causes: for the petitioners, the truthfulness of the allegations of the petition, and for the director(s), their defenses which is limited to the frivolous or simulated nature of the offenses charged and/or that the signatories to the petition do not constitute a simple majority of the total number of members in good standing.

Section 33. Re-evaluation. – The Regional Officer shall, within five (5) calendar days from the termination of the

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conference, issue an Order ruling that –

33.1 Dismissal. The petition is dismissed for the failure of the petitioner to prove, by prima facie evidence, the cause(s) alleged or that the petitioners do not constitute a simple majority of all the members in good standing of the association; or,

33.2 Due course. The petition shall proceed as the petitioners have proven the sufficiency of the petition in form and substance and sending a notice to all parties that the Regional Office shall verify the identity and validate the signatures as appearing on the petition and its attached documents on the dates set therein.

33.3 Verification and Validation.

> 33.3.1 On the dates set in the notice, the Regional Office shall proceed to verify the identity of the .signatories and validate the authenticity thereof through whatever legal and technological means available.
> 33.3.2 The Report, submitted to the Regional Officer, within five (5) calendar
> days from the completion of the validation and authentication, shall state the circumstances through which the said validation and authentication has been conducted, and recommend either the dismissal of the petition for failing to have sufficient signatories consenting to the removal or propose the removal of the director(s) as a consequence of the consent of a simple majority of the members.

Section 34. Order. – Within five (5) working days from the submission of the Report, the Regional Officer shall issue an Order:

34.1 Dismissal. Dismissing the petition if the petitioners failed to obtain the consent of a simple majority of all members of the association for the removal of the director(s); or,
34.2 Approval. Sustaining the petition by removing the director/s and directing the remaining members of the Board to conduct an election to replace the removed director/s, who, in turn, shall only serve the unexpired term of the removed director(s).

Rule 11
DISSOLUTION OF THE BOARD OF DIRECTORS

Section 35. Dissolution. – The Board may be dissolved under the following circumstances:

> 35.1 Automatic. The Board is deemed dissolved when, after the resignation or removal of any director/s, the remaining members no longer constitute a quorum by way of a verified petition filed by any member.
> 35.2 By petition. The dissolution of the Board may be commenced by the filing of a verified petition of at least five (5) members of the association, and supported by the signatures of at least two-thirds of all members in good standing as certified by the Secretary, or if he/she refuses to so certify, by a member in good standing stating in the certification/affidavit such fact of refusal and the circumstances under which he/she has acquired custody of a copy of the master list of members.

Section 36. Procedure. – The formal and substantial requirements of the petition to remove director/s as well as the procedure thereof shall be applicable to the petition for the dissolution of the board.

Section 37. Decision. – The Regional Officer shall issue an Order within a period of fifteen (15) days from completion of all proceedings as follows:

> 37.1 Resolution. If the petitioner has failed to prove the reasons for the dissolution of the Board, the Regional Officer shall order the dismissal of the petition. Otherwise, he/she shall order the dissolution of the Board upon a finding that there is cause therefor.
> 37.2 Special Election. The Regional Officer shall immediately call for the conduct of special elections to elect the members of the replacement Board which shall only serve the unexpired portion thereof.

37.3 Interim Board. The Regional Officer shall likewise appoint the members of the interim Board who shall hold office until the new Board has been elected and qualified: Provided, That the interim Board shall only function to insure that the basic services are provided the members and the performance of the day-to-day operations of the association: Provided, further, That such Board shall be composed of association members- in good standing: and, Provided additionally, That such interim directors shall not be eligible to run in the election called for the purpose of replacing the members of the dissolved board; and, Provided, finally, That the Interim Board is automatically dissolved upon the qualification and assumption into office of the newly elected Board.

Rule 12
SUPERVISED ELECTIONS

Section 38. Causes. – The Regional Office may conduct supervised elections under any of the following circumstances:

38.1 When the conduct of the elections was decreed pursuant to a decision or order in a case pending or resolved by the Arbiter, the Board of Commissioners, the Court of Appeals, or the Supreme Court;

38.2 When it has been discovered, in the course of non-field monitoring, that the association has not conducted the elections as mandated in the by-laws;
38.3 When a petition is filed requesting for the conduct of supervised elections for causes which may give rise or had given rise to the failure of elections.

Section 39. Procedure. – When the request for supervised elections is by way of petition, the following procedure shall be followed:

39.1 Petition. The petition shall be filed with the Regional Office having jurisdiction over the association and shall state the material circumstances of the parties, the reasons for the conduct of the supervised elections, the name of the nominee for the Special Elections Committee in the event that the petition is granted, and the payment of the corresponding fees which shall cover the costs of service of pleadings and the conduct of the investigations.

