



HOUSING AND LAND USE REGULATORY BOARD

2011
REVISED RULES OF PROCEDURE
OF THE HOUSING AND LAND USE REGULATORY BOARD



The **2011 REVISED RULES OF PROCEDURE OF THE HOUSING AND LAND USE REGULATORY BOARD** was published in the Official Gazette on July 11, 2011 and, accordingly, took effect on July 26, 2011.

BOARD OF COMMISSIONERS

RESOLUTION NO. 871

Series of 2011

PROMULGATING THE 2011 REVISED RULES OF PROCEDURE OF THE HOUSING AND LAND USE REGULATORY BOARD

PURSUANT TO Section 5 (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 Section 26 of Republic Act No. 8763, and Republic Act No. 9904, the Housing and Land Use Regulatory Board (HLURB) hereby adopts and promulgates the following Rules of Procedure.

Part 1 COMMON PROVISIONS

Rule 1 TITLE AND CONSTRUCTION

Section 1. Title. - The following shall be known as the 2011 Revised Rules of Procedure of the Housing and Land Use Regulatory Board, hereinafter referred to as the "Rules".

Section 2. Coverage. - This Rules shall be applicable to the following disputes or controversies:

- (a) Actions concerning unsound real estate business practices filed by buyers;
- (b) Claims involving refund and other claims filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman;
- (c) Cases involving specific performance of contractual and statutory obligations filed by subdivision lot or condominium unit buyer against the project owner, developer, dealer, broker or salesman;
- (d) Intra-association disputes or controversies arising out of the relations between and among members of homeowners associations; between any or all of them and the homeowners association of which they are members;
- (e) Inter-association disputes or controversies arising out of the relations between and among two or more homeowners associations;

- (f) Disputes between such homeowners association and the state insofar as it concerns their individual franchise or right to exist and those which are intrinsically connected with the regulation of homeowners associations or dealing with the internal affairs of such entity;
- (g) Suits filed in opposition to an application for certificate of registration and license to sell, development permit for condominium projects, clearance to mortgage, or the revocation or cancellation thereof, and locational clearances, certifications or permits, when issued by the Regional Field Office of HLURB;
- (h) Appeals from decisions of local and regional planning and zoning bodies; and,
- (i) Other analogous cases.

Section 3. Construction. - This Rules shall be liberally construed in order to promote the general welfare and to assist the parties in obtaining a just and speedy determination of every action application or proceeding.

Section 4. Nature of Proceedings. - Proceedings before HLURB shall be summary in nature. The provisions of the Rules of Court shall not be applicable except in a suppletory character.

Rule 2 ACTIONS AND PROCEEDINGS

Section 5. Actions and Proceedings. - An action or proceedings means any suit filed with HLURB by which one party sues another for the enforcement or protection of a right or for the prevention or redress of a wrong.

Section 6. Order of Proceedings. - The following proceedings shall be uniform for all cases filed before the Arbiter:

- (a) The commencement of an action through the filing of a verified complaint and upon payment of the required legal fees;
- (b) Service of summons on the respondent, together with a copy of the complaint and all attachments thereto;
- (c) Filing of the answer;
- (d) Mandatory conference;

- (e) Optional submission of additional evidence; and,
- (f) Notice of the Decision.

Section 7. *Venue.* - All complaints or actions shall be filed in the Regional Field Office which has jurisdiction over the area where the project involved is located or, in cases of homeowners suits, in the Regional Field Office where the homeowners association is registered.

Rule 3

REAL PARTY IN INTEREST, COUNSELS AND REPRESENTATIVES

Section 8. *Parties.* - Every action or proceeding must be prosecuted and defended in the name of the real party in interest.

All natural or juridical persons who claim an interest in the subject matter of the action or proceeding and in obtaining the relief demanded shall be joined and referred to as “complainants”.

All natural or juridical persons who claim an interest in the controversy or in the subject matter thereof adverse to the complainant, or who are necessary to a complete determination or settlement of the issues involved therein, shall be joined and referred to as “respondents”.

Section 9. *Indigent Litigants.* - The rule on the qualifications of indigent litigants and their exemption from the payment of filing fees shall be in accordance with such rules as may be promulgated by the Supreme Court.

Section 10. *Derivative Suit.* - A member of a homeowners association in good standing may bring an action on behalf of the association provided that:

- (a) The complainant was a member at the time the acts or transactions subject of the action occurred and at the time the action was filed;
- (b) The complaint alleges with particularity that reasonable efforts were exerted to exhaust all remedies available under the association’s articles of incorporation, bylaws, laws or rules for the purpose of obtaining the relief prayed for; and,
- (c) The complaint states a valid cause of action.

Section 11. *Appearance of Counsel or Representative.* - The appearance of counsel or representative is optional.

- (a) If a party is represented by counsel, the lawyer must indicate the following in the pleadings:
- (1) Mailing address which is not a post office box number, including the lawyer's telephone/cellular phone number and email address, if available;
 - (2) Roll of Attorneys Number;
 - (3) Current Professional Tax Receipt Number, including the date and place of issue;
 - (4) IBP Official Receipt Number or IBP Lifetime Membership Number, including the date and place of issue; and,
 - (5) Mandatory Continuing Legal Education Compliance or Exemption Certificate Number and the date of issue.
- (b) A non-lawyer who represents a party shall attach to the pleading a special power of attorney authorizing such person to file the case and an affidavit duly executed by the party represented stating the reasons why such person was so authorized.
- (c) In case the real party-in-interest is out of the country, the special power of attorney must be authenticated by the consular office concerned and comply with other applicable formalities for their execution.
- (d) In case the party represented is a corporation, the representative shall attach to the complaint, a board resolution authorizing such person to act on behalf of the corporation.

