

BOARD RESOLUTION NO. 877
Series of 2011

**IMPLEMENTING RULES AND REGULATIONS OF
REPUBLIC ACT NO. 9904, OTHERWISE KNOWN AS
THE MAGNA CARTA FOR HOMEOWNERS AND
HOMEOWNERS ASSOCIATIONS.**

Pursuant to Section 28 of Republic Act No. 9904, otherwise known as the Magna Carta for Homeowners and Homeowners Associations, the following Rules and Regulations are hereby promulgated by the Housing and Land Use Regulatory Board (HLURB).

RULE 1

PRELIMINARY PROVISIONS

Section 1. Title. – This Rules shall be known as the Implementing Rules and Regulations of RA 9904 (IRR - RA 9904).

Section 2. Declaration of Policy. – Mindful of the Constitutional principles directing the State to encourage, promote, and respect nongovernmental, community based, and the people's right to form organizations and initiate associations in serving their legitimate collective interests in our participatory democracy, it is the policy of the State:

- a. To uphold the rights of the people to form associations;
- b. To recognize and promote the rights and the roles of homeowners as individuals and as members of the society and of homeowners associations;
- c. To make available resources and assistance that will help them fulfill their roles in serving the needs and interests of their communities; and,
- d. To complement the efforts of Local Government Units (LGUs) in providing vital and basic services to their citizens, and in helping implement local and national government policies, programs, rules and ordinances for the development of the nation.

Section 3. Construction. – This Rules shall be construed and interpreted liberally in order to carry out the objectives and principles of Republic Act No. 9904.

Section 4. Definition of Terms. – As used in these Implementing Rules and Regulations, the following terms shall mean:

- a. **Act** refers to Republic Act No. 9904, An Act providing for a Magna Carta for Homeowners and Homeowners Associations, and for other purposes
- b. **Accounting period** refers to the fiscal or calendar year adopted by a homeowners association in the recording and reporting of its fiscal transactions.
- c. **Adjudicatory mechanism** refers to the procedure in settling disputes involving the registration of two or more associations established within the same subdivision/village, community area, or housing project.
- d. **Approved subdivision plan** refers to a plan drawn to scale showing the divisions of a piece of land intended for subdivision development delineating its open space and individual lots, bearing the signature of a licensed professional, and the stamp of approval of the NHA, HLURB, LGU or any appropriate government agency.
- e. **Association** refers to the homeowners association which is a non-stock, nonprofit association registered with the Housing and Land Use Regulatory Board (HLURB), or one previously registered with the Home Insurance Guarantee Corporation (now Home Guaranty Corporation) or the Securities and Exchange Commission (SEC), organized by –
 - [1] Owners or purchasers of a lot in a subdivision/village or other residential real property located within the jurisdiction of the association;
 - [2] Awardees, usufructuaries, legal occupants and/or lessees of a housing unit and/or lot in a government socialized or economic housing or relocation project and other urban estates;
 - [3] Underprivileged and homeless citizens as defined under existing laws in the process of being accredited as usufructuaries or awardees of ownership rights under the Community Mortgage Program (CMP), Land Tenure Assistance Program (LTAP) and other similar programs in relation to a socialized housing project actually being implemented by the national government or the LGU.
- f. **Association Member** refers to a homeowner who is a member of the association where the housing unit or lot is situated and those defined in the articles of association and by-laws of the association

- g. **Basic community services and facilities** refer to services and facilities that redound to the benefit of all homeowners and from which, by reason of practicality, no homeowner may be excluded such as, but not limited to: security; street and vicinity lights; maintenance, repairs and cleaning of streets; garbage collection and disposal; and other similar services and facilities.
- h. **Board** refers to the board of directors or trustees of the association which has primary authority to manage the affairs of the association.
- i. **By-laws** refer to rules of action adopted by the association for its internal government and for the government of its members and those having the direction, management and control of its affairs in their relation to the association and as among themselves.
- j. **Community Mortgage Program (CMP)** refers to a mortgage housing program of the Social Housing Finance Corporation (SHFC) which assists legally organized associations of underprivileged and homeless citizens to purchase and develop a tract of land under the concept of community ownership.
- k. **Common areas** refer to property owned or otherwise maintained, repaired or administered in whole or in part by the association including, but not limited to, roads, parks, playgrounds and open spaces as provided in Presidential Decree No. 1216.
- l. **Common expense** refers to costs incurred by the association in the exercise any of the powers provided for in RA 9904.
- m. **Confederation** refers to an association of federated homeowners associations.
- n. **Contiguous area** refers to two or more subdivisions or community housing projects or phases thereof that are physically related or linked by a shared infrastructure and well-defined adjoining or common boundaries, whether fully or partially.
- o. **Subdivision/Village** refers to a tract or parcel of land partitioned into individual lots, with or without improvements thereon, primarily for residential purposes.
- p. **Delinquent member** or a **member not in good standing** refers to a member of the association who has been declared as such for the grounds and in accordance with the procedures under the by-laws of the association.
- q. **Economic housing** refers to a type of housing project with lower interest rates and longer amortization periods provided to moderately low income families as defined under existing laws, rules and regulations.

