MODIFYING MINISTRY ORDER NO. 39, S. OF 1985 AS AMENDED, FOR THE PURPOSE OF PRESCRIBING THE MANNER OF QUALIFYING REALTY SERVICE PRACTITIONERS, EXEMPTION TO REALTY SERVICE PRACTIC...

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Pursuant to Section 79(B) of the Administrative Code and Section 3(e) and (ee) of Act No. 2728, as amended by Act Nos. 3715 and 3969 as well as Executive Order No. 913, the following are hereby prescribed and promulgated for the compliance, guidance and information of all concerned:

SECTION 1. Article II of Ministry Order No. 39, Series of 1985, is hereby modified to read as follows:

> SECTION 1 - The Director of Trade Regulation and Consumer Protection (herein after known as the Director) shall qualify, approve, license, supervise, suspend and revoke the license of real estate salesmen, brokers, appraisers and consultants. He shall also qualify, register, recognize, supervise and withdraw or revoke certificates of recognition issued to associations OF REALTY SERVICE PRACTITIONERS and the national federation of such organizations and to accredit seminars FOR REALTY SERVICE PRACTICE.
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> SECTION 2 - CRITERIA FOR ACCREDITATION OF SEMINARS FOR REALTY SERVICE PRACTICE. THE DIRECTOR SHALL ACCREDIT COMPREHENSIVE REAL ESTATE SEMINARS INTENDED TO PREPARE EXAMINEES FOR LICENSING AS REAL ESTATE BROKER, APPRAISER, OR CONSULTANT PROVIDED THAT SAID SEMINARS SHALL A) BE CONDUCTED BY A SINGLE PROPRIETORSHIP, PARTNERSHIP OR CORPORATION DULY REGISTERED WITH THE DEPARTMENT OF TRADE AND INDUSTRY WHOSE PRINCIPAL PURPOSE IS REAL ESTATE EDUCATION, OR ANY REAL ESTATE ASSOCIATION WHICH IS AFFILIATED WITH ANY MEMBER OF THE REALTY SERVICE COUNCIL; B) CONSIST OF AT LEAST 24 LECTURE HOURS; AND C) COVER THE SUBJECTS PRESCRIBED IN SECTION 1 ARTICLE 6 OF THIS ADMINISTRATIVE ORDER AND CORRESPONDING SYLLABUS FOR EACH SUBJECT AS APPROVED BY THE BTRCP.
>
> THE ACCREDITATION SHALL REMAIN IN FULL FORCE AND EFFECT FOR ALL SEMINARS CONDUCTED SUBSEQUENT TO SAID ACCREDITATION UNLESS REVOKED BY THE DIRECTOR UPON PROOF THAT ANY SINGLE CLASS OF THE SEMINAR HAS DEVIATED FROM OR FAILED TO COMPLY WITH THE REQUIRED CRITERIA FOR ACCREDITATION.

SECTION 2 - Article III is hereby amended to read as follows:

> SECTION 6 - Realty Service Practitioner is hereby defined to include real estate salesman, real estate broker, real estate appraiser and real estate consultant.

SECTION 3 - Section 2 Article IV is hereby amended to read as follows:

> SECTION 2 - Exceptions - The provisions of these rules and regulations shall not apply to the following persons:
>
> a) Any person, natural or juridical, who shall directly perform by himself the acts mentioned in Article III, Sections 2 to 5 hereof with reference to his or its own property. PROVIDED, THAT THIS EXCEPTION SHALL NOT BE APPLICABLE TO THOSE PERSONS SELLING HIS OR ITS OWN PROPERTY FOR

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BUSINESS PURPOSES (E.G. DEVELOPERS).

