RESOLUTION NO. R-765, ADOPTING THE 2004 RULES OF PROCEDURE OF THE HOUSING AND LAND USE REGULATORY BOARD

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Attached herewith is the resolution, Adopting the 2004 Rules of Procedure of the Housing and Land Use Regulatory Board, which was approved by the Board on 19 May 2004.

The above was published in The Philippine Daily Inquirer on 27 June 2004, and, in accordance with the provisions of law, shall take effect fifteen (15) days from its date of publication.

Please be guided accordingly.

Adopted: 06 July 2004

(SGD.) ROMULO Q.M. FABUL

Board of Commissioners
Resolution No. 765, S. 2004

Adopting the 2004 Rules of Procedure of the Housing and Land Use Regulatory Board BE IT RESOLVED, as it is hereby resolved that, Pursuant to Section 5 (c) and (j) of Executive Order (EO) No. 648, Series of 1981 as amended by EO No. 90, series of 1986, and EO No. 535 as Amended by Section 26 of Republic Act No. 8763, the following Rules of Procedure of the Housing and Land Use Regulatory Board be Adopted, as the same are hereby Adopted. (a)

Rule I
Title and Construction

SECTION 1. Title - These rules shall be known as the 2004 Rules of Procedure of the Housing and Land Use Regulatory Board. (a)

SECTION 2. Construction - These rules shall be liberally construed in order to promote public interest and to assist the parties in obtaining just, speedy and expensive determination of every action, application or other proceeding.

SECTION 3. Nature of Proceedings - Proceedings before the Board shall be summary in nature. The provisions of the Rules of Court shall not be applicable except in a suppletory character. (a)

Rule II
Parties

SECTION 1. Complainant and respondent. - In any complaint filed before the Board, the person filing the same shall be called the complainant, while the person against whom a complaint is made shall be called the respondent. A complaint may be filed by either spouse even if only one of them is a signatory to the contract.

SECTION 2. Applicant and oppositor - Any person, natural or juridical, or entity authorized by law, who files an application before the Board for the issuance of any license, permit or clearance, or the authority to exercise any

right or privilege granted under any law, proclamation, decree or executive order administered or implemented by the Board, shall be called the applicant.

Any person, natural or juridical, or entity authorized by law who claims an adverse right or interest in any application filed with the Board or in the subject matter thereof shall be called the oppositor. (a)

Rule III
Commencement of Action, Summons and Answer

SECTION 1. When action is deemed commenced - An action is deemed commenced upon the filing of a verified complaint with the Regional Office of the Board, in three (3) copies and in such number of copies as there are respondents, with supporting documents, and upon payment of filing fees. A certification of non-forum shopping which complies with Supreme Court Circular No. 28-91, as amended shall be attached to the complaint. (a)

SECTION 2. Duty of the Regional Officer or Arbiter upon the filing of the complaint - The Regional Officer or Arbiter, upon consideration of the allegations in the complaint, may dismiss the complaint under any of the following grounds:

(a) Lack of jurisdiction;

(b) Insufficiency in form and substance; or

(c) Non-availment of the grievance mechanism under the by-laws in homeowners association-related cases other than election contests. (n)

SECTION 3. Summons - Upon filing of the complaint and the payment of correct filing fees, and a determination that the same is sufficient in form and substance, the corresponding summons shall forthwith be issued to the respondent.

Summons, together with a copy of the complaint, shall be served to the respondent in person or by leaving a copy thereof with a competent person of suitable age and discretion, who appears or represents himself to be in charge of respondent's office or residence, as the case may be. If respondent or his representative refuses to receive it, summons shall be effected by tendering or leaving a copy thereof in the address on record of the respondent. Thereafter, the server shall execute an affidavit of service within three (3) days from service thereof.

Whenever personal service appears impracticable or difficult, summons may be served by registered mail, and where the respondent is an unknown person or entity, or whenever his whereabouts are unknown and cannot be ascertained by diligent inquiry, service may, by leave, be effected upon him by publication once a week in two consecutive weeks in a newspaper of general circulation. (a)

SECTION 4. Verified responsive pleading or answer - Except as provided in Section 5, Rule VI and Section 4, Rule VIII of these rules, the respondent shall file his verified responsive pleading or answer, together with supporting documents, within a non-extendible period of twenty (20) days from receipt of the summons, furnishing complainant a copy thereof.