39.2 Reply. If the petition is sufficient in form and substance, the Regional Office shall issue a notice to the respondent(s) and order that a reply be filed within three (3) working days from receipt thereof, and likewise require the respondent to nominate its representative to the Special Elections Committee in the event that the petition is granted.

The Regional Officer shall resolve the issue within a period of five (5) working days from receipt of the reply or the lapse of the period within which the said reply should have been filed.

If the Regional Officer finds no merit in the petition, he/she shall issue an Order dismissing the petition.

39.3 Preliminary Order. In the event that the Regional Officer finds merit to the petition, he/she shall issue a preliminary order stating that –

39.3.1 An investigation has been conducted on the material allegations of the petition and the reply, and that there is a well-grounded fear that there may be a failure of elections;

39.3.2. The parties shall deposit the amount as stated in the Order within a period of ten (10) days from receipt thereof, to answer for the expenses incident to the conduct of the elections and all activities in its preparation. The failure of both parties to deposit their share in the stated amount shall result in the dismissal of the petition. In case only one party fails, and the other complies with the order, the non-compliant party shall not be entitled to a representative to the Special Elections Committee;

39.3.3 The Regional Officer shall order the conduct of the petitioned supervised

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elections. The petitioner shall pay the election fees which shall cover the pre-election, election and post-election of the Regional Office in conducting the supervised elections, subject to reimbursement by the HOA. In the meantime, the Regional Officer may issue such orders to protect the interests of the parties.

39.4 Order. Upon payment of the election expenses, the Regional Officer shall create and name the Special Elections Committee and charge them with the duty of supervising the pre-elections, elections and post-elections activities, with the instruction that the entire election process be completed within a period of sixty (60) days from the date of the convening of the Special Election Committee.

Section 40. Special Elections Committee. – The Regional Officer shall create a Special Elections Committee which shall be responsible for the conduct of the special elections under the following circumstances:

40.1 Composition. The Committee shall be composed of five (5) members: three (3) shall be officers of the HOA Unit of the Regional Office and one (1) each from the contending parties. If there are more than two contending parties, the representatives of the HOA Unit may be increased so that they shall always constitute a majority of the members of the Committee.

40.2 Guidelines. The Committee shall formulate the Special Elections Guidelines, which, as much as possible, should adhere closely to the election practices of the association and shall contain the following provisions:

40.2.1 The powers and duties of the Committee;
40.2.2 The issuance of the Certificates of Candidacy and the proxy forms, if allowed by the By-laws;
40.2.3 Provide for the date and time of postings, filing, and submission of the master list of the members qualified to vote, the certificates of candidacy, and the proxy forms if allowed by the Bylaws;
40.2.4 The manner by which voters are qualified or disqualified, and pass upon the qualifications and disqualifications of candidates;
40.2.5 Rules on Campaigning;
40.2.6 Prohibited acts of voters and candidates;
40.2.7 Proclamation and Oath of Office of winning candidates; and,
40.2.8 Such other matters as may aid in the peaceful and orderly conduct of the elections

Section 41. Election Procedure. – Within five (5) days from the payment of the election fees, the Regional Officer shall immediately designate the chair of the committee supervising the elections and the two other members as well as appoint the representatives of the contending parties as provided herein.

41.1 Pre-Election. The Committee shall perform its pre-election duties as follows:

41.1.1 Set the date, time and place of the elections, which shall not be more than sixty (60) days from the date of the notice;
41.1.2 Personally serve or send by registered mail the notice to all the members, and post a copy thereof in three (3) conspicuous places within the territorial jurisdiction of the association, containing: (a) the time, date and place of the special elections; (b) the period and place for the submission of any petition to include or exclude voters; and, (c) the period for the submission of certificates of candidacy and proxies, if allowed by the By- laws;
41.1.3 Deliberate on and adopt the draft Election Guidelines which shall likewise
be posted in three (3) conspicuous places in the subdivision/village or condominium.