Failure of the party to comply with the requirements herein shall render the pleading as not filed.

Rule 4 **PLEADINGS, MOTIONS, AND PRACTICE**

Section 12. *Pleadings and Motions.* - Pleadings and motions shall be filed in triplicate, plus such number of copies as there are respondents, with proof of service to the other parties.

Section 13. *Pleadings Allowed.* - Pleadings are either mandatory or discretionary.

- (a) *Mandatory Pleadings.* - Mandatory pleadings are those which are absolutely necessary for the resolution of the case, such as, the Complaint, Answer, and Appeal Memorandum.

- (b) *Discretionary Pleadings.* - All other pleadings not prohibited may be filed. The filing of these pleadings does not toll the reglementary periods and failure to file the same shall not have any adverse effect on the rights of the parties.

Section 14. *Prohibited Pleadings and Motions.* - The following shall be considered as prohibited pleadings and motions which shall not be entertained:

- (a) Motion to dismiss;
- (b) Motion for a bill of particulars;
- (c) Petition for relief from judgment;
- (d) Motions for reconsideration in whatever stage of the proceedings;
- (e) Appeal from any interlocutory order, including but not limited to, cease and desist orders;
- (f) Motions for extension of time;
- (g) Motions for postponement except for justifiable reasons;
- (h) Motion to admit pleadings filed beyond the reglementary period;
- (i) Reply, except in answer to a compulsory counterclaim;
- (j) Fourth and subsequent party complaints; and,
- (k) Motion for clarification of final orders and decisions.

The filing of such pleadings or motions shall not interrupt the running of the prescriptive period and shall not bar the adjudication of the case.

An opposition to a motion may be filed, without waiting for a separate order therefor, within five (5) days from the receipt of a copy of the motion.

Rule 5 COMPLAINT

Section 15. *Complaint.* - The complaint shall contain the following:

- (a) *Caption and Title.* - In all cases filed before the Regional Field Offices, the party initiating the action shall be called the "Complainant" and the opposing party the "Respondent".
- (b) *Body.* - The body of the complaint shall contain the full name of the real parties in interest, whether natural or juridical, showing capacity to sue and to be sued, status, mailing address and designation, and a concise statement of the ultimate facts which support the complainant's cause of action, claims or reliefs, and the date of preparation thereof.
- (c) *Relief.* - The pleading shall specify the relief sought, but it may add a general prayer for such other relief as may be deemed just or equitable.
- (d) *Signature.* - The complaint must be signed and must contain the requirements under Rule 3 hereof. The signature of counsel constitutes a certification that such counsel has read the complaint; that to the best of such counsel's knowledge and information, there is good ground to support it; and that it is not interposed for delay.
- (e) *Verification.* - A complaint is verified by an affidavit that the complainant has read the complaint and that the allegations therein are true and correct of complainant's own personal knowledge. A complaint based merely on "information and belief" or upon "knowledge, information, and belief" shall be dismissed.
- (f) *Certification Against Forum Shopping.* - The complainant shall certify under oath in the complaint or other initiatory pleadings asserting a claim for relief, or in a sworn certification annexed thereto and simultaneously filed therewith that:
 - (1) The complainant has not theretofore commenced any action or filed any claim involving the same issues in any court, tribunal or quasi-judicial agency and, to the best of the complainant's knowledge, no such other action or claim is pending therein;
 - (2) If there is such other pending action or claim, the complainant shall state the status thereof; and,
 - (3) If the complainant should thereafter learn that the same or similar

action or claim has been filed or is pending, the complainant shall report that fact within five (5) days therefrom to HLURB.

(g) The following shall be attached to the complaint upon filing:

- (1) Proof of payment of filing fees;
- (2) Documentary evidence supporting the cause of action; and
- (3) In homeowners association cases, a certification issued by the chair of the Election Committee in cases involving elections, or by the chair of the Grievance Committee or any other committee constituted to resolve any matter in controversy at the association level, as the case may be, stating under oath that the parties have been invited to participate in the proceedings to settle the dispute but that no amicable settlement was reached.

In the absence of an Election Committee and Grievance Committee or refusal to issue the certification, an affidavit attesting to this fact shall be made and further stating that complainant has exhausted administrative remedies.

Non-compliance with any of the above requirements shall be a ground for the dismissal of the complaint without prejudice.

If it is proved that the complainant has engaged in deliberate forum-shopping, the complaint shall be dismissed with prejudice.

Section 16. *Effects of Defective Signature, Verification and Certification of Non-Forum Shopping.* -

- (a) Any defect in the signature or verification under paragraphs (d) and (e) of the preceding section shall not result in the dismissal of the complaint but shall be subject to correction during the mandatory conference. If the complainant refuses to rectify the error as directed by the Arbiter, the Arbiter shall dismiss the case without prejudice.
- (b) Any defect of the certification against forum-shopping under paragraph (f) of the preceding section shall be a ground for the dismissal of the complaint, without prejudice.

Section 17. *Opposition to Application for a Permit, License or Clearance.* - An opposition to an application for clearance, permit or license shall be treated as a complaint and all other provisions of Rule 5 of this Rules shall, except as otherwise provided, apply to such oppositions.

An opposition to an application for locational clearance for projects of national or regional significance, if filed with the Regional Field Office, shall be elevated to the Board of Commissioners which shall assume original jurisdiction and resolve the opposition. All projects are presumed to be of local significance unless otherwise declared by the National Economic and Development Authority (NEDA).