All grounds for a motion to dismiss, counterclaim, or crossclaim shall be pleaded or incorporated in the answer, otherwise these shall be deemed waived. A third party complaint may, with leave of the Arbiter, be filed by respondent provided the grounds therefor are manifested in the answer. (a)

SECTION 5. Opposition to application for permit, license or clearance - When an opposition is filed against an application for a license, permit or clearance with the Board or any of its Regional Field Offices, the Regional Officer shall make a preliminary evaluation and determination whether the case is impressed with significant

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economic, social, environmental or national policy implications as determined by the Board.

Upon such determination, 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. (a)

SECTION 6. Legal and technical support staff of the Executive Committee - In the evaluation of cases referred to in the preceding section, the Executive Committee shall be assisted by the Board Secretarial and such other groups as may be tasked by the Committee. (a)

SECTION 7. Remedy of aggrieved party in case of elevation or non-elevation to Executive Committee - Any party aggrieved by reason of the elevation or non-elevation of any contested application by the Regional Officer may file a verified appeal therefrom within (15) fifteen days from notice of elevation or non-elevation of the contested application with the Executive Committee, which shall resolve whether it shall assume jurisdiction thereon. (a)

SECTION 8. Executory nature of decisions of the Board en banc - 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.

The rules pertaining to contested applications for license, permit or clearance shall apply to cases filed for the revocation thereof. (a)

Rule IV
Prohibited Pleadings in Original Proceedings

SECTION 1. Prohibited pleadings - The following shall be considered as prohibited pleadings and shall not be entertained:

a. Motion to dismiss;

b. Motion for extension of time to file answer;

c. Motion to admit answer filed beyond the reglementary period;

d. Reply, except in answer to a compulsory counterclaim;

e. Rejoinder and answer to rejoinder;

f. Motion for bill of particulars;

g. Fourth and subsequent party complaint; and

h. Motion for reconsideration of any order or decision of the arbiter.

Should one be filed, the same shall not interrupt the running of the period for filing an answer and shall not bar the adjudication of the case. Said prohibited pleadings shall also be expunged from the records of the case.

Petitions for certiorari, mandamus, prohibition or injunction from any interlocutory order of the Arbiter are also considered as prohibited pleadings. (a)

Rule V
Default

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SECTION 1. Declaration of default - If the respondent fails to answer or file a responsive pleading within twenty (20) days from service or receipt of the summons, the Arbiter or Executive Committee may motu proprio, or upon motion of the complainant with notice to the respondent, and with proof of such service, declare the respondent in default.

In an opposition to an application for a license, permit, or clearance filed with the Board or any of its Regional Field Offices, where applicant fails to file his or its answer or comment thereto within twenty (20) days from service of notice from the Regional Office or Executive Committee, the Regional Officer, Arbiter or the Executive Committee shall, upon motion of the oppositor, with notice to applicant, declare the latter in default and render judgment based on documents already on record. (a)

SECTION 2. Motion to lift order of default and admit answer - A motion to lift the order of default, and admit the answer attached thereto, may be filed by the party declared in default, furnishing the opposing party with notice thereof, within five (5) days from receipt of said order.

The motion must be accompanied by an affidavit of merit showing fraud, accident, mistake or excusable negligence, and a meritorious defense. Thereafter, the Arbiter or Executive Committee shall resolve the motion. (a)

SECTION 3. Effect of order of default - The Arbiter or Executive Committee, upon declaring a party in default shall direct the complainant to file his or its verified position paper and draft decision, together with supporting documents, and proceed to render judgment granting the complainant such relief as his or its pleading may warrant. The party declared in default shall be entitled to notice of subsequent proceedings but not to take part in submitting position papers, or such clarificatory hearings or examination of records as the Arbiter may require.

Where the order of default is lifted, the answer shall be admitted and the Arbiter shall order the respondent to file his position paper and draft decision. Thereafter, the case shall be submitted for resolution. (a)

SECTION 4. Review of judgment by default - If a judgment by default is rendered the party declared in default may file an appeal from the judgment in accordance with Rule XVI of these rules and whatever defenses he has against the complainant may still be raised in said appeal. (a)

Rule VI
Election Contests (n)

SECTION 1. Cases covered. - The provisions of this rule shall apply to election contests in homeowners association.

SECTION 2. Definition - An election contest refers to any controversy or dispute involving title or claim to any elective office in a homeowners association, the validation of proxies, the manner and validity of elections, and the qualification of candidates, including the proclamation of winners and assumption to the office of director, trustee or other officer directly elected by the members of a homeowners association where the articles of incorporation or by-laws so provide.