41.1.4 In the meantime, the Committee shall direct the representatives of the contending parties to submit their list of qualified voters and conduct the reconciliation thereof. If no agreement is reached, the Committee shall vote thereon, stating the reasons for the exclusion;
41.1.5 The Committee shall post the master list of voters in three (3)
conspicuous places in the subdivision/village or condominium, where applicable. The members shall have

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seven (7) working days within which to petition the Committee to include or exclude voters;
41.1.6 After the period for challenging the qualifications of voters, the Committee shall resolve all petitions within three (3) days. The final master list of voters shall be posted in three (3) conspicuous places within the subdivision/village or condominium;

41.1.7 The Committee shall likewise accept certificates of candidacy within the period as stated in the Guidelines and allow any member, within two (2) days from posting, to petition for the disqualification of any candidate; Committee shall post the final list of candidates for the positions to be elected in three (3) conspicuous places, apart from the venue of the prospective elections;

41.1.9 The campaign period shall commence immediately after the posting of the
list of official candidates but in no case shall be more than fourteen (14) calendar days from the date of the election and shall end one (1) day before the election.

41.2 Elections. The Committee shall supervise all activities during the elections, including the registration of voters, counting and casting of ballots, tally and tabulation of votes, and hear and act upon election protests.

41.2.1 Each member shall be entitled to only one (1) vote regardless of the number of properties owned;
41.2.2 In the event of tie among candidates, the Committee shall review the ballots and determine with certainty the existence of a tie. If confirmed, the dispute shall be resolved through toss coin with the candidate correctly calling the toss as winner;
41.2.3 Upon proclamation, the Chair of the Committee shall forthwith administer the oath of office to the winning candidates, who shall immediately meet for the purpose of organizing the Board.

41.3 Post-Election. The Committee shall, within a period of fifteen (15) days after the elections, submit to the Regional Office the Special Election Report, which shall provide for the following:

41.3.1 Pre-Election Activities which shall provide a narrative of pre-election activities undertaken by the Committee and attaching thereto the notices sent to members of the date and time of the Elections, the Minutes of Meetings, the Election Rules, the Final List of Eligible Voters and Candidates, and such other information or document as may be deemed relevant and necessary.
41.3.2 Election Activities which state the date and time of the commencement
and end of the election, the number of qualified voters, number of votes cast and the number of votes received by the candidates, and all other matters which occurred in the course of the elections, and documents pertaining to the Minutes of the Elections, the list of voters with their corresponding signatures, the certified election returns and any protests filed, and such other documents as may be deemed relevant and necessary.
41.3.3 Post-Election Activities which shall be a narrative of any other activities
conducted after the counting of ballots, including the filing of any protest registered on the day of election and the resolution thereof, the names of the candidates proclaimed as winners and whether they have been administered the oath of office, and such other documents and information as may have been generated or are deemed significant in the course of the post-election activities;

Section 42. Hold-Over. – Where there is failure to elect a new set of directors or officers, the incumbent directors shall be allowed to continue in a hold-over capacity until their successors are duly elected and qualified: Provided, That special elections shall be called within a period of thirty (30) days from the date when the cause for the failure of elections has ended; and, Provided further, That, in the event the holdover officers fail to call for the elections, the Regional Office shall conduct the elections.

Section 43. Election Contests. – In case the elections were supervised by the Regional Office, the election contest shall be filed as an appeal to the Board of Commissioners.

Section 44. Turnover of Records and Properties by Outgoing Directors/ Officers. – To ensure the orderly turnover

of the management of an association, the outgoing directors and officers of an association shall turn over all association books, records, properties and other assets, to the new set of directors and officers within fifteen (15) days from the proclamation of the new Board. The refusal or unreasonable failure to comply with this provision shall constitute a ground for contempt and fine imposed on the erring officers at the rate of P500.00 per day reckoned from the last day for the turn-over thereof, apart from such other penalties which may be imposed by law.

Rule 13
MANAGEMENT COMMITTEE

Section 45. Management Committee. –

45.1 Creation. The Regional Officer having jurisdiction over the case may, upon a verified petition or motion by any of the parties, create a management committee for the Association to carry out the day-to-day operations of the association until a new set of officers is elected. The members of the management committee are considered agents of the HLURB and shall be under the control and supervision of the Regional Officer.

45.2 Composition. The committee shall be composed of at least three (3) members, one each nominated by the parties and the third by the Arbiter or Board of Commissioners from a list of nominees submitted by the parties. In the event that one or both parties fail or refuse to nominate a member, the Arbiter or Board of Commissioners shall appoint such member or members. The members of the management committee shall not be eligible to run in the next election. The Committee shall choose among themselves who shall act as the chairperson.

45.3 Grounds. The petition shall establish that there is no other adequate remedy available and that the creation of the committee is necessary –

45.3.1 To avert dissipation, loss, wastage or destruction of assets or other properties of the association;
45.3.2 To prevent paralyzation of operations which may be prejudicial to the interest of the members and the general public; or,
45.3.3 When the election of the incumbent officers has been declared null and void and the hold-over of the previous board shall frustrate or render nugatory the invalidation of the election.