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

Decisions of the Board of Commissioners with respect to permits, licenses of clearances shall be immediately executory notwithstanding any appeal therefrom.

Rule 6

COMMENCEMENT OF ACTION OR PROCEEDINGS

Section 18. *Filing and Service of Pleadings.* - All pleadings shall be filed with the appropriate records unit of the Regional Field Office or Board of Commissioners, as the case may be. The party filing the pleadings, except a complaint, shall serve the opposing parties with a copy thereof and its supporting documents in the manner provided under this Rules with proof of such service.

Section 19. *When Action is Deemed Commenced.* - An action is deemed commenced upon the filing of a verified complaint with the Regional Field Office, in triplicate plus such number of copies as there are respondents, with supporting documents, and upon payment of the required filing fees.

Section 20. *Complaint Filed by Registered Mail.* - If the complaint is filed by registered mail, the action is deemed commenced on the date of mailing. The complainant shall attach to the complaint a money order in the amount of the filing fees, payable to HLURB. The non-inclusion of the said money order shall be cause for dismissal of the complaint.

Section 21. *Filing Fees.* - The complainant is required to pay the filing fees, as determined by the Regional Field Office, at the time of the filing of the complaint.

(a) *Effect of non-payment of filing fees.* - The non-payment of the filing fees at the time of the filing of the complaint is a jurisdictional defect which shall be cause for the dismissal of the complaint without prejudice.

(b) *Effect of deficient payment of filing fees.* - Failure to fully pay the filing fees within five (5) days from notice of deficiency, as subsequently determined by

the Arbiter, shall be a ground for the dismissal of the complaint without prejudice.

Part 2 PROCEEDINGS BEFORE THE ARBITER

Rule 7 ARBITER

Section 22. *Assignment of Case by Raffle to an Arbiter.* - Upon filing of the complaint and the payment of the required filing fees, the Regional Field Office shall, within three (3) days, assign the case by raffle to an Arbiter.

Section 23. *Powers of the Arbiter.* - The Arbiter shall have the following powers:

- (a) To hear and decide cases cognizable by HLURB consistent with this Rules;
- (b) To issue subpoena *ad testificandum* and subpoena *duces tecum*;
- (c) To issue cease and desist orders and other provisional remedies allowed under this Rules;
- (d) To take judicial notice of the corporate records of the association or technical docket of the subdivision or condominium project where necessary;
- (e) To cite and/or declare any person in direct or indirect contempt;
- (f) To impose fines and/or other penalties for violation of this Rules and related laws and regulations, or any order, resolution, or decision of HLURB; and,
- (g) To perform such other powers and functions as may be assigned by the Board of Commissioners.

Section 24. *Inhibition of the Arbiter.* -

- (a) *Mandatory Inhibition.* - The Arbiter shall inhibit from adjudicating a case on any of the following grounds:
 - (1) The Arbiter's spouse, child or relative within the sixth degree of consanguinity or affinity, is directly or indirectly interested in the subject of the litigation;
 - (2) The Arbiter is related to either of the parties or their counsel within the sixth degree of consanguinity or affinity; or

(3) The Arbiter has participated as counsel in the same case.

(b) *Discretionary Inhibition.* - The Arbiter may *motu proprio* inhibit from handling a case by issuing an order stating any of the above grounds or any other justifiable grounds as basis for the inhibition.

Section 25. Procedure for Inhibition. - The party seeking the inhibition of an Arbiter shall file a motion for inhibition stating the grounds with the evidence in support thereof. Thereafter, the Arbiter shall rule on the motion.

Section 26. Reassignment of Cases upon Inhibition of Arbiter. - In case the Arbiter inhibits from hearing or adjudicating a case, the Regional Officer shall raffle the case to another arbiter. In the absence of other arbiters in the Regional Field Office, the records of the case shall be transmitted to the Legal Affairs Group.

Section 27. Procedure in Regional Field Offices without Arbiter. - In case a Regional Field Office does not have an Arbiter, the duly authorized Legal Officer of the Regional Field Office shall perform the functions of an Arbiter except to decide the case, to issue cease and desist orders and other provisional remedies and to cite parties in contempt which shall be performed by the Legal Affairs Group.

When the parties have filed their respective position papers or the case is deemed submitted for resolution, the Legal Officer shall, within five (5) days therefrom and with notice to the parties, transmit the records of the case to the Legal Affairs Group for resolution.

The Director of the Legal Affairs Group shall, within three (3) days from receipt thereof, assign the case by raffle to a Legal Affairs Group Arbiter who shall resolve the case within a period of thirty (30) days from assignment.

After the resolution of the case by the Legal Affairs Arbiter, the records of the case shall be remanded to the Regional Field Office of origin for the release and service of the judgment to the parties.

Rule 8 SERVICE AND SUMMONS

Section 28. Service of Summons, Notices, Resolutions, Orders and Decision: In General.- As authorized by the Arbiter, notices or summons and copies of orders, resolutions, and decisions, shall be served on the parties and/or counsel of record to the case personally by the process server or by registered mail, both within two (2) days from receipt by the process server for the purpose of service

thereof: provided, that in special circumstances, service of summons may be effected in accordance with the pertinent provisions of the Rules of Court.

The return of service of summons shall be submitted to the Regional Field Office, within three (3) days from the date of service thereof, stating legibly therein the process server's name, the names of the persons served, and the date of receipt, which return shall be immediately attached and form part of the records of the case. In case of service by registered mail, the process server shall write in the return, the names of persons served and the date of mailing of the summons, resolution, or decision. If no service was effected, the process server shall state the reason therefor in the return.