SECTION 3. Complaint - In addition to the requirements in Section 1, Rule III of these rules, the complaint in an election contest must state that the case was filed within fifteen (15) days from the date of the election, if the by-laws of the association do not provide for a procedure for resolution of the controversy, or within fifteen (15) days from receipt of the resolution of the controversy by the association as provided in its by-laws.

SECTION 4. Duty of the Regional Office upon the filing of the complaint - Within five (5) days from the filing of the complaint, the Arbiter, with the approval of the Regional Officer, may dismiss the complaint outright if it is

not sufficient in form and substance; or if it is sufficient, order the issuance of summons which shall be sent, together with a copy of the complaint, on the respondent within ten (10) days from its issuance.

SECTION 5. Answer - The respondent shall file his verified responsive pleading or answer together with supporting documents thereto, within a non-extendible period of ten (10) days from receipt of summons, furnishing the complainant a copy thereof.

SECTION 6. Effect of failure to answer - If the respondent fails to file a verified responsive pleading or answer within the period above provided, the Arbiter may, within ten (10) days from the lapse of said period, motu proprio or on motion, render judgment as may be warranted by the allegations of the complaint, as well as the affidavits, documentary and other evidence on record. In no case shall the Arbiter award a relief beyond that prayed for.

SECTION 7. Clarificatory conference - At any time before or after the case is submitted for resolution, the Arbiter may, in his discretion, require hearing, examination of election-related documents, or submission of additional evidence to clarify certain factual issues pertinent to the resolution of the controversy.

SECTION 8. Decision - The Arbiter, in consonance with Section 1, Rule XV of these rules, shall render a decision based on the pleadings, affidavits, documentary and other evidence on record.

SECTION 9. Executory nature of decisions and orders - All decisions and orders issued under this rule shall immediately be executory. No appeal taken therefrom shall stay the enforcement or implementation of the decision or order, unless restrained by the Board of Commissioners.

SECTION 10. Appeals - Any party aggrieved by the decision of the Regional Office, may file an appeal therefrom in accordance with Rule XVI of these rules.

Rule VII
Derivative Suits (n)

SECTION 1. Derivative suit - A member may bring an action in the name of homeowners association provided, that:

(a) He was a member at the time the acts or transactions subject of the action occurred, and at the time the action was filed.

(b) He exerted reasonable efforts, and alleges the same with particularity in the complaint, to exhaust all remedies available under the articles of incorporation, by-laws, laws, or rules governing the association to obtain the relief prayed for; and

(c) A cause of action such as where the directors or officers of the association waste or dissipate the homeowners association funds, fraudulently dispose of homeowners association assets or perform ultra vires act.

SECTION 2. Discontinuance - A derivative action shall not be discontinued, compromised or settled without approval of the Regional Office or the Board of Commissioners. During the pendency of the action, any sale, transfer, or assignment of rights or interest of the complaining member or homeowners association shall be approved by the Regional Office or the Board of Commissioners. If the Regional Office or Board of Commissioners determines that the interest of the members will be substantially affected by the discontinuance, compromise or settlement, it may direct that notice, by publication or otherwise, be given to the members whose interests it determines will be so affected.

Rule VIII

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Inspection of Books and Records of the Association (n)

SECTION 1. Cases covered - The provisions of this rule shall apply to disputes involving solely the rights of members of the homeowners association to inspect the association books and records and/or to be furnished with the financial statements or reports required by this Board, and, where applicable, those required under Sections 74 and 75 of the Corporation Code of the Philippines.

SECTION 2. Complaint - In addition to the requirements in Rule III of these rules, the complaint must state the following:

(a) The case is for the enforcement of complainant's right to inspect the association books and records and/or to be furnished with financial statements and reports mentioned under Section 1 of this rule.

(b) A demand for inspection and copying of books and records and/or to be furnished with financial statements was made by the complainant upon respondent;

(c) The respondent refused to grant the demands of the complainant; and

(d) The refusal of the respondent to grant the demands of the complainant is unjustified and illegal, stating the law and jurisprudence in support thereof.

SECTION 3. Duty of the Arbiter upon the filing of the complaint - Within five (5) days from the filing of the complaint, the Arbiter, with the approval of the Regional Officer, may dismiss the complaint outright if it is not sufficient in form and substance, or if it is sufficient, order the issuance of summons which shall be served, together with a copy of the complaint, on the respondent within ten (10) days from its issuance.