Section 46. Actions by Management Committee. –

46.1 Quorum. A majority of the members of the Management Committee shall be necessary for the management committee to act or decide on any matter, subject to the ratification of the Regional Officer or his/her duly authorized representative.
46.2 Reimbursement of Expenses. The management committee and persons hired by it shall be entitled to reimbursement of reasonable expenses, as approved by the Regional Officer, Board of Commissioners or its authorized representative, as the case may be, which shall be considered as administrative expenses of, and shouldered by, the Association.
46.3 Immunity from Suit. The members of the management committee and the persons
employed by it shall not be subject to any action, claim or demand in connection with any act done or committed by them in good faith in the exercise of their functions and powers.
46.4 Reports. – Within a period of thirty (30) days from their appointment and every month thereafter, the members the management committee shall submit a report to the Arbiter, Board of Commissioners or its duly authorized representative, as the case may be, on the state and condition of the association under management.

Section 47. Discharge of the Management Committee. – The management committee shall be deemed discharged and dissolved under the following circumstances:

47.1 Whenever the Regional Officer or his/her authorized representative, on motion or motu proprio, has

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determined that the necessity for the management committee no longer exists; or,
47.2 Upon termination or final disposition of the proceedings, including the election and qualification of a new board of directors and officers of the association.

Section 48. Report. – The management committee shall submit its final report, render an accounting of the management, and turn-over all the records and assets of the association to the duly qualified officers of the association, upon its discharge or dissolution, and within such reasonable time as the Regional Officer, the Board of Commissioners, or their authorized representative, may allow.

PART IV
MISCELLANEOUS PROVISIONS

Rule 14
IMPOSITION OF FINES AND PENALTIES

Section 49. Divisible Penalties. – If the penalty imposed has a minimum and maximum amount or period, the penalty shall be divided as follows:

49.1 Division. The divisible penalty shall be divided into two as follows:

49.1.1 Minimum Degree. The imposable penalty shall be within the range from the minimum provided by law and one peso or month before the median amount or period;
49.1.2 Medium Degree. The middle amount or period between the minimum and maximum provided by law;
49.1.3 Maximum Degree. The amount or period one peso or month after the medium degree up to the maximum amount or period provided by law.

49.2 Imposition of Penalties.

49.2.1 Minimum Degree. When only one mitigating circumstance is present or there is at least one mitigating circumstance more than aggravating circumstances, the imposable penalty shall be the median between the minimum and maximum penalty within the degree: Provided, That if there are two or more mitigating circumstances, the penalty to be imposed shall be the minimum as provided by law.
49.2 Medium Degree. When there are neither aggravating nor mitigating circumstances or there is an equal number of mitigating and aggravating circumstances.
49.3 Maximum Degree. When only an aggravating circumstance is present or there are more aggravating than mitigating circumstances, the imposable penalty shall be the median between the minimum within the degree and maximum imposable penalty: Provided, That, if there are two or more aggravating circumstances, the penalty to be imposed shall be the maximum penalty as provided by law.

Section 50. Qualified Penalties. – When the law, rule or regulation sets either a minimum but not a maximum, or a maximum without a minimum amount or period, the penalties to be imposed are, as follows:

50.1 When the law, rule or regulation uses the words “not more than” or terms of similar import, the minimum imposable penalty shall be the median between the maximum as provided by law and zero penalty. Thereafter, the imposable penalty shall be divided into minimum, medium and maximum degrees in accordance with the preceding paragraph.

50.2 When the law, rule or regulation uses the words “not less than” or terms of similar import, the minimum imposable penalty shall be that as provided by law and the maximum being double that amount or period. Thereafter, the imposable penalty shall be divided into minimum, medium and maximum degrees in accordance with the preceding Section.

Section 51. Indivisible Penalty. – When the law, rule or regulation sets the amount and/or period of the penalty

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without any qualifying terms to indicate whether the imposable penalty may be more or less than that fixed therein, then the HLURB shall impose the penalty provided regardless of the number and quality of the mitigating or aggravating circumstances.