Section 29. *Service of Notices Through Electronic Means.* - Notices may be served and effected to the parties through facsimile or electronic mail; provided, the party serving such notice attaches an affidavit explaining how such notice was effected and the manner of how receipt of such notice was verified.

Section 30. *Proof and Completeness of Service.* - The return is *prima facie* proof of the facts indicated therein. Service by registered mail is complete upon receipt by the addressee or his agent; but if the addressee fails or refuses to claim such mail matter from the post office within five (5) days from the date of first notice of the postmaster, service shall take effect after such time.

Section 31. *Issuance of Summons.* - Upon a determination that the complaint is sufficient in form and substance, the Arbiter shall forthwith issue the corresponding summons to the respondent. The process server, as authorized by the Arbiter, shall serve the summons, together with a copy of the complaint and the attached documents filed therewith, to the respondent, in accordance with this Rules.

Rule 9 VERIFIED ANSWER

Section 32. *Verified Answer or Responsive Pleading.* - The respondent shall file a verified answer or responsive pleading, together with the supporting documents within a non-extendible period of ten (10) days from receipt of the summons, furnishing complainant a copy thereof.

All grounds for a motion to dismiss, counterclaim, or cross-claim must be pleaded or incorporated in the answer; otherwise, these shall be deemed waived.

Section 33. *Effect of Failure to File a Verified Answer or Responsive Pleading.* - If the respondent fails to file an answer or responsive pleading within ten (10)

days from the service of summons, the Arbiter shall direct the complainant to file, within ten (10) days, a verified position paper and draft decision together with supporting documents. Thereafter, the case shall be deemed submitted for resolution.

The respondent shall be entitled to notice of subsequent proceedings but shall not be allowed to take part therein.

Rule 10

CONFERENCE, MEDIATION AND AMICABLE SETTLEMENT

Section 34. *Mandatory Conference.* - The conduct of conference, including mediation, is mandatory provided the period to conclude the same shall not exceed thirty (30) calendar days from the date of initial conference.

Within three (3) days from receipt of the Answer, the Arbiter shall forthwith issue the corresponding notices to the parties for the conduct of the mandatory conference for the following purposes:

- (a) To consider the possibility of an amicable settlement through mediation;
- (b) The scheduling by the Arbiter of the mediation which shall be signed by the parties and shall serve as notice to them;
- (c) The definition and simplification of the issues;
- (d) The possibility of entering into admissions or stipulations of facts;
- (e) The submission by the parties of additional documentary evidence; and,
- (f) The resolution of all other preliminary matters.

The holding of the mandatory conference shall be terminated within thirty (30) days from the date of initial conference.

Section 35. *Mediation Proceedings.* - Mediation proceedings shall be conducted by the Arbiter or a Mediator assigned by the Arbiter. However, when conciliation or other alternative modes of dispute resolution have already been resorted to prior to the filing of the case, mediation proceedings shall no longer be conducted.

Prior to the conduct of mediation proceedings, the Arbiter or Mediator shall

explain to the parties the objectives, nature and rules of the mediation and thereafter, facilitate the communication and negotiation between the parties in order to assist them in reaching an agreement regarding their dispute.

Section 36. Confidentiality of Mediation Proceedings. - All information obtained during the mediation proceedings shall be confidential.

Section 37. Appearance of Parties Mandatory. - The appearance of parties in the mediation proceedings is mandatory. In case the parties cannot be personally present, their representative shall be clothed with the proper special power of attorney or board resolution, as the case may be, with full power to enter into a compromise agreement or settlement. Such authority shall be presented to the Arbiter or Mediator before the commencement of the mediation proceedings.

Section 38. Effect of Failure to Appear in the Mediation Proceedings. - When a party fails to appear personally or through a representative during the scheduled mediation proceedings, the party present may move either for the termination of the proceedings or for the resetting thereof, in accordance with the schedule set in the initial conference.

Section 39. Compromise Agreement and Judgment Upon Compromise. - If a compromise is reached, the agreement shall be reduced in writing, signed by the parties and attested to by the Arbiter or Mediator. When conducted by the latter, the Mediator shall return the case to the Arbiter together with the compromise agreement. The Arbiter shall forthwith render judgment based on the compromise agreement which shall be immediately final and executory.

Section 40. Termination of Mediation Proceedings. - Where no compromise or settlement is reached the Arbiter or Mediator conducting the mediation shall terminate the proceedings and shall issue a certificate attesting thereto. The case shall then be returned to the Arbiter immediately upon the termination of the mediation proceedings if such is conducted by the Mediator.

Rule 11 POSITION PAPERS AND DRAFT DECISIONS

Section 41. Position Papers and Draft Decisions. - When the mandatory conference is terminated within the 30-day period, the Arbiter shall issue an order directing the parties to simultaneously file within fifteen (15) days from receipt thereof their respective position papers, jointly verified by the parties and their respective counsels, 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 papers and draft decisions shall state clearly and distinctly the facts, the issues and applicable laws and jurisprudence on which they are based.

Section 42. *Ocular Inspection and/or Clarificatory Hearings.* - At any time before the case is resolved, the Arbiter may require an ocular inspection of the project or conduct clarificatory hearings provided the same are held within the period of thirty (30) days provided for the resolution of the case.

Rule 12 JUDGMENT OF THE ARBITER

Section 43. *When Case Deemed Submitted for Resolution.* - A case is deemed submitted for resolution when the parties have filed their respective position papers and draft decisions or when the period to file the same expires.

Section 44. *Judgment.* - The Arbiter shall resolve the case within thirty (30) days from the date the case is deemed submitted for resolution. All pending motions as well as those unresolved incidents filed after the submission of the case for resolution shall be resolved in the judgment.