SECTION 4. Answer - The respondent shall file his or her answer to the complaint, serving a copy thereof on the complainant, within ten (10) days from the service of summons and the complaint. In addition to the requirements in Rule III, the answer must state the following:

(a) The grounds for the refusal of respondent to grant the demands of the complainant;

(b) The conditions or limitations on the exercise of the right to inspect, which should be imposed by the Arbiter; and

(c) The cost of inspection, including manpower and photocopying expenses, if the right to inspect is granted.

SECTION 5. Affidavits, documentary and other evidence - The parties shall attach to the complaint and answer the affidavits or witnesses, documentary and other evidence in support thereof, if any.

SECTION 6. Effect of failure to answer - If the respondent fails to file an answer within the period above provided, the Arbiter shall, upon motion, render judgment as warranted by the allegations of the complaint, as well as the affidavits, documentary and other evidence on record within thirty (30) days from the receipt of such motion. In no case shall the Arbiter award a relief beyond or different from that prayed for.

SECTION 7. Decision - The Arbiter, with the approval of the Regional Officer, shall render a decision based on the pleadings, affidavits and documentary and other evidence attached thereto within thirty (30) days from receipt of the last pleading. 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 necessary 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.

SECTION 8. Executory nature of decision - All orders, resolutions and decisions under this rule shall be

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immediately executory unless otherwise ordered by the Board of Commissioners.

Rule IX
Management Committee (n)

SECTION 1. Creation of a management committee - As an incident to any of the homeowners association cases filed under these rules, a party may apply for the appointment of a management committee for the association under any of the following circumstances:

a. When there is imminent danger of dissipation, loss, wastage, destruction of assets or other properties;

b. When there is paralization of its services which may be prejudicial to the interest of its members; or

c. 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 2. Management committee as agents of Housing and Land Use Regulatory Board (HLURB) - The members of the management committee in the exercise of their powers and performance of their duties are considered agents of the HLURB and shall be under its control and supervision.

SECTION 3. Composition of the management committee - After due notice and hearing, the Board may appoint a management committee composed of at least five (5) members nominated by the parties or, in default thereof, those appointed by the Regional Offices or Board of Commissioners from a list of nominees submitted by either party. Preference shall be given to members in good standing of the association.

SECTION 4. Powers and functions of the management committee - The management committee shall have the power to take custody and control of all assets and properties owned or possessed by the association. It shall take the place of the board of directors of the association, assume their rights and responsibilities, and preserve the association's assets and properties in its possession.

SECTION 5. Action by management committee - A majority of its members shall be necessary for the management committee to act or make a decision. The chairman of the management committee shall be chosen by the members from among themselves.

SECTION 6 Reimbursement of expenses - The management committee and the persons hired by it shall be entitled to reimbursement of reasonable expenses which shall be considered as administrative expenses.

SECTION 7. 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 omitted by them in good faith in the exercise of their functions and powers. All official acts and transactions of the management committee duly approved or ratified by the Board shall render the members of the management committee immune from any suit in connection with such act or transaction.

SECTION 8. Reports - Within a period of thirty (30) days from the appointment of its members, the management committee shall make a report to the Board on the state of the association under management. Thereafter, the management committee shall report every month to the Board or as often as the latter may require, on the general condition of the association under management.

SECTION 9. Discharge of the management committee - The management committee shall be deemed discharged and dissolved under the following circumstances:

(a) Whenever the Board, on motion or motu proprio, has determined that the necessity for the management committee no longer exists; or

(b) Upon termination or final disposition of the proceedings, including the election and qualification of a new board of directors and officers of the association.

Upon its discharge and dissolution, the management committee shall submit its final report to the Regional Office or the Board of Commissioners, render an accounting of its management, and turn-over all records and assets of the association to the duly qualified officers of the association within such reasonable time as the Regional Office or the Board of Commissioners may allow.

Rule X
Conciliation Conference and Resolution

SECTION 1. Mandatory conciliation conference - Upon receipt of the answer, the Arbiter shall summon the parties to a conciliation conference to explore the possibility of an amicable settlement.

In case the parties are not personally present, their representative or counsel shall be clothed with the proper special power of attorney or board resolution, as the case may be, to enter into a settlement.