- r. **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 qualifications of candidates, including the proclamation of winners, to the office of director, trustee or other officer directly elected by the members of the association where the articles of association or by-laws so provide.
- s. **Federation** refers to an organization of homeowners associations created and registered to pursue common goals beneficial to the interests of the constituent associations and members thereof.
- t. **Governing document** refers to the articles of association, by-laws, conditions, rules and regulations of the association, or other written instrument by which the association has the authority to exercise any of the powers provided for in RA 9904.
- u. **HLURB** refers to the Housing and Land Use Regulatory Board.
- v. **Homeowner** refers to any of the following:
 - [1] An owner or purchaser of a lot in a subdivision/village;
 - [2] An awardee, usufructuary, or legal occupant of a unit, house and/or lot in a government socialized or economic housing or relocation project and other urban estates;
 - [3] An informal settler in the process of being accredited as beneficiary or awardee of ownership rights under the CMP, LTAP, and other similar programs.
- w. **Intra-association dispute** refers to a controversy which arises out of the relations between and among members of the association; between any or all of them and the association of which they are members; and between such association and the State insofar as it concerns their individual franchise or right to exist. It refers also to a controversy which is intrinsically connected with the regulation of associations or dealing with the internal affairs of such entity.
- x. **Inter-association dispute** refers to a controversy which arises out of the relations between and among two or more associations.
- y. **Lessee** refers to a person renting a residential unit in a subdivision/village. For purposes of CMP or similar government social housing projects, the term shall refer to a beneficiary as referred to under Section 6 of RA 9904.
- z. **Simple majority** refers to fifty percent (50%) plus one (1) of the total number of association members or those present in the meeting constituting a quorum.

- aa. **Socialized housing** refers to housing programs and projects covering houses and lots or home lots only undertaken by the government or the private sector for the underprivileged and homeless citizens which shall include sites and services development, long-term financing, liberalized terms on interest payments, and other benefits in accordance with the provisions of Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992 (UDHA).
- bb. **Subdivision/Village** refers to a tract or parcel of land partitioned into individual lots, with or without improvements thereon, primarily for residential purposes.
- cc. **Usufructuary** refers to a person who has been given the right to enjoy the property of another with the obligation of preserving its form and substance.

RULE 2

HOMEOWNERSHIP

Section 5. Commencement of Homeownership. – Homeownership begins:

- a. By owning a lot in a subdivision/village;
- b. By purchasing a lot in a subdivision/village;
- c. By being awarded, or by being a usufructuary, or by legally occupying, a unit, house, and/or lot in a government socialized or economic housing or relocation project and other urban estates; and
- d. By being listed as a prospective beneficiary or awardee of ownership rights under the Community Mortgage Program, Land Tenurial Assistance Program, and other similar programs.

Section 6. Termination of Homeownership. – Homeownership ends by:

- a. Terminating ownership through conveyance of the property by sale, assignment or donation; or
- b. Any other legal transfer of ownership, which shall automatically authorize the association to deny homeowner rights to the transferee under this section.

Section 7. Rights of Every Homeowner. – Every homeowner has the right to enjoy the basic community services and facilities provided that the homeowner pays the necessary fees and other pertinent charges.

Section 8. Duties and Responsibilities of Homeowners. – Every homeowner must pay the necessary fees, charges pertaining to basic community services, and other special assessments such as but not limited to construction bond and stickers.

RULE 3

MEMBERSHIP IN THE ASSOCIATION

Section 9. Membership. – Unless otherwise provided in the Contract to Sell, Deed of Sale, or other instruments of conveyance, or annotated in the title of the property, membership in the association is optional.