Section 45. *Notice of the Judgment to the Parties.* - Within three (3) days from the resolution of the case, the Arbiter, through the process server, shall forthwith send a copy of the judgment to the parties.

Part 3 PROCEEDINGS ON APPEAL

Rule 13 BOARD OF COMMISSIONERS

Section 46. *Composition.* - The Board of Commissioners is composed of the Chairman, four (4) full-time Commissioners and four (4) *ex-officio* Commissioners representing the National Economic and Development Authority, the Department of Justice, the Department of the Interior and Local Government, and the Department of Public Works and Highways.

Section 47. *Jurisdiction of the Board of Commissioners.* - In the exercise of its adjudicatory authority, the Board shall have jurisdiction over the following cases:

- (a) Exclusive jurisdiction over controversies involving orders and issuances of the Regional Officer;

- (b) Original jurisdiction over oppositions to applications for locational clearance for projects of national or regional significance;
- (c) Appellate jurisdiction over the judgments of the Arbiters
- (d) Appellate jurisdiction over decisions of local and regional planning and zoning bodies; and,
- (e) Such other cases as provided by law.

Section 48. Divisions and Functions of the Board of Commissioners. -

- (a) *Divisions.* - The adjudicatory functions of the Board of Commissioners shall be exercised through its four (4) Regular Divisions, consisting of two (2) full-time and one (1) ex officio Commissioner, and the Special Division, consisting of the four (4) full-time Commissioners.
- (b) *Quorum.* - The presence of at least two (2) Commissioners in a regular Division and three (3) Commissioners in the Special Division shall constitute a quorum. The concurrence of a majority of the Commissioners present and constituting a quorum in a division meeting shall be necessary for the promulgation of a judgment.
- (c) *Dissenting Opinion.* - A member of a Division may dissent from the decision of the majority by writing a dissenting opinion.
- (d) *Inhibition.* - No motion to inhibit the entire Division of the Commission shall be entertained. However, any Commissioner may inhibit from the consideration and resolution of any case or matter before the Division and shall so state in writing the legal or justifiable grounds therefor.
- (e) *Consolidation of Cases.* - Appealed cases involving the same parties, issues, or related questions of fact or law may be consolidated before the Division to which the case with the lowest case number is assigned.

Rule 14
APPEAL MEMORANDUM AND COUNTER-MEMORANDUM

Section 49. Allowed Pleadings. - The only pleadings allowed on appeal are the Appeal Memorandum and the Counter-Memorandum. Unless otherwise directed by the Board of Commissioners, no other pleadings shall be allowed and the filing thereof does not toll the period for the resolution of the appeal.

Section 50. Appeal Memorandum. - An appeal may be taken from the decision

of the Arbiter on any legal ground and upon payment of the appeal fee, by filing with the Regional Field Office a verified appeal memorandum in three (3) copies within fifteen (15) days from receipt of the assailed decision.

Within five (5) days from receipt of the appeal memorandum, the Regional Field Office shall elevate the records of the case to the Board of Commissioners together with the summary of proceedings.

Section 51. Contents of Appeal Memorandum. -

- (a) *Title and Caption.* - The heading shall state that the case is filed under the jurisdiction of the HLURB. The caption shall be the same as that stated in the original case but the party appealing shall be additionally designated as the "Appellant" and the party against whom the appeal is made as the "Appellee";
- (b) *Statement of Date of Receipt of Appealed Decision.* - The statement of the date when the appellant received a copy of the appealed decision;
- (c) *Statement of the Facts and Incidents.* - The summary of the facts leading to the filing of the case, or giving rise to the omission or commission of the acts constituting the cause of action or defense, and the proceedings conducted, inclusive of the material dates;
- (d) *Statement of the Issues.* - The issues to be resolved in the appeal;
- (e) *Statement of the Grounds for the Appeal.* - The grounds upon which the appeal is based;
- (f) *Reliefs.* - The ultimate claims of the parties;
- (g) *Verification.* - The verification which shall be in accordance with Section 15 (e) of this Rules;
- (h) *Affidavit of Service to the Other Party.* - An affidavit stating the date of service of the appeal memorandum upon the other party and a copy of the registry return receipt which shall be attached thereto; and,
- (I) *Appeal Bond.* - In case of money judgment, an appeal bond in cash or manager's check posted with the Board or surety bond in accordance with the succeeding section, equivalent to the amount of the award and actual damages, excluding interests, other damages, and attorney's fees.

Section 52. Requirements of the Surety Bond. -

(a) *Formal Requirements.*- A surety bond shall be issued by a reputable bonding company duly accredited by the Supreme Court, and shall be accompanied by original or certified true copies of the following:

- (1) A joint declaration under oath by the appellant and the bonding company, attesting that the bond posted is genuine, and shall be in effect until final disposition of the case;
- (2) An indemnity agreement between the appellant and bonding company;
- (3) Proof of security deposit or collateral securing the bond, provided that a check shall not be considered as an acceptable security;
- (4) Certificate of authority from the Insurance Commission;
- (5) Certificate of registration from the Securities and Exchange Commission;
- (6) Certificate of authority to transact surety business from the Office of the President;
- (7) Certificate of accreditation and authority from the Supreme Court; and,
- (8) Notarized board resolution or secretary's certificate from the bonding company showing its authorized signatories and their specimen signatures.

(b) *Validity.* - An appeal bond in cash or surety shall be valid and effective from the date of deposit or posting until the case is finally decided, resolved, or terminated, or the award satisfied. This condition shall be deemed incorporated in the terms and conditions of the surety bond, and shall be binding on the appellant and the bonding company.