Said conciliation conference shall be terminated within sixty (60) days from the date of the initial conference. (a)

SECTION 2 Effect of non-appearance in conciliation conference - Where a party fails or refuses to appear during the scheduled conciliation conference, the party present may move for termination of conference and submission of the case for resolution in accordance with Section 5 of this rule. (n)

SECTION 3. Ocular inspection and/or clarificatory questions - During the conference, and/or at any time before or after the case is submitted for resolution, the Arbiter may in his discretion, require an ocular inspection of the project or the site of the homeowners association, an examination of the records of the owner or the developer or the corporate records of the association, and the presentation of witnesses solely for purposes of clarification or additional information on the evidence on record. (a)

SECTION 4. Compromise agreement - If an amicable settlement is reached, a judgment shall be rendered based on the compromise agreement duly signed by the parties, or their duly authorized representatives. (a)

SECTION 5. Position paper and draft decision - If the parties fail to agree upon an amicable settlement, either in whole or in part, during the conciliation conference/s, the Arbiter or Executive Committee shall issue an order directing the parties to simultaneously file within thirty (30) days their respective position papers, jointly verified by counsel and the parties, attaching thereto the affidavits of their witnesses and documentary evidence, as well as their draft decisions as provided for by Executive Order No. 26.

Said position paper and draft decision shall state clearly and distinctly the facts, the issues, the applicable laws and jurisprudence on which it is based. (a)

SECTION 6. Summary resolution - With or without the position paper and draft decision, the Arbiter shall resolve the case on the basis of the pleadings and pertinent records of the case and of the Board. (a)

Rule XI
Cease and Desist Order

SECTION 1. Temporary restraining order - Upon the filing of a complaint with prayer for a temporary restraining order, the Arbiter upon the consideration of the merits of the complaint may immediately issue a temporary restraining order valid only for twenty (20) days from the date of receipt of the order by the adverse party.

The order granting the temporary restraining order shall already state the hearing for a cease and desist order, which shall be within three (3) days from the date of issuance of the said order. For this purpose, the Arbiter may

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authorize the movant to personally serve the said order. (a)

SECTION 2. Cease and desist order - After said hearing, the arbiter shall immediately resolve the prayer for cease and desist order. No cease and desist order shall be granted unless it is established that:

(a) The movant is entitled to the relief demanded, and the whole part of such relief consists in restraining the commission or continuance of such acts, either for a limited period or perpetually;

(b) The commission or continuance of such act complained of during the litigation, would probably work injustice or cause grave and irreparable injury to the movant; or

(c) The adverse party is doing, threatening or is about to do, or is procuring to be done, some act probably in violation of existing laws and/or regulations being implemented by this Board or of movant's rights respecting the subject of the action, tending to render the judgment ineffectual.

If the prayer for issuance of a cease and desist order is granted, the Arbiter shall require the movant to file with the Regional Office, a bond executed in favor of the party enjoined in an amount to be determined by the Arbiter or the Executive Committee to the effect that the movant will pay to such party all damages which he may sustain by reason of injunction, if the Arbiter should finally decide that the movant is not entitled thereto. (9a)

SECTION 3. Effectivity of cease and desist order - An order to cease and desist from performing an illegal act shall be immediately executory, without prejudice to an appeal being filed in accordance with the next section. (a)

SECTION 4. Review of cease and desist order - The party against whom a cease and desist order has been issued can elevate the said order to the Board by way of an appeal in accordance with Rule XVI of these rules. The filing of such appeal shall not automatically stay such order, unless ordered by the Board and a supersedeas bond executed in favor of the enjoining party, twice the amount of the bond in the cease and desist order, is also posted with the Board. (a)

Rule XII
Powers of the Arbiter and the Regional Officer

SECTION 1. Powers of the Arbiter - The Arbiter shall, under the supervision and control of the Regional Officer, have the following powers:

a. To hear and decide, subject to the approval of the Regional Officer, cases cognizable by this Board consistent with these Rules;

b. To issue subpoena ad testificandum 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 impose fines and or other penalties for violation of these rules and related regulations, and any Order or Decision of HLURB;

e. Subject to paragraph A of this section, to issue cease and desist order and temporary restraining order in accordance with Rules XI of these rules, and such other similar ancilliary writs and orders; and

f. To suspend or revoke, upon proper notice and hearing the certificate of registration of the association upon any ground provided by law, rules and regulations of HLURB, including but not limited to the following:

1. Fraud or misrepresentation in procuring its certificate of registration;

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2. Serious misrepresentation as to what the association can do or is doing;

3. Refusal to comply with or defiance of any lawful order of HLURB or its Arbiter;

4. Misuse of a right, privilege, or franchise conferred upon it by law, or exercise of a right, privilege or franchise in contravention of law;

5. Commission or omission of an act which amounts to a surrender of its corporate rights, privilege or franchise;

6. Violation of any provisions of HLURB rules and regulations and those of the Corporation Code whether the same is applicable;