Section 10. Qualifications of a Member. – Every homeowner shall be qualified to be a member of the association.

A lessee of a member under a contract with a term of at least one (1) year may qualify to be a member and shall have the rights of a member upon procurement of a written consent/authorization from the owner of the lot/housing unit. Until the written consent or authorization is revoked in writing, the owner of the lot/housing unit is deemed to have waived the rights of an association member except the right to inspect association books and records.

A lessee of a homeowner under a contract with a term of at least one (1) year may qualify to be a member and shall have the rights of a member upon complying with the requirements of membership under the by-laws and the law.

Section 11. Rights of a Member. – A member in good standing shall have the right to –

- a. Avail of and enjoy all basic community services and the use of common areas and facilities;
- b. Inspect association books and records during office hours and to be provided upon request with annual reports, including financial statements;
- c. Participate, vote and be eligible for any elective or appointive office of the association subject to the qualifications as provided for in the by-laws;
- d. Demand and promptly receive deposits required by the association as soon as the condition for the deposit has been complied with or the period has expired;
- e. Participate in association meetings, elections and referenda, as long as *bona fide* membership subsists; and,

- f. To enjoy all other rights as may be provided in the by-laws of the association.

Section 12. Duties of a Member. – A member shall have the following duties:

- a. To pay membership fees, dues and special assessments;
- b. To attend meetings of the association; and,
- c. To support and participate in projects and activities of the association.

Section 13. Delinquent Member. – Unless otherwise provided in the by-laws, a member who has failed to pay three (3) cumulative monthly dues or membership fees, or other charges/assessment despite demands by the association, or has repeatedly violated the association's by-laws and/or declared policies, may be declared delinquent by the Board of Directors in accordance with the procedure in the succeeding section.

Section 14. Procedure in Declaring a Member Delinquent. – The Board or a committee assigned by the Board shall observe the following procedure in declaring a member delinquent or not in good standing:

- a. The Board or the committee shall determine whether a member [1] failed to pay at least three (3) cumulative monthly dues, fees or other charges based on the report of the treasurer or as reflected in the association's financial records, or [2] repeatedly or grossly violated the by-laws or policies of the association as reflected in the book of records of the association;
- b. The President or the designated officer of the association shall forthwith notify the said member in writing of the violation and require him to explain in writing, within fifteen (15) days from receipt of notice, why he should not be declared delinquent.
- c. After the lapse of fifteen (15) days, with or without a written explanation, the President or the designated officer shall submit the matter to the Board or committee for hearing and deliberation.
- d. Thereafter, the member may be declared delinquent by majority vote of all members of the Board.

Section 15. Sanctions for a Delinquent Member. – The rights and privileges of a member as provided in Section 11 is suspended upon the declaration of delinquency by the Board.

Section 16. Reinstatement of a Delinquent Member. – The Board shall, by majority vote of all members, reinstate the membership of the delinquent member, provided that unpaid dues, fees or charges are paid or the sanctions imposed are satisfied.

Nothing in this Rules shall prevent the association from imposing other sanctions against the delinquent member in accordance with the by-laws.

RULE 4

ARTICLES OF ASSOCIATION AND BY-LAWS

Section 17. Contents of the Articles of Association. – The Articles of Association shall substantially contain the following matters:

- a. Full association name;
- b. Specific purpose or purposes for association. Where the association has more than one stated purpose, the articles of association shall state the primary and secondary purposes;
- c. Complete office address;
- d. Term of existence of the association not exceeding fifty (50) years;
- e. Names, nationalities and residences of the incorporators;
- f. Number of directors or trustees, which shall not be less than five (5) nor more than fifteen (15) directors or trustees;
- g. Names, nationalities and residences of persons who shall act as directors or trustees until the first regular directors or trustees are duly elected and qualified;
- h. Amount of capital, if any, and names, nationalities and residences of the incorporators as well as the amount of contributions by each; and,
- i. Such other matters not inconsistent with law and which the incorporators may deem necessary and convenient.

