

REVISED RULES OF PROCEDURE IN THE HEARING OF HOMEOWNERS' DISPUTES

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To effectively carry out and implement the provisions of Republic Act No. 580, as amended by Executive Order Nos. 535 and 90, the following rules of procedure are hereby adopted to govern the proceedings before the Home Insurance and Guaranty Corporation:

Rule I

Definition of Terms/Construction of Rules

SECTION 1. Definition of Terms — For purposes of these Rules, and as far as practicable, the following terms shall mean:

- a) HIGC — Home Insurance and Guarantee Corporation, formerly Home Financing Commission, thereafter Home Financing Corporation, a government corporation created under and by virtue of R.A. 580, as amended by E.O. 535 and renamed as such under E.O. 90.
- b) Homeowners Association — an association composed of members who are either present or future homeowners/awardees/occupants of private or government housing projects, subdivisions or urban estates, organized primarily for the purpose of facilitating the delivery of adequate housing and related services designed to improve the quality of life of its members and the community/subdivision concerned.
- c) Hearing Officer — any person or officer, body board or committee duly designated or created, as the case may be, by proper order issued by HIGC, to hear and decide a particular case.
- d) Order — any written directive of HIGC or such person, officer, body, board, or committee duly designated or created by it, as the case may be.
- e) Decision/Resolution — the written judgment in a homeowners' case before the HIGC.
- f) Complainant — any person, natural or juridical, seeking relief either for the violation of any law, rule, or regulation, or for the enforcement of a right in law, shall be referred to as complainant.
- g) Respondent — any person who claims interest adverse to the complainant and necessary to the complete settlement of issues shall be referred to as respondent.

SECTION 2. Interpretation — These Rules shall be liberally construed to carry out the objectives of E.O. 535 and to assist the homeowners associations and their members in effecting expeditious, inexpensive, and speedy settlement of their disputes.

Rule II

Disputes Triable by HIGC/Nature of Proceedings

SECTION 1. Types of Disputes — The HIGC or any person, officer, body, board, or committee duly designated or created by it shall have jurisdiction to hear and decide cases involving the following:

- a) Devices or schemes employed by or any acts of the Board of Directors or officers of the association amounting to fraud and misrepresentation which may be detrimental to the interest of the public or of the members of the association or the association registered with HIGC.
- b) Controversies arising out of intra-corporate relations between and among members of the association, between any and/or all of them and the association of which they are members, and insofar as it concerns its right to exist as a corporate entity, between the association and the state/general public or other entity.
- c) Controversies in the election, appointment, or selection of directors, officers, or members of the association, including the regularity thereof and eligibilities of such directors, officers or members.
- d) Suspension or revocation of the certificate of registration of any homeowners association duly registered by HIGC upon any of the grounds provided by law, rules and regulations of HIGC, including but not limited to the following:
 - Fraud of misrepresentation in procuring its certificate of registration;
 - Serious misrepresentation as to what the association can do or is doing;
 - Refusal to comply with or defiance of any lawful order of HIGC or its hearing officer;
 - Misuse of a right, privilege, or franchise conferred upon it by law, or exercise of a right, privilege, or franchise in contravention of law;
 - Commission or omission of an act which amounts to a surrender of its corporate rights, privileges, or franchise;
 - Violation of any provisions of HIGC rules and regulations and those of the Corporation Code whenever the same is applicable.
 - Continuous in operation or inactivity for a period of at least five (5) years; and
 - Failure to file required reports in appropriate forms as determined by HIGC within the prescribed period.

SECTION 2. Nature of Proceedings — The hearing of the disputes above described shall be summary in nature and shall not be bound by the technical rules of evidence, provided that the right of both parties to a fair and just hearing is assured, and the basic requirements of due process are observed.

Rule III

Commencement of Actions; Pleadings; Summons

SECTION 1. Commencement of Actions — A verified complaint in triplicate, accompanied by the appropriate filing fee therefor, shall commence an action before the HIGC.

The action for suspension or revocation of certificate of registration referred to in Section 1 (d) of the preceding Rule shall be commenced by the Legal Department of HIGC when directed by HIGC. The Legal Department may also bring such an action when it has good reasons to believe that a case can be established by proof, upon the instance of any interested person, but in such a case, the Legal Department must first require the payment by said interested person of the expenses incident to the action sought to be instituted; provided, however that the action for the revocation of certificate of registration may be commenced only within five (5) years from the time the ground relied upon arose.

SECTION 2. Pleadings Defined; Allowed — Pleadings are the written allegations of the parties of their respective claims and defenses submitted to the HIGC for adjudication. The pleadings allowed by these Rules are the complaint and the answer. The following pleadings, motions, or petitions shall not be allowed in the cases covered

by these Rules:

- a) Motion to dismiss or to quash;
- b) Motion for a bill of particulars;
- c) Motion for new trial or for reconsideration; or for reopening of trial;
- d) Petition for relief from judgment;
- e) Motion for extension of time to file pleadings, affidavits or any other document;
- f) Memoranda, except on appeal;
- g) Motion to declare defendant in default;
- h) Dilatory motions for postponement;
- i) Reply, except on appeal;
- j) Third party complaints and similar complaints; and
- k) Interventions.