The appellant shall furnish the appellee with a certified true copy of the said surety bond with all the above-mentioned supporting documents. The appellee shall verify the regularity and genuineness thereof and immediately report any irregularity to the Board of Commissioners. Upon verification by the Board of Commissioners that the bond is irregular or not genuine, the Board of Commissioners shall cause the immediate dismissal of the appeal, and censure or cite in contempt the responsible parties and their counsels, or subject them to reasonable fine or penalty.

Section 53. Counter-Memorandum. - Upon receipt of a copy of the appellant's memorandum and without waiting for any separate order from the Board of Commissioners, the appellee shall file a counter-memorandum in three (3) copies within a non-extendible period of ten (10) days from receipt of the appellant's memorandum, with proof of service to the appellant.

Section 54. Effect of Filing an Appeal. - The appeal shall stay the execution of any decision or order of the Arbiter unless otherwise provided in this Rules.

Section 55. Admissibility of New Evidence on Appeal.- The Board of Commissioners may, in the evaluation of the appeal, order reception of evidence or conduct further proceedings, or take judicial notice of other records of the HLURB, provided the same are held within the period of sixty (60) days for the resolution of the case under Rule 16 of this Rules.

Rule 15 DISMISSAL OF THE APPEAL

Section 56. Dismissal of the Appeal.- The appeal shall be dismissed on any of the following grounds:

- (a) Filing of the appeal beyond the reglementary period;
- (b) Failure to state the date of receipt of the appealed decision by the appellant;
- (c) Joint motion of the parties to dismiss the appeal;
- (d) Withdrawal of the appeal;
- (e) Failure to pay appeal fees;
- (f) Failure to post appeal bond;
- (g) Failure to furnish the other party a copy of the appeal memorandum; or,
- (h) Failure to comply with the orders of the Board of Commissioners and/or the requirements of this Rules.

Rule 16 JUDGMENT OF THE BOARD OF COMMISSIONERS

Section 57. Judgment of the Board of Commissioners. - The Board of Commissioners shall resolve the appeal within sixty (60) days from the date the appeal is deemed submitted for resolution. All pending motions as well as those

unresolved incidents filed after the submission of the appeal for resolution shall be resolved in the judgment.

Section 58. *Notice of the Judgment.* - Upon resolution of the appeal, the Board of Commissioners shall notify the parties thereof by serving upon them a copy [of] the judgment.

Section 59. *No Motion for Reconsideration for Judgment on Appeal.* - No motion for reconsideration shall be allowed nor entertained from the judgment of the Board of Commissioners on appealed cases.

Part 4 FINALITY AND EXECUTION OF JUDGMENT

Rule 17 FINALITY OF JUDGMENT

Section 60. *Finality of Judgment.* - Decisions or orders of the Arbiter and the Board of Commissioners shall be deemed final and executory in accordance with the following:

- (a) Decisions, resolutions or orders of the Arbiter shall become final and executory fifteen (15) days after the date of receipt thereof by the parties and no appeal has been filed within the said period;
- (b) Decisions, resolutions or orders of the Board of Commissioners shall become final and executory fifteen (15) days after the receipt thereof by the parties and no appeal has been filed within the said period.

Rule 18 EXECUTION

Section 61. *Execution of Judgments.* - Execution shall issue only upon motion of an interested party upon a final decision, resolution or order. A motion for execution shall be filed, copy furnished the other parties, with the Regional Field Office of origin and accompanied by:

- (a) The original copy or certified true copy of the entry of judgment or certificate or order of finality issued by the Board of Commissioners, the Office of the President, the Court of Appeals or the Supreme Court, as the case may be; and,
- (b) Certified true copies of all judgments on the case.

The Arbiter shall resolve the motion and issue the writ of execution within a period of fifteen (15) days from receipt of the motion for execution. When an opposition is filed, within a period of five (5) days from receipt of the motion for execution, the Arbiter shall resolve the incident within fifteen (15) days from receipt of the opposition.

Section 62. *Writs of Execution.* - All writs of execution shall be issued by the Arbiter [and] directed to the sheriff concerned.

Section 63. *Prohibited Pleadings in Execution Proceedings.* - Pleadings or motions in the guise of an appeal on collateral issues or questions deemed already passed upon or considered in the resolution of the case or incident shall not be entertained in the resolution of the motion for execution.

Section 64. *Resolution of Incidents of Execution.* - All incidents pertaining to the execution of the final and executory judgment shall be resolved by the Arbiter.

Section 65. *Execution Pending Appeal.* - Where execution pending appeal is allowed and the execution is granted upon such terms considered proper for the protection or security of the rights of the adverse party, the party moving for execution shall be required to post a bond to answer for whatever damages that the adverse party may sustain by reason of the execution if it should be finally decided that the movant is not entitled thereto.

Part 5 PROVISIONAL AND SPECIAL REMEDIES

Rule 19 GENERAL PROVISIONS

Section 66. *Coverage.* - This Rules shall be applicable to the following provisional and special remedies, which include:

- (a) Creation of Management Committee;
- (b) Cease and Desist Order;
- (c) Contempt;
- (d) Inspection of Books and Records; and,
- (e) Other applicable provisional and special remedies in the Rules of Court.

Provisional remedies are remedies incident to the main case and may be

availed of by way of a motion.

Special remedies are initiated as the main case and may be availed of by way of a verified petition or verified complaint in accordance with Section 15 of this Rules.