Section 18. Contents of the By-laws. – The by-laws of an association shall be adopted by a simple majority of all the members of the association regardless of standing. It shall provide for the following:

- a. The rights, duties, and obligations of members;
- b. The circumstances under which membership is acquired, maintained, and lost;

- c. The schedule, venue, and manner of conducting the regular, special, and emergency meetings of the general membership, the required quorum, and allowable proxies in such meetings;
- d. The number, qualifications, powers and duties, terms of office, manner of electing and removing the board and the filling of vacancies in the board: Provided, That the term of office of the members of the board shall not exceed two (2) years;
- e. The qualifications, positions, duties, election or appointment, and compensation of other officers and employees of the association: Provided, That the term of office of the other officers shall not exceed two (2) years: Provided, further, That no officer of the association holding a rank of director or trustee shall be entitled to any compensation;
- f. The schedule, venue, and manner of conducting the regular, special, and emergency meetings of the board, the required quorum, and allowable proxies in such meetings;
- g. Such powers that the board may delegate to a managing agent, if any, or to other persons;
- h. The officer/s authorized to prepare, execute, certify and record amendments to the governing documents on behalf of the association;
- i. The grounds and procedure for removal of director or trustee, and the manner of filling up vacancies in the board, consistent with Section 13 of RA No. 9904;
- j. The grounds and procedure for dissolution of the board, and the manner of reconstituting the board, consistent with Sections 13 and 14 of RA No. 9904
- k. The actions for limiting, broadening or denying the right to vote, and the extent thereof;
- l. The designation of the presiding officer at meetings of directors or trustees and members;
- m. The time for holding the regular election of directors or trustees and the mode or manner of giving notice thereof;
- n. The creation of election, grievance and audit committees, and such other committees which the association may deem necessary; as well as a conciliation or mediation mechanism for the amicable settlement of disputes among members, directors or trustees, officers and committee members of the association;

- o. The dues, fees, and special assessments to be imposed on a regular basis, and the manner in which the same may be imposed and/or increased;
- p. The procedure in the adoption, amendment, repeal and abrogation of the by-laws;
- q. The list of acts constituting a violation by its officers and the corresponding penalties therefore;
- r. The penalties for violation of particular provisions of the by-laws; and,
- s. Such other matters necessary for the proper or convenient transaction of its corporate business and affairs.

Section 19. Amendment of Articles of Association and By-laws. – An association may file with the Regional Office of the HLURB a written application to amend its articles of association and/or its by-laws.

- a. The application to amend the articles of association shall be accompanied by the following:
 - [1] The articles as amended indicating the amendment/s;
 - [2] Notarized certificate of the board of directors or trustees attesting that the amendment was approved by majority vote of the board;
 - [3] Notarized certificate of the secretary of the association attesting that the amendments were approved by a majority vote of the members thereof; and,
 - [4] Minutes of the meetings of the Board and the General Assembly called for the purpose.
- b. The application to amend the by-laws shall be accompanied by –
 - [1] The original and the amended or new by-laws;
 - [2] Notarized certificate of the board of directors or trustees attesting that the amendment of or the new by-laws was approved by a majority vote of the board;
 - [3] Notarized certificate of the secretary of the association attesting that the amendment or new by-laws was approved by a majority vote of the members thereof; and,
 - [4] Minutes of the meetings of the Board and the General Assembly called for the purpose.
- c. Issuance of amended certificate of registration.

If the application to amend the articles of association and/or its by-laws is not contrary to law or public policy and does not adversely affect any interest, the Regional Office shall issue the appropriate amended certificate of association or certificate of filing of amended by-laws as the case may be.

When a change in the corporate name is approved, the Regional Office shall issue an amended certificate of association under the amended name.

RULE 5

REGISTRATION OF HOMEOWNERS ASSOCIATION

Section 20. Number of Associations. – As far as practicable, only one (1) homeowners association shall be established and registered with HLURB in each subdivision, except in cases where the subdivision consists of two (2) or more phases. In case two (2) or more associations are registered or applying for registration within the same subdivision, the HLURB shall decide which association shall be registered after the procedures for adjudicatory mechanism as provided in this Rules are observed.

Section 21. Mandatory Registration. – It is mandatory for all associations to register solely with the HLURB. All associations whose purpose, among others, is to promote and protect their mutual interest and assist in their community development as homeowners are considered homeowners associations.

Associations previously registered with the Home Insurance Guaranty Corporation (HIGC) or the Securities and Exchange Commission (SEC) shall be respected and recognized: Provided, that they register with HLURB; and, provided, further, that no penalty shall be charged.