SECTION 3. Complaint and Answer — The complaint shall contain the names and residences of the parties and a concise statement of the ultimate facts constituting the complaints' causes of action. It shall specify the relief sought or the right which the complainant seeks to enforce, but may add a general prayer for such further or other relief as may be deemed just or equitable.

The answer shall set forth the negative and affirmative defenses upon which the respondent relies and any and all compulsory counter-claims or cross-claims he may have. Should the respondent fail to allege his compulsory counter-claims or his cross-claims in his answer, the same shall be considered barred.

SECTION 4. Summons; Time to File Answer — Upon the filing of the complaint and the payment of the correct filing fee, the corresponding summons to the respondent shall be issued directing the latter to answer the complaint within fifteen (15) days from receipt thereof, otherwise, the complainant will take judgment by default and may demand the relief prayed for.

SECTION 5. Default — If the respondent fails to answer within fifteen (15) days from receipt of the complaint, he shall be declared in default and the complainant may present evidence ex parte.

Rule IV

Hearings; By Whom Conducted

SECTION 1. Who Conducts Hearings — A hearing officer shall conduct the hearings and investigations of cases filed with the HIGC.

SECTION 2. Powers of the Hearing Officer — The hearing officer designated to conduct hearings and investigations is empowered to:

- a) To issue preliminary or permanent injunctions, whether prohibitory or mandatory, in which case the pertinent provisions of the Revised Rules of Court as far as practicable, shall apply;
- b) To punish for contempt in accordance with the pertinent provisions of the Revised Rules of Court;
- c) To compel the officers of any homeowners association registered with it to call a meeting of members thereof

or in the exercise of discretion, directly order the calling of said meeting;

- d) To pass upon the validity of the issuance and use of proxies of absent members;
- e) To issue subpoena duces tecum and summon witnesses to appear in any proceedings before HIGC;
- f) To impose fines and or other penalties for violation of these rules and related regulations, and any Order or Decision of HIGC;
- g) To suspend or revoke, after proper notice and hearing, the certificate of registration of the association upon any ground provided by law, rules and regulations of HIGC, including, but not limited to the following:
 - Fraud or misrepresentation in procuring its certificate of registration;
 - Serious misrepresentation as to what the association can do or is doing;
 - Refusal to comply with or defiance of any lawful order of HIGC or its hearing officer;
 - Misuse of a right, privilege, or franchise conferred upon it by law, or exercise of a right, privilege or franchise in contravention of law;
 - Commission or omission of an act which amounts to a surrender of its corporate rights, privileges or franchise;
 - Violation of any provisions of HIGC rules and regulations and those of the Corporation Code whenever the same is applicable;
 - Continuous in operation or inactivity for a period of at least five (5) years; and
 - Failure to file required reports in appropriate forms as determined by HIGC within the prescribed period.

SECTION 3. Incidental Powers — In the adjudication of disputes under these Rules, HIGC shall also have the following 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 HIGC as provided for in its Charter.

SECTION 4. Maximum Period for Reception of Evidence — Unless a different period is fixed by law, all proceedings for the reception of evidence under these Rules shall be terminated within a period of three (3) months from the first day of hearing, counted from the date of the Preliminary Conference, if one is held, and may be extended only for the most exigent reasons and only upon the written permission of the head of agency.

SECTION 5. Period to Decide — The hearing officer shall decide the case within a period of fifteen (15) working days from termination of the presentation of evidence of all parties.

Rule V

Preliminary Conference

SECTION 1. Preliminary Conference — Immediately upon receipt of the last answer, the Hearing Officer shall set the case for preliminary conference not later than fifteen (15) days therefrom. The parties and their attorneys shall be directed to appear before HIGC to consider the following:

- a. The possibility of an amicable settlement;
- b. The necessity or desirability of amendments to pleadings;

- c. The possibility of obtaining stipulations or admissions of facts and of documents to avoid unnecessary proof;
- d. The limitation of the number of witnesses; the simplification of the issues; and
- e. Such other matters as may aid in the just and speedy disposition of the case.

SECTION 2. Failure to Appear at Preliminary Conference — A party who fails to appear at a preliminary conference may be non-suited or considered as in default.

SECTION 3. Judgment on the Pleadings or Summary Judgment at Preliminary Conference — If at the preliminary conference the hearing officer finds that facts exist upon which a judgment on the pleadings or a summary judgment may be made, he shall render judgment on the pleadings or a judgment as the case may be.

SECTION 4. Amicable Settlement — The hearing officer shall endeavor to effect an amicable settlement of the case at any stage of the proceedings, provided that it shall not be prejudicial to the public interest or to third parties or contrary to law, rules or regulations of the HIGC, good morals or public policy. The amicable settlement shall be reduced in writing, duly signed by the parties and their counsels, if any, and the same shall be the basis of an order or decision of the hearing officer.