7. Continuous inoperation or inactivity for a period of at least three (3) years after incorporation;

8. Failure to file required reports in appropriate forms as determined by HLURB within the prescribed period; and

9. Failure to file by-laws within thirty (30) days from receipt of the notice of issuance of certificate of incorporation.

g. To place, upon proper petition or application, and after due notice and hearing, any homeowners association under the administration of a management committee;

h. To order and direct, upon proper application, the production, inspection, examination, investigation and submission of records, books of accounts and financial reports of registered homeowners association;

i. To perform such other functions and powers as may be assigned by the Board. (a)

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 Section 5, Rule III of these rules as amended;

b. To issue subpoena ad testificandum and subpoena duces tecum;

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. 658 dated 07 February 1981 as amended by Executive Order No. 90 dated 17 December 1986;

d. To hear and resolve motions;

e. To issue cease and desist order, temporary restraining order, and such other similar anciliary writs and orders;

f. To approve or disapprove the recommended order or decision of the Arbiter;

g. To decide cases cognizable by this Board, if he disapproves the Arbiter's recommended order or decision. (a)

SECTION 3. Incidental powers - The HLURB shall have the following incidental powers:

a. To enlist the aid and support of any and all enforcement agencies of the government, civil or military; and

b. To exercise such other powers as may be implied, necessary or incidental to carry out the express powers granted to it or to achieve the objectives and purposes of the HLURB as provided for in its Charter. (n)

Rule XIII
Inhibition of the Arbiter and/or Regional Offices

SECTION 1. Grounds for inhibition - The Arbiter and/or Regional Officer shall inhibit himself from adjudicating a case on any of the following grounds:

a. When he, his spouse, child or relative within the sixth degree of consanguinity or affinity is pecuniarily interested in the subject of the litigation;

b. When he is related to either of the parties or their counsel within the sixth degree of consanguinity or affinity; or

c. When he has participated as a counsel in the case. (a)

SECTION 2. Voluntary inhibition - Aside from the grounds mentioned above, the Arbiter and/or regional officer may voluntarily inhibit himself from hearing or adjudicating a case on any just and valid grounds, as set forth in Rule 137 of the Rules of Court. (a)

SECTION 3. Procedure for inhibition - The party shall file with the Arbiter and/or Regional Officer his motion for inhibition stating the grounds and evidence therefor. Thereafter, the Arbiter and/or Regional Officer shall decide the incident. (a)

SECTION 4. Signatory or case assignment in case of inhibition of Arbiter or Regional Officer - In case the Arbiter or Regional Officer inhibits himself from adjudicating a case, the same shall be assigned by raffle to another Arbiter. In the absence thereof, the records of the case shall be transmitted to the Director of the Legal Services Group (LSG) who shall assign the case by raffle to an Arbiter therein.

In case the Regional Officer inhibits or disqualifies himself from adjudicating a case, the records thereof shall be transmitted to the Legal Services Group (LSG) for further proceeding and resolutions.

Where the Director for Legal Services Group acts as Arbiter on a case, his decision shall be approved by the Supervising Commissioner. (a)

Rule XIV
Procedure in Regional Offices Without Arbiter

SECTION 1. Procedure in regions without Arbiter - In case a Regional Office does not have an Arbiter, the following rules shall apply;

a. The Regional Officer or his authorized legal officer shall act as hearing officer who shall conduct the conciliation conference or amicable settlement proceedings and issue initial compulsory processes such as summons, notices and subpoena;

b. When the case is submitted for resolution, the Regional Office shall transmit the records of the case to the Legal Services Group of the Central Office of the Board, for resolution, in which case the procedure in Section 1 of Rule XV shall apply;

c. The case shall be raffled by the Commissioner for Legal Affairs or the Group Director to an Arbiter in the Legal Services Group for the preparation of the decision or resolution. The Arbiter shall sign said decision or resolution and the same shall be subject to the approval of the Director of the Legal Services Group; and

d. After resolution of the case by the Legal Services Group, the records of the case shall be remanded to the regional offices of origin for release and service of the decision. (a)

Rule XV
Decision

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SECTION 1. Decisions, resolutions, orders and writs - All decisions as well as resolutions, orders, and writs granting provisional remedies issued by the arbiter shall be subject to the approval of the Regional Officer. All pending motions as well as those filed after the submission of the case for resolution shall be resolved in the resolution or decision. (a)

Rule XVI
Appeal to the Board

SECTION 1. Appeal memorandum - Any party aggrieved by the decision of the Regional Officer, on any legal ground and upon payment of the appeal fee, may appeal hereof by filing with the Regional Office a verified appeal memorandum in three (3) copies within thirty (30) days from receipt thereof.