SECTION 4 - Section 4 (f) Article V is hereby modified to read as follows:

SECTION 4 - If he is an applicant for license as real estate appraiser, he must have at least five (5) years active experience as licensed real estate broker OR FIVE (5) YEARS EXPERIENCE AS APPRAISER IN ANY GOVERNMENT AGENCY, BANKING/FINANCIAL INSTITUTION OR ANY COMPANY INVOLVED IN APPRAISAL OF REAL ESTATE PROPERTIES, DULY CERTIFIED UNDER OATH BY HIS EMPLOYER OR HEAD OF THE AGENCY PROVIDED HE/SHE HAS SATISFACTORILY COMPLETED A FOUR (4) YEAR BACCALAUREATE DEGREE and must have passed a real estate appraisers examination given by the Bureau.

SECTION 5 - Section 1, Article VI is hereby amended to read as follows:

SECTION 1 - SUBJECT. AN EXAMINATION SHALL BE GIVEN FOR APPLICANTS FOR LICENSE AS REAL ESTATE BROKERS AND APPRAISERS WHICH SHALL INCLUDE THE FOLLOWING SUBJECTS:

A) FOR REAL ESTATE BROKERS - FUNDAMENTALS OF PROPERTY OWNERSHIP; LEGAL REQUIREMENTS FOR REAL ESTATE PRACTICE; REAL ESTATE BROKERAGE PRACTICE; SUBDIVISION DEVELOPMENT; CONDOMINIUM CONCEPT; REAL ESTATE FINANCING, TAXATION, ECONOMICS; BASIC PRINCIPLES OF ECOLOGY, URBAN AND RURAL LAND USE, PLANNING, DEVELOPMENT AND ZONING LEGAL ASPECT OF SALE, MORTGAGE, LEASE; DOCUMENTATION AND REGISTRATION.

B) FOR REAL ESTATE APPRAISERS - GENERAL REAL ESTATE INFORMATION; THEORIES AND PRINCIPLES IN APPRAISAL, LAWS AFFECTING REAL ESTATE APPRAISAL; HUMAN AND PHYSICAL GEOGRAPHY; METHODOLOGY OF APPRAISAL APPROACHES AND RESEARCHES; PRACTICAL APPRAISAL MATHEMATICS; APPRAISAL REPORT WRITING; INCOME AND INVESTMENT PROBLEMS; APPRAISAL OF MACHINERIES AND EQUIPMENT; CASE STUDIES.

C) A QUALIFYING EXAMINATION, WRITTEN OR ORAL SHALL BE GIVEN FOR APPLICANTS FOR LICENSE AS REAL ESTATE CONSULTANTS. APPLICANTS SHALL BE REQUIRED TO PREPARE A THESIS, PROJECT FEASIBILITY STUDIES OR CASE STUDIES THAT WILL SHOW PROOF THAT SAID APPLICANT CAN PROVIDE PROFESSIONAL ADVISE OR JUDGMENT ON -

- THE ACQUISITION, PRESENTATION, UTILIZATION, OR DISPOSITION OF LANDS OR IMPROVEMENTS THEREON, OR VALUABLE RIGHTS EXISTING OR TO BE CREATED THEREON.

- THE CONCEPTION, PLANNING AND DEVELOPMENT OF REALTY PROJECTS WHICH MAY OR OTHERWISE ENCUMBER UNITS LIKE SUBDIVISION LOTS, CONDOMINIUM UNITS, MARKET STALLS, MEMORIAL PARKS AND THE LIKE.

D) THE PROVISIONS OF THESE RULES AND REGULATIONS AND THE CODE OF ETHICS OF REALTY SERVICE PRACTICE APPROVED BY THE SECRETARY OF TRADE AND INDUSTRY.

E) AND SUCH OTHER SUBJECTS AS THE DIRECTOR MAY DEEM PROPER AND NECESSARY TO BE INCLUDED.

SECTION 2. APPLICATION FOR EXAMINATION - APPLICANTS FOR EXAMINATION FOR REAL ESTATE BROKERS, APPRAISERS AND CONSULTANTS MAY APPLY WITH THE DEPARTMENT ON FORMS DULY PRESCRIBED FOR THE PURPOSE. APPLICANTS SHALL POSSESS THE EDUCATIONAL AND/OR EXPERIENCE REQUIREMENT PROVIDED FOR UNDER THE RULES. AT THE TIME OF FILING OF THE APPLICATION.