Section 22. Procedure for Registration of New Homeowners Association. – An association shall, upon payment of the prescribed fees, submit to the proper Regional Office of HLURB its Articles of Association, duly notarized and signed on each and every page thereof by all the incorporators consisting of not less than five (5) nor more than fifteen (15) natural persons.

The articles shall be accompanied by the following documents:

a. Notarized undertaking by the association to –

[1] Change the name of the association in the event that another person, firm or entity has acquired a prior right to the use of the name or one similar thereto; and,

- [2] Comply with the rules and regulations;
- b. Information Sheet;
 - c. List of the members of the association with the members' corresponding signatures;
 - d. Certification as to the existence or absence of any other association in the subdivision/village; and the name and address of the nearest association, if any;
 - e. Authorization by the incorporators for the representative of the association to transact/follow-up its registration application with the HLURB; and,
 - f. Approved Subdivision/Development Plan indicating the area covered by the association.

Section 23. Additional Requirements. –

- a. If the application is a self-help housing project or one undertaken under the Group Land Acquisition and Development program (GLAD), Community Mortgage Program (CMP), or other similar land tenurial assistance programs, the applicant shall, in addition to the documents mentioned in Section 3 above, submit the following:
 - [1] Location plan and vicinity map of the project, whether on-site or off-site, duly signed and certified by a geodetic engineer;
 - [2] Notarized list of officers and members stating the nature of their occupancy, whether as owner or tenant;
 - [3] Certified true copy of the original or transfer certificate of title issued not later than thirty (30) days before the date of application;
 - [4] Duplicate original copies of the notarized letter of intent to sell, contract to sell, deed of absolute sale, or memorandum of agreement between the landowner and association;
 - [5] List of beneficiaries as certified by the proper settlement office of the local government unit (LGU) or Urban Poor Affairs Office (UPAO);
 - [6] Certification that it is the only proposed association that is seeking to apply for a Community Mortgage Program (CMP) loan in order to acquire the parcel/s of land; and,

[7] Alteration approval of subdivision plan from the local government units (LGUs) for homeowners associations intending to avail of community mortgage program (CMP) if located within existing subdivision projects.

- b. For NHA projects, certification that it is the HOA recognized by NHA.
- c. If the applicant intends to segregate from a mother association the following requirements shall be complied with:

[1] A sworn statement that –

The area of the project or the membership of the existing association has reached a size or number that renders it extremely difficult or impracticable to provide efficient delivery of services to all its members;

- i. The applicant's members are residents of a contiguous area;
- ii. The existing association is serving several or all phases of a subdivision project and the petitioners are residents of one phase or two or more contiguous phases of said project: Provided, that, where the facilities of the subdivision project are commonly shared by all the phases of a subdivision project, the existing and proposed associations shall have the right to use the facilities but shall proportionately share in the expenses for its maintenance and the earnings derived or losses incurred from the operation thereof; and, provided, further, that the remaining members of the existing association reside in a contiguous area.

[2] A written agreement between the mother and separating associations defining the obligations and liabilities among them with respect to:

- i. The use, maintenance, repair, replacement, modification and improvements of common areas and facilities;
- ii. Access to or passage through the subdivision/ village gates, main interconnecting and other roads, alleys and sidewalks within the subdivision;
- iii. Delivery of basic community services; and,
- iv. Such other matters necessary for the proper governance and operation of both associations.

Section 24. Procedure for SEC or HIGC Registered Homeowners Associations. –

- a. The HLURB shall issue a certificate of registration to an association previously registered with the SEC or HIGC upon compliance with the following:
 - [1] The applicant association shall submit certified true copies of the certificate of registration, articles of association and by-laws previously submitted to the HIGC or SEC;
 - [2] When so required by the HLURB, the applicant shall amend its articles of association and by-laws to conform to the requirements of this Rules and submit such other documents;
 - [3] Payment of necessary fees.
- b. An association that fails to register within a period of one (1) year from the effectivity of this Rules shall have no legal standing to sue before the HLURB or avail of its support services. It may nevertheless be sued before the HLURB by its members or other interested parties and the officers may be held personally liable for the obligations and liabilities incurred by the association.