In cases decided by the Executive Committee, the verified appeal memorandum shall be filed with the Executive Committee through the Board Secretariat. The appellant shall furnish the adverse party a copy of the appeal memorandum. Mere notice of appeal shall not be entertained.

Within ten (10) days from receipt of the appeal memorandum, the Regional Officer or the Executive Committee as the case may be, shall elevate the records of the case to the Board of Commissioners together with the summary of proceedings before the Regional Office or Executive Committee.

An appeal from a decision rendered by the Executive Committee shall be taken cognizance of by the Board en banc. (a)

SECTION 2. Contents of the appeal memorandum - The appeal memorandum shall state the date when the appellant received a copy of the decision, the grounds relied upon, the arguments in support thereof, and the relief prayed for.

In addition, the appellant shall attach to the appeal memorandum the following:

a. Affidavit of service of the appeal memorandum executed jointly by the appellant and his counsel, which substantially complies with Supreme Court Circular No. 19-91, stating in essence the date of such service, copies of the registry return receipt shall likewise be attached;

b. A verified certification jointly executed by the appellant and his counsel in accord with Supreme Court Circular No. 28-91 as amended, attesting that they have not commenced a similar, related or any other proceeding involving the same subject matter or causes of action before any other court or administrative tribunal in the Philippines; and

c. In case of money judgment, an appeal bond satisfactory to the Board equivalent to the amount of the award excluding interests, damages and attorney's fees. (a)

SECTION 3. Counter-memorandum - Upon receipt of a copy of the appellant's memorandum and without waiting for any separate order from the Board, the appellee shall file three (3) copies of a counter-memorandum with the Board of Commissioners within an inextendible period of thirty days from receipt of the appellant's memorandum, with proof of service to the appellant. (a)

SECTION 4. Effect of filing an appeal - The filing of an appeal in accordance with these rules shall have the effect of automatically staying the execution of any decision or order of the Arbiter or Executive Committee, unless otherwise provided in these rules. (a)

Rule XVII
Prohibited Pleadings in Appeal Proceedings

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SECTION 1. Prohibited pleadings - Reply and rejoinder memorandum are prohibited and shall not be filed during the pendency of the appeal before the Board of Commissioners. (a)

Rule XVIII
Dismissal of the Appeal

SECTION 1. Dismissal of the appeal - The appeal shall be dismissed on any of the following grounds:

a. Filing the appeal beyond the prescribed period;

b. Joint motion of the parties to dismiss the appeal;

c. Withdrawal of the appeal;

d. Failure to pay appeal fees;

e. Failure to post an appeal bond, as required in Section 2 (c) of Rule XVI;

f. Failure to furnish the other party or parties a copy of the appeal memorandum; and

g. Failure to comply with the orders of the Board and/or the requirements of these rules. (a)

Rule XIX
Incidental Proceedings and Remedies

SECTION 1. Ancilliary remedies pending appeal - Pending resolution of the case sought to be reviewed by the Board of Commissioners, the Board may, motu proprio or upon motion by either party, issue a cease and desist order, special orders to perform, order of execution pending appeal, or such other ancilliary writs. (a)

SECTION 2. Admissibility of new evidence on appeal - The Board may, in the evaluation of the appeal, order reception of evidence or conduct further proceedings, or take judicial notice of other records of the Board, pursuant to Section 22 of Chapter IV, Book VI of Executive Order No. 292, series of 1987. (a)

Rule XX
Submission and Resolution

SECTION 1. Submission of draft decision - Within thirty (30) days from receipt of the adverse party's counter-memorandum, or upon the lapse of the period for submission thereof reckoned from the date of such receipt of the appeal memorandum as established by the appellant, the parties shall simultaneously submit their respective draft decision in accordance with Executive Order No. 26, Series of 1992

With or without a draft decision, the appeal shall be submitted for resolution. (a)

SECTION 2. Resolution - The appeal shall be decided by the Board of Commissioners sitting en banc or by division in accordance with the internal rules of the Board of Commissioners. (a)

Rule XXI
Motion for Reconsideration and Appeal from Board Decisions

SECTION 1. Motion for reconsideration - Within the period for filing an appeal from a decision, order or ruling of the Board of Commissioners, any aggrieved party may file a motion for reconsideration with the Board only on the following grounds:

(a) Serious errors of law which would result in grave injustice if not corrected; or

(b) Newly discovered evidence.