SECTION 5. Order at Preliminary Conference — Should the parties fail to arrive at an amicable settlement, the hearing officer must clarify and define the issues of the case, which must be clearly and distinctly set forth in an Order to be issued immediately after such preliminary conference, together with other matters taken up during the same. The Order shall also direct the parties to submit, within a non-extendible period of ten (10) days therefrom the affidavits of their respective witnesses and other evidences on the factual issues defined therein, together with a brief statement of their positions setting forth the law and the facts relied upon by them.

SECTION 6. Affidavits — The affidavits required to be submitted under this Rule shall state only facts of direct personal knowledge of the affiants which are admissible in evidence, and shall show their competence to testify to the matters stated therein.

A violation of this requirement may subject the party or the counsel who submits the same to disciplinary action, and shall be cause to expunge the inadmissible affidavit or portion thereof from the record.

Rule VI

Judgment: Hearing, When Ordered

SECTION 1. Judgment: Hearing When Ordered— Should the hearing officer find, upon a consideration of the pleadings, the affidavits and other evidences, and position statements submitted by the parties, that a judgment may be rendered thereon without need of a formal hearing, he may proceed to render judgment not later than fifteen (15) days from the submission of the position statements of the parties.

In cases where the hearing officer deems it necessary to hold a hearing to clarify specific factual matters before rendering judgment, he shall set the case for hearing for the purpose. At such hearing, witnesses whose affidavits were previously submitted may be asked clarificatory questions by the proponent and by the court and may be cross-examined by the adverse party.

The order setting the case for hearing shall specify the witnesses who will be called to testify, and the matters on which their examination will deal.

SECTION 2. Hearing and Judgment — In cases where a hearing is ordered, the same must be finished on the same date set therefor, insofar as practicable. The judgment in the case must be rendered within fifteen (15) days from termination of trial.

Rule VII

Appeal; How taken

SECTION 1. Who May and When to Appeal — Any party to the action may appeal from a final decision or judgment, order or ruling of the hearing officer to the Appeals Board within a non-extendible period of fifteen (15) days from receipt of the decision or judgment, order or ruling of the hearing officer. The composition of the HIGC Appeals Board is as follows:

- a. The HIGC President;
- b. The Executive Vice-President and General Manager;
- c. Any two (2) Vice-Presidents; and
- d. The head of the Legal Division.

The appeal shall be resolved by the concurrence of the majority of the members of the Appeals Board.

SECTION 2. Appeal Fee — The party appealing from any decision or judgment, order or ruling of the hearing officer shall pay an appeal fee of P200.00 to HIGC.

SECTION 3. How Appeal is Taken — Appeal may be taken by filing with the HIGC Appeals Board within a non-extendible period of fifteen (15) days from receipt of the decision or judgment, order or ruling appealed from, a notice of appeal and a memorandum on appeal, together with the corresponding appeal fee therefor.

SECTION 4. Requisites of Appeal: When Perfected — The memorandum on appeal shall specifically state the grounds relied upon and the arguments in support thereof.

The appellee may file with the HIGC Appeals Board his reply memorandum within a non-extendible period of ten (10) days from receipt of a copy of the appellant's memorandum on appeal. Failure on his part to file his reply memorandum within said period shall be construed as a waiver on his part to file the same.

The memorandum on appeal shall state the material dates to show that the appeal was filed within the period herein fixed. Failure to pay the filing fee within the prescribed period shall be a ground for dismissal of the appeal.

The appeal shall be considered perfected upon the filing of the notice of appeal, memorandum on appeal and after the payment of the required appeal fee.

SECTION 5. Transmittal of Entire Records of the Case — Immediately upon filing of the reply memorandum if one is filed, or after the expiration of the period to file the same, following the perfection of the appeal, the entire records of the case shall be transmitted to the HIGC Appeals Board.

SECTION 6. Frivolous or Dilatory Appeals — To discourage frivolous or dilatory appeals, the HIGC Appeals Board may impose reasonable penalty, including fines and censure, upon the appellants and their counsel.

SECTION 7. Decision of Appeals Board — The decision of the Appeals Board constitutes the decision of the Corporation. Appeals therefrom shall be made in accordance with the provisions of the Revised Rule of Court.

Rule VIII

Applicability of the Revised Rules of Court

SECTION 1. Applicability of the Revised Rules of Court — Unless inconsistent with these Rules, the provisions of the Revised Rules of Court shall be applicable in a suppletory character provided that the summary nature of the proceedings before the HIGC is preserved.

Rule XI

Effectivity

SECTION 1. Effectivity of these Rules — The foregoing Rules of Procedure in the settlement of homeowners' disputes shall take effect fifteen (15) days from its publication in any newspaper of general circulation. All pending cases before HIGC shall likewise be governed by these Rules.

Adopted: 21 Dec. 1989

(Sgd.) LOURDES FEM A. GALINATO

Acting Corporate Secretary

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