Section 25. Certificate of Registration. –

- a. Upon finding that the requirements for registration are in order, and that the articles of association and by-laws contain the provisions required by this Rules, the HLURB shall issue a Certificate of Registration to the applicant. The issuance of the Certificate of Registration shall confer upon the association a juridical personality separate and distinct from those of its members.
- b. If the application for registration is incomplete, the same shall be returned to the applicant. If any of the documents submitted are defective, the Regional Office shall notify the applicant of the defective submissions.
- c. If the applicant fails to comply with the requirements stated in the notice of deficiency within sixty (60) days from receipt thereof, the application shall be deemed denied and the documents shall be returned to the applicant.

Section 26. Adjudicatory Mechanism in the Registration of Association. – In case two or more associations are organized within the same subdivision/village and both applied for registration with HLURB in accordance with this Rules, the HLURB shall register only one association in accordance with the following procedures:

- a. The association which submitted first its registration papers and complied with all the requirements of the HLURB shall be registered;
- b. In case there are two (2) associations registered with the SEC or HIGC, then the association which was registered earlier shall be recognized; and,
- c. In case one (1) of the associations is registered with the SEC and the other with the HLURB, the one earlier registered shall prevail and the registration of the other shall be revoked, provided the requirements under Section 24 are submitted within a period of one (1) year of the effectivity of this Rules.

Nothing in this Rules shall prevent the HLURB from taking into consideration other factors in determining whose association shall be registered and recognized.

RULE 6

MERGER, CONSOLIDATION, AND FEDERATION

Section 27. Plan of Merger, Consolidation, or Federation. – The board of directors or trustees of two (2) or more associations may each approve, by majority vote, a plan of merger, consolidation or federation setting forth the following:

- a. Names of the associations that will merge, consolidate or federate, which are hereinafter referred to as the constituent associations;
- b. Terms of the merger, consolidation or federation and the mode of carrying the same into effect;
- c. Statement of the changes, if any, in the articles of association of the surviving association, in case of merger; and, with respect to consolidation, all the statements required to be set forth in the articles of association;
- d. Statement in the articles of association of the federation specifying the commonality of purpose and interests of the constituent associations, as well as the rights, obligations, and extent of powers of the federation over the said associations;
- e. Vicinity map showing that the territory of the associations proposing to merge or consolidate are contiguous to one another; and,
- f. Such other provisions with respect to the proposed merger, consolidation or federation as are deemed necessary or desirable.

Section 28. Approval of Plan by Homeowners Association Members.

– After the approval by majority vote of each of the board of directors or trustees of the constituent associations of the plan of merger, consolidation or federation, the same shall be submitted for approval by the members of each association at separate meetings duly called for the purpose. The notice of such meetings shall be given to all the members of the respective associations at least two (2) weeks prior to the date of the meeting, either personally or by registered mail. The notice shall state the purpose of the meeting and shall include a copy or a summary of the plan of merger, consolidation or federation. The affirmative vote representing a majority of the total membership of each association shall be necessary for the approval of such plan.

Section 29. Amendment of Approved Plan of Merger, Consolidation or Federation.

– An approved plan of merger, consolidation or federation may be amended by majority vote of the respective board of directors or trustees of all the constituent associations and ratified by the affirmative vote of majority of the members of each constituent association. The plan, together with any amendment, shall be considered as the agreement of merger, consolidation or federation.

Section 30. Articles of Merger, Consolidation or Federation.

– After the approval by the members as required by the preceding Sections, the articles of merger, consolidation or of federation, as the case may be, shall be executed by each of the constituent associations, and signed by the president or vice-president and certified by the secretary or assistant secretary of each association.

Section 31. Contents of Articles of Merger, Consolidation or Federation. – The articles of merger, consolidation or federation shall set forth the following:

- a. The plan of the merger, consolidation or federation;
- b. The number of constituent associations; and,
- c. The number of members of each constituent association voting for and against such plan, respectively.

Section 32. Submission of Articles of Merger, Consolidation or Federation. – The articles of merger, consolidation or federation, signed and certified as herein above required, shall be submitted to the Regional Office in three copies for approval, together with the following:

- a. The plan of federation, consolidation or merger, including a location and vicinity plan of the consolidating and merging associations; and
- b. The records of the approval by majority vote of each of the board of directors or trustees of the constituent associations of the plans.

Section 33. Issuance of Certificate of Merger, Consolidation or Federation. – If the merger, consolidation or federation of the associations is not inconsistent with existing laws, the Regional Office shall issue a certificate of merger, consolidation or federation shall be deemed effective.