Section 67. *Executory Nature of Judgments.* - All judgments under this Part of the Rules shall be immediately executory, without prejudice to the filing of an appeal therefrom, in accordance with Part 3 of this Rules.

Rule 20 MANAGEMENT COMMITTEE

Section 68. *Creation of a Management Committee.* - The Arbiter or the Board of Commissioners having jurisdiction over the case may, upon a verified petition or motion by any of the parties, create a management committee for the homeowners 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 Arbiter, Board of Commissioners or its authorized representative, as the case may be.

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.

Section 69. *Grounds for the Creation of the Management Committee.* - No petition for the creation of the committee shall be granted unless it is established that no other adequate remedy is available and the same is necessary:

- (a) To avert dissipation, loss, wastage or destruction of assets or other properties of the association;
- (b) To prevent paralyzation of operations which may be prejudicial to the interest of the members and the general public; 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 70. *Action by Management Committee.* - A majority of its members shall be necessary for the management committee to act or decide on any matter.

The chairman of the management committee shall be chosen by the members from among themselves.

All official acts and transactions of the management committee shall be approved and ratified by the Arbiter, Board of Commissioners or its duly authorized representative, as the case may be.

Section 71. *Reimbursement of Expenses.* - The management committee and persons hired by it shall be entitled to reimbursement of reasonable expenses, as approved by the Arbiter, Board of Commissioners or its authorized representative, as the case may be, which shall be considered as administrative expenses of, and shouldered by, the homeowners association.

Section 72. *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.

Section 73. *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 74. *Discharge of the Management Committee.* - The management committee shall be deemed discharged and dissolved under the following circumstances:

- (a) Whenever the Arbiter, Board of Commissioners or its authorized representative, as the case may be, 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 and within such reasonable time as the Arbiter, Board of Commissioners or its authorized representative, as the case may be, may allow, the management committee shall submit its final report,

render an accounting of its management, and turn-over all records and assets of the association to the duly qualified officers of the association.

Rule 21 CEASE AND DESIST ORDER

Section 75. *Cease and Desist Order.* - A cease and desist order is a remedy directing a party to refrain from doing a particular act or acts pending the resolution of the case.

Section 76. *Application for Cease and Desist Order.* - Upon the Arbiter's receipt of the complaint with application for a cease and desist order, the Arbiter shall, simultaneously with the issuance of the summons, set the application for hearing not later than five (5) days from the issuance of such summons and notice.

Section 77. *Grounds for the Issuance of Cease and Desist Order.* - No cease and desist order shall be issued unless it is clearly established by competent proof that all of the following concur:

- (a) The adverse party is doing, threatening or is about to do, is procuring to be done, some act probably in violation of existing laws and/or regulations being implemented by HLURB, or of applicant's rights respecting the subject of the action, tending to render the judgment ineffectual;
- (b) The applicant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of such act or acts, either for a limited period or perpetually; and,
- (c) The commission or continuance of such act complained of would cause grave and irreparable injury to the applicant.

If the application for issuance of a cease and desist order is granted, the Arbiter shall require the applicant to file a bond to answer for whatever damages that the adverse party may sustain by reason of the order, if it should be later decided that the applicant is not entitled thereto.

Section 78. *Effectivity of Cease and Desist Order.* - An order to cease and desist from performing any act shall be immediately executory, without prejudice to an appeal that may be filed in accordance with the succeeding section.

Section 79. *Supersedeas Bond Requirement on Appeals from Cease and Desist Orders.* - The filing of an appeal from the main case shall not automatically stay such cease and desist order, unless ordered by the Board of

Commissioners and a *supersedeas* bond is posted with the HLURB in favor of the enjoining party, in an amount twice that of the bond required in the cease and desist order.

Rule 22 CONTEMPT

Section 80. *Direct Contempt.* - Any person, entity, or enterprise who commits any disorderly or disrespectful conduct before the Board of Commissioners, its members, or Arbiters or Mediators, or in the presence of such officials actually engaged in the exercise of their official functions or during the conduct of any hearing or official inquiry, at the place or near the premises where such hearing or proceeding is being conducted, will obstruct, distract, interfere, or in any other way disturb, the performance of such functions of the conduct of such hearing or proceeding, said person, entity, or enterprise, shall be declared in direct contempt, *motu proprio* or upon motion, and may summarily be imposed a fine of P2,000.00 and/or ordered confined for a period that shall not exceed the duration of the hearing or proceeding or the performance of such functions.

Section 81. *Indirect Contempt.* - Any person, enterprise, or entity who fails or refuses to comply with or obey without justifiable reason any lawful order, decision, writ, or process of the Board of Commissioners or its Arbiters or Mediators, or any of its authorized officials, said person, enterprise, or entity shall, upon motion, be declared in indirect contempt and may, in addition to the fine of P2,000.00, be imposed a fine of P500.00 for each day that the violation or failure or refusal to comply continues, and order the confinement of the offender until the order or decision shall have been complied with. In case the offender is a partnership, corporation, or association or enterprise, the above fine shall be imposed on the assets of such entity and the president, managing partner, or chief executive officer thereof shall be ordered confined.

Rule 23 INSPECTION OF BOOKS AND RECORDS

Section 82. *Coverage.* - This Rule shall apply to disputes where the cause of action involves only the rights of homeowners to inspect the books and records of the homeowners association and/or to be furnished with the financial statements or reports required by HLURB.

Section 83. *Petition for Inspection of Books and Records.* - In addition to the requirements of a complaint in Section 15 of this Rules, the petition must also state that:

- (a) The petition is for the enforcement of petitioner's right to inspect association books and records and/or to be furnished with financial statements and

reports mentioned under the preceding section;

- (b) A demand for the inspection and photocopying of books and records and/or to be furnished with financial statements was made by the complainant upon the 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/or jurisprudence in support thereof.