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SECTION 6. Section 2 Paragraph I of Article VI as amended by Section 2 of Department Order No. 22 Series of 1987, is hereby further modified to read as follows:

> SECTION 2. Examination Committee - There shall be three (3) examination committees, one each for real estate brokers, appraisers and consultants. The Committee for real estate brokers and appraisers shall be composed of FOUR (4) MEMBERS EACH. The Director shall appoint one (1) representative from the Bureau who will be member of both committees and THREE (3) each for both committees to be recommended by the Presidents of the national organizations of real estate brokers, appraisers and consultants respectively. Each member shall serve for at least two (2) years unless sooner removed for cause.

SECTION 7 - Section 1 Article VII is hereby modified to read as follows:

> SECTION 1 - Duration of License - All licenses FOR REAL ESTATE BROKERS shall expire on December 31st of each year.
>
> IN THE CASE OF REAL ESTATE APPRAISERS AND CONSULTANTS, THE DURATION OF THE LICENSE SHALL BE FOR A PERIOD OF THREE (3) YEARS PROVIDED THAT THE LICENSE FEES FOR THE THREE YEAR PERIOD SHALL BE PAID IN FULL UPON ISSUANCE OF THE LICENSE.

SECTION 8. Section 3 Article VII is hereby modified to read as follows:

> SECTION 3. Renewal of License - Licenses may be renewed within thirty (30) days after its expiry date upon application in the form duly prescribed by the Bureau.
>
> If the licensee renews the Certificate after thirty (30) days but within the year for renewal, he must pay a surcharge of fifty percent (50%) of the basic fee in addition to the license fee.

If he renews his license after one or more years he shall pay the basic license fee for all the years he was not licensed plus fifty percent (50%) surcharge on the total basic fee.

SECTION 3.1 - Continuing Education. ANY PERSON WHO HAS PASSED THE EXAMINATION GIVEN BY THE BUREAU BUT FAILS TO SECURE A LICENSE WITHIN TWO (2) YEARS FROM THE DATE OF PASSING THE EXAMINATION OR WHO FAILS TO RENEW HIS/HER LICENSE FOR THREE (3) CONSECUTIVE YEARS SHALL BE REQUIRED TO SUBMIT A CERTIFICATION FROM A SINGLE PROPRIETORSHIP, PARTNERSHIP OR CORPORATION AND DULY REGISTERED WITH THE DEPARTMENT OF TRADE AND INDUSTRY WHOSE PRINCIPAL PURPOSE IS REAL ESTATE EDUCATION OR ANY REAL ESTATE ASSOCIATION WHICH IS AFFILIATED WITH ANY MEMBER OF THE REALITY SERVICE COUNCIL, THAT HE HAS COMPLETED A TOTAL OF TWENTY (20) HOURS BEFORE HIS LICENSE CAN BE ISSUED OR RENEWED.

REALTY SERVICE PRACTITIONERS SHALL BE REQUIRED EVERY THREE (3) YEARS, TO SUBMIT A CERTIFICATION FROM A SINGLE PROPRIETORSHIP, PARTNERSHIP OR CORPORATION AND DULY REGISTERED WITH THE DEPARTMENT OF TRADE AND INDUSTRY WHOSE PRINCIPAL PURPOSE IS REAL ESTATE EDUCATION OR ANY REAL ESTATE ASSOCIATION WHICH IS AFFILIATED WITH ANY MEMBER OF THE REALTY SERVICE COUNCIL, THAT HE HAS COMPLETED A TOTAL OF 16 HOURS. FAILURE TO SUBMIT THE CERTIFICATION SHALL MEAN NON-ISSUANCE OR NON-RENEWAL OF THE LICENSE.