Section 52. Circumstances Affecting the Imposition of Penalties. – Upon the determination that an offense or violation has been committed, the following circumstances shall be considered in the imposition of penalties:

52.1 Aggravating Circumstances. The following circumstances shall increase the imposable penalty:

52.1.1 The violation or offense was committed through or was attended by fraud and/or deliberate and gross misrepresentation;
52.1.2 Lack of or suspended license to sell committed at the time of the violation or while a cease and desist order is subsisting, without prejudice to separate proceedings for indirect contempt;
52.1.3 Commission of the same violation within the period of two (2) years;
52.1.4 Commission of a different violation within one year from the time of the commission of the cited offense or violation;
52.1.5 Commission of the same offense after the filing of the complaint or the monitoring/inspection activity but before determination of the commission of the violation;
52.1.6 Pattern of misconduct as evidenced by the number of violations committed within a period of five (5) years;

52.1.7 Submission of falsified or simulated documents;
52.1.8 Vulnerability of the victim;
52.1.9 Substantial experience or expertise in the real estate trade and the laws, rules and regulations pertinent thereto;
52.1.10 Disrespect or discourteousness towards the officers of, and to the laws, rules and regulations implemented by the HLURB;
52.1.11 Such other circumstances as would tend to prove moral depravity and gross dishonesty.

52.2 Mitigating Circumstances. The following circumstances shall cause the decrease in the imposable penalty:

52.2.1 The absence of fraud and/or deliberate and gross misrepresentation;
52.2.2 The absence of any pattern of misconduct or the violation is the first offense;
52.2.3 Remoteness of previous offense or the offense committed was more than five (5) years from the last offense;
52.2.4 Timely good faith effort to rectify the alleged infraction or remunerate the aggrieved party;
52.2.5 Imposition of other penalties;
52.2.6 Lack of experience or expertise in the real estate trade and the laws, rules and regulations pertinent thereto;
52.2.7 Such other circumstances as would tend to mitigate the effects of the offense committed.

52.3 Alternative Circumstances. The following circumstances shall be considered as either aggravating or mitigating circumstances:

52.3.1 Financial capacity of the person penalized;
52.3.2 The aggregate amount of the project or transaction involved;
52.3.3 The education and reputation of the developer and/or the buyer
52.3.4 Such other circumstances which could be considered as either aggravating or mitigating circumstances.

52.4 Ineffectual Circumstances. The following circumstances shall not be considered in the imposition of penalties:

52.3.1 Forced or compelled restitution;

52.3.2 Agreeing to the demand of the client for the commission of the offense or violation of the laws, rules and regulations;
52.3.3 Withdrawal of the complaint by the complainant if the action was initiated by a third party;
52.3.4 Withdrawal from the real estate business.

Section 53. Computation of Penalties. – Whenever the laws, rules or regulations penalizes the commission or omission of an act, the commission or omission shall constitute one violation and shall be penalized accordingly.

However, whenever the law, rule or regulation requires a license, each and every unit shall constitute a count for violation of the laws, rules and regulations.

Section 54. Effects of Reinterpretation. – Except when the order imposing penalties has become final in whole or in part, the re-interpretation of the provisions of the laws, rules and regulations shall have prospective effect if detrimental to the interests of the person sought to be charged but retroactive if favorable to the respondent. In case the order imposing sanctions or penalties has been appealed in part and has become final insofar as the other parts are concerned, this Rule shall apply only to that portion of the order which has not yet become final and executory.

Rule 15
FINAL PROVISIONS

Section 55. Separability Clause. – If the effectivity of any provision of this Rule is suspended or disapproved, or otherwise declared contrary to law, the unaffected provisions shall remain in force.

Section 56. Repealing Clause. – Upon the effectivity of this Rules, all resolutions, orders, memoranda, and circulars of the HLURB which are inconsistent herewith are hereby repealed or modified accordingly.

Section 57. Effectivity. – This Rules shall take effect fifteen (15) days after publication in the Official Gazette.

APPROVED, this 27th day of November, Quezon City.

(SGD) EDUARDO DRUECO DEL ROSARIO
HUDCC Chairperson

AUSTERE A. PANADERO
Undersecretary, DILG

(SGD) LLOYD CHRISTOPHER A. LAO
Chief Executive Officer and Commissioner

(SGD) ANTONIO T. KHO, JR.
Undersecretary, DOJ

(SGD) RIA CORAZON A. GOLEZ-CABRERA
Commissioner

(SGD) DIMAS S. SOGUILON
Undersecretary, DPWH

(SGD) LUIS A. PAREDES
Commissioner

(SGD) DANILO D. BARRAMEDA
Director IV, NEDA

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(SGD) MELZAR P. GALICIA
Commissioner

Attested:

(SGD) CHARITO B. LANSANG
Board Secretary

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