Section 84. *Duty of the Arbiter upon the Filing of the Petition.* - Within five (5) days from the date of raffle, the Arbiter shall dismiss the petition upon finding that the case does not fall within the jurisdiction of the HLURB or the same is not sufficient in form and substance. Otherwise, the Arbiter shall issue the summons, within the same period, which shall be served, together with a copy of the petition, on the respondent.

Section 85. *Answer to the Petition for Inspection of Books and Records.* - The respondent shall file an answer to the petition, serving a copy thereof upon the petitioner, within ten (10) days from receipt of the summons. In addition to the requirements in Section 33 of this Rules, the answer must state the following:

- (a) The grounds for the refusal of the 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, if the right to inspect is granted; and,
- (c) The cost of inspection, including manpower and photocopying expenses, if the right to inspect and to be furnished copies of the documents is granted.

Section 86. *Affidavits, Documentary and Other Evidence.* - The parties shall attach to the complaint and answer the affidavits of witnesses as well as documentary and other evidence in support thereof, if any.

Section 87. *Effect of Failure to Answer.* - If the respondent fails to file a verified responsive pleading or answer within the reglementary period, the Arbiter shall, within ten (10) days from the lapse of said period, render judgment.

Section 88. *Decision.*- The Arbiter shall render a decision based on the pleadings, affidavits, 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.

Part 6 ELECTION CASES

Rule 24 ELECTION CONTEST

Section 89. *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 initiatives, referendum or plebiscite, the validation of proxies, the manner and validity of elections, and the qualifications of candidates, including the proclamation of winners and assumption to the office of directors, trustees or other officers elected by the members of a homeowners association where the articles of incorporation or bylaws so provide.

Section 90. *Filing of Election Contest.* - In addition to the requirements in Section 15 of this Rules, the complaint in an election contest must state that the case was filed within ten (10) days from receipt of the resolution of the controversy by the association as provided in its bylaws. If the bylaws of the association do not provide for a procedure for resolution of the controversy, the complaint shall be filed within ten (10) days from the date of the election or proclamation, whichever is later.

Section 91. *Duty of the Arbiter Upon the Filing of the Complaint.* - Upon finding that the complaint does not fall within the jurisdiction of HLURB or the same is not sufficient in form and substance, the Arbiter shall dismiss the complaint within five (5) days from the date of raffle. Otherwise, the Arbiter shall issue the summons which shall be served, together with a copy of the complaint, in accordance with Rule 8 of this Rules;

Section 92. *Answer.* - Within ten (10) days from receipt of summons and a copy of the complaint, the respondent shall file an answer with proof of service to the complainant.

Section 93. *Effect of Failure to Answer.* - If the respondent fails to file a verified answer within the reglementary period, the Arbiter shall, after ten (10) days from the lapse of said period, consider the case submitted for resolution.

Section 94. *Clarificatory Conference.* - At any time before the case is resolved, and within the period of thirty (30) days for the resolution of the case, the Arbiter may call a clarificatory conference to examine election-related documents or require submission of additional evidence to clarify certain factual issues pertinent to the resolution of the controversy.

Section 95. *Decision.* - The Arbiter shall render a decision based on the pleadings, affidavits, documentary and other evidence on record within a period of thirty (30) days after the case is submitted for resolution.

Section 96. *Executory Nature of Decision.* - Decisions rendered in election contests shall be immediately executory notwithstanding any appeal made under Part 3 of this Rules, unless otherwise ordered by the Board of Commissioners.

Part 7 MISCELLANEOUS PROVISIONS

Rule 25 LEGAL FEES

Section 97. *Legal Fees.* - All legal fees relating to the adjudication of cases shall be in accordance with the schedule of fees approved by HLURB.

Section 98. *Government Exemption from Fees.* - The Republic of the Philippines, its agencies and instrumentalities, are exempt from paying the legal fees provided herein. Local government units and government-owned or controlled corporations are not exempt from paying such fees.

Section 99. *Legal Fees for Multiple Appellants.* - If two or more parties in a case file separate appeals, each shall pay the full amount of the legal fees.

Section 100. *Payment of Legal Fees.* - Payment of legal fees may be made in cash or postal money order, certified checks or manager's/cashier's checks payable to HLURB.

Section 101. *Non-Refund of Legal Fees.* - All legal fees paid to HLURB shall be non-refundable.

Rule 26 FINAL PROVISIONS

Section 102. *Separability Clause.* - If the effectivity of any provision of this Rules

is suspended or disapproved, or otherwise declared contrary to law, the unaffected provisions shall remain in force.

Section 103. 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 104. Effectivity. - This Rules shall take effect fifteen (15) days after publication in the Official Gazette or in a newspaper of general circulation.

APPROVED, this 19th day of April 2011, in Pasay City.



JEJOMAR C. BINAY
Vice-President of the Philippines & HUDCC Chairman



AUGUSTO B. SANTOS
Deputy Director-General, NEDA



ANTONIO M. BERNARDO
Chief Executive Officer and Commissioner



JOSE VICENTE C. SALAZAR
Undersecretary, DOJ



RIA CORAZON A. GOLEZ-CABRERA
Commissioner



JAIME A. PACANAN
Undersecretary, DPWH



FELIX WILLIAM B. FUENTEBELLA
Commissioner



DOMININA T. RANCES
Representative, DILG



LUISA A. PAREDES
Commissioner



Attested:
CHARITO B. LANSANG
Board Secretary