SECTION 9 - Article VIII is hereby modified to read as follows: Article VIII- Bond/Certification and License Fees

> SECTION 3 - Certification - IN LIEU OF THE BOND REQUIRED IN THE AFOREMENTIONED SECTIONS, THE APPLICANT MAY OPT TO SECURE A CERTIFICATION FROM A RECOGNIZED

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REAL ESTATE ASSOCIATION THAT IT GUARANTEES THE FAITHFUL AND HONEST DISCHARGE BY THE APPLICANT, AS WELL AS THE REAL ESTATE SALESPERSON WORKING UNDER HIM, OF THEIR DUTIES AND SHALL BE LIABLE TO ANY AND ALL PERSON WHO MAY SUFFER LOSS BY REASON OF SUCH FAILURE UP TO THE AMOUNT OF FIVE THOUSAND PESOS.

SECTION 10 - Section 7 Article XI is hereby modified to read as follows:

SECTION 7. DESIGNATION OF THE REALTY SERVICE COUNCIL OF THE PHILIPPINES AS THE CONSULTATIVE BODY OF THE DEPARTMENT OF TRADE AND INDUSTRY - PURSUANT TO DEPARTMENT ORDER NO. 97 SERIES OF 1992, THE REALTY SERVICE COUNCIL OF THE PHILIPPINES HAS BEEN DESIGNATED AS THE GENERAL CONSULTATIVE BODY OF THE DEPARTMENT. THE REPRESENTATIVE FROM THE BUREAU OF TRADE REGULATION AND CONSUMER PROTECTION (BTRCP) TO THE COUNCIL SHALL BE THE CHAIRMAN OF THE COUNCIL.

THE COUNCIL SHALL HAVE THE FOLLOWING FUNCTIONS:

1. TO PROVIDE ADVICE AND/OR RECOMMENDATION TO THE DEPARTMENT OF TRADE AND INDUSTRY ON ALL MATTERS RELATING/AFFECTING THE REAL ESTATE INDUSTRY, EITHER ON ITS INITIATIVE OR AT THE REQUEST OF THE DEPARTMENT OF TRADE AND INDUSTRY OR ANY OF ITS BUREAUS AND AGENCIES OR OTHER GOVERNMENT AGENCIES;

2. INITIATE STUDIES, POLICIES, PROGRAMS, PROJECTS AND ACTIVITIES THAT SHALL LEAD TO THE FURTHER DEVELOPMENT AND PROMOTION OF THE REALTY BUSINESS WHICH MAY BE IMPLEMENTED BY THE COUNCIL ITSELF AND/OR THE DEPARTMENT OF TRADE AND INDUSTRY AND ITS BUREAUS AND AGENCIES AND/OR OTHER GOVERNMENT OFFICES SO THAT THE INTEREST OF THE PUBLIC COULD BEST BE SERVED;

3. TO RECOMMEND THE ACCREDITATION OF SEMINARS FOR REALTY SERVICE PRACTICE;

4. TO ASSIST THE DEPARTMENT IN THE CONDUCT OF THE OATHTAKING OF EXAMINEES WHO PASSED THE REALTY EXAMINATIONS;

5. TO PERFORM OTHER RELATED ACTIVITIES THAT WILL COMPLEMENT OR SUPPLEMENT THOSE BEING UNDERTAKEN BY THE GOVERNMENT AGENCIES RELEVANT TO AND FALLING UNDER THE REALM OF THE REAL ESTATE INDUSTRY;

6. IN ORDER TO EFFECTIVELY IMPLEMENT ITS PROGRAMS, PROJECTS AND ACTIVITIES, THE COUNCIL IS AUTHORIZED TO COLLECT REASONABLE FEES TO COVER ADMINISTRATIVE EXPENSES.

SECTION 7.1. THE COUNCIL SHALL MEET EVERY THIRD THURSDAY OF THE MONTH.

SECTION 11. EFFECTIVITY - This Department Administrative Order shall take effect fifteen (15) days after its publication in the Official Gazette or in two (2) newspapers of general circulation.

Adopted: 19 Dec. 1994

(SGD.) RIZALINO S. NAVARRO
Secretary

Recommended by:

(SGD.) JESUS L. MOTOOMULL
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