Only one (1) motion for reconsideration shall be entertained.

Motions for reconsideration shall be assigned to the division from which the decision, order or ruling originated. (a)

SECTION 2. Appeal - Any party may, upon notice to the Board and the other party, appeal a decision rendered by the Board of Commissioners to the Office of the President within fifteen (15) days from receipt thereof, in accordance with P.D. No. 1344 and A.O. No. 18 Series of 1987.

The pendency of the motion for reconsideration shall suspend the running of the period to appeal to the Office of the President. (a)

Rule XXII
Finality of Judgment

SECTION 1. Finality of judgment - Decisions and orders of Arbiters and the Board of Commissioners shall be deemed final and executory in accordance with the following:

a. Unless otherwise provided, the decision or resolution of an Arbiter shall become final thirty (30) days after the date of receipt thereof and no appeal has been filed within the said period;

b. In the case of decisions and resolutions of the Board of Commissioners, the same shall become final and executory fifteen (15) days after receipt thereof and no appeal or motion for reconsideration has been filed therefrom within the said period; (a)

SECTION 2. Proof of service by registered mail - Service by registered mail is complete upon actual receipt by the addressee or after five (5) days from the date he received the first notice of the postmaster, whichever is earlier. (n)

Rule XXIII
Execution

SECTION 1. Execution of decision - Execution shall issue only upon motion of an interested party upon a final order of decision save in cases where execution pending appeal is allowed by the Board of Commissioners. However, the Board may motu proprio issue writs of execution for the collection of fees and fines it may impose. (a)

SECTION 2. Writ of execution - All writs of execution shall be issued by the Regional Officer and directed to the provincial or city sheriff concerned. (a)

Rule XXIV
Legal Fees

SECTION 1. Legal fees - All legal fees relating to adjudicating cases shall be, in accordance with the schedule of fees approved from time to time by the Board of Commissioners. (a)

SECTION 2. Pauper litigants exempt from payment of legal fees - A pauper litigant whose gross income does not exceed six thousand (P6,000.00) pesos a month or as may from time to time be determined by the Board of Commissioners and who does not own real property shall be exempt from the payment of legal fees.

The legal fees shall be a lien on any judgment rendered in the case favorably to the pauper litigant, unless the Board otherwise provides. To be entitled to the exemption herein provided, the pauper litigant shall execute an affidavit that he and his immediate family do not earn the gross income abovementioned, nor do they own any

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real property with the assessed value aforementioned, supported by an affidavit of a disinterested person attesting to the truth of the pauper litigant's affidavit.

Any falsity in the affidavit of a pauper litigant or disinterested person shall be sufficient cause to strike out the pleading of the party claiming to be a pauper litigant, without prejudice to whatever criminal liability may have been incurred. (a)

SECTION 3. Government exemption from fees - The Republic of the Philippines, agencies and instrumentalities, are exempt from paying the legal fees provided herein. Local governments and government-owned or controlled corporations with or without independent charters are not exempt from paying such fees.

Rule XXV
Miscellaneous Provisions

SECTION 1. Repealing clause - These rules repeal Resolution Nos. 537 and 538, Series of 1994, Resolution No. R-586 Series of 1996, Resolution No. R-655 Series of 1999 and all other resolution and administrative issuances or such parts thereof as are inconsistent herewith. (a)

SECTION 2. Effectivity - These rules shall take effect after fifteen (15) days from publication in the Official Gazette or in a newspaper of general circulation. Proceedings of cases then pending shall be governed by these rules, except when in the opinion of the Board their application would be impractical or would work injustice, in which event the former rules of procedure shall apply.

Adopted: 19 May 2004.

(SGD.) MICHAEL T. DEFENSOR
Chairman

(SGD.) RAMON LIWAG
Undersecretary, DOJ
Ex-Officio Commissioner

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

(SGD.) EDUARDO R. SOLIMAN, JR.
Undersecretary, DILG
Ex Officio Commissioner

(SGD.) TERESITA A. DESIERTO
Commissioner

(SGD.) AUGUSTO B. SANTOS
Deputy Director- General, NEDA

(SGD.) FRANCISCO L. DAGÑALAN
Commissioner

(SGD.) JOEL I. JACOB
Ex-Officio Commissioner, DPWH

(SGD.) JESUS YAP PANG
Commissioner

Attested by:

(SGD.) ATTY. CHARITO M. BUNAGAN-LANSANG
Board Secretary

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