However, if the proposed merger, consolidation or federation is contrary to or inconsistent with existing laws, the Regional Office shall set a hearing to give the associations concerned the opportunity to be heard. The notice of hearing shall be given to each constituent association at least two (2) weeks before the hearing. The Regional Office shall thereafter proceed to determine whether or not to approve the merger, consolidation or federation.

Section 34. Effects of Merger, Consolidation, or Federation. – The merger, consolidation or federation shall have the following effects:

- a. The constituent associations shall become a single association which, in the case of merger, shall be the surviving association designated in the plan of merger; and in the case of consolidation, the consolidated association designated in the plan of consolidation.
- b. The separate existence of the constituent associations shall cease, except that of the surviving or the consolidated homeowners association.
- c. The surviving or the consolidated association shall possess all the rights, privileges, immunities and powers of each of the constituent associations and all property, real or personal, and all receivables due on whatever account, and other choses in action, and all and every other interest of, or belonging to, or due to its constituent association, shall be deemed transferred to and vested in the surviving or consolidated association without further act or deed.
- d. The surviving or consolidated association shall be responsible and liable for all the liabilities and obligations of each of the constituent associations in the same manner as if such surviving or consolidated association had itself incurred such liabilities or obligations; and any pending claim, action or proceeding brought by or against any of the constituent association may be prosecuted by or against the surviving or consolidated association. The merger or consolidation shall not impair the rights of creditors or liens upon the property of any of the constituent association.
- e. The federation shall have a separate and distinct legal personality from that of its constituent associations and shall have such powers over its member associations as may be set forth in its approved articles of association and by-laws. However, the creation of a federation shall not affect the juridical personality of the constituent associations.

Section 35. Disaffiliation from the Federation. – An association, by a resolution passed by the majority of its board of directors or trustees, and duly approved by majority of its total membership, may sever its membership from the

federation which shall take effect after a written notice of disaffiliation is filed with the federation and the Regional Office.

Section 36. Memorandum of Disaffiliation. – Upon receipt of the notice of disaffiliation by a constituent association, the Regional Office shall enter a memorandum thereof in the records of the federation and the disaffiliating association, a copy of which shall be furnished the concerned parties.

Section 37. Effects of Disaffiliation. – Upon disaffiliation, the federation loses its powers and privileges as set forth in the articles of association and by-laws over the disaffiliating association, while the latter loses its entitlement to the rights and privileges arising from membership in the federation. The disaffiliation shall be without prejudice to the settlement of any obligation incurred by the federation and constituent associations against each other.

RULE 7

DISSOLUTION OF THE ASSOCIATION

Section 38. Methods of Dissolution. – A homeowners association may be dissolved voluntarily or involuntarily.

Section 39. Voluntary Dissolution where No Creditors are Affected. – If the dissolution of an association does not prejudice the rights of any creditor having a claim against it, the dissolution shall be effected as follows:

- a. The issuance of a Board Resolution authorizing the dissolution of the association:
 - [1] Notice sent to all members of the Board, in accordance with the notice requirements of the by-laws, setting a date for a Meeting for the purpose of the dissolution of the association;
 - [2] In the meeting called for the purpose, a majority of all the members of the Board shall be necessary for the approval of the Board Resolution dissolving the association;
 - [3] The Board Resolution shall likewise state the date of the General Assembly which shall consider the dissolution of the association;
- b. A majority vote of all the members, duly notified beforehand, shall be required to dissolve the association. The Notice shall be –
 - [1] Personally served or sent by registered mail to the members at least thirty (30) days before the scheduled meeting;
 - [2] Published once a week for two (2) consecutive weeks in a newspaper of local circulation where the principal office

address of the association is located, or, if there is none, in a newspaper of general circulation once a week for two (2) consecutive weeks;

[3] Posted at the bulletin board of the association and in other strategic and conspicuous places within its territorial boundaries.

- c. The Regional Office shall be furnished copies of the Resolutions of the board of directors/trustees and the general assembly of members dissolving the association, both of which shall be signed and certified as correct by a majority of the members of the Board of Directors/Trustees and countersigned by the Secretary.
- d. The Regional Office shall issue the certificate of dissolution upon determination that the application has complied with all the foregoing requirements and that it is not contrary to law.

Section 40. Voluntary Dissolution where Creditors are affected. – Where the dissolution of an association may prejudice the rights of any creditor, the following procedure shall be followed:

- a. The association shall conduct the meetings and all solemnities required for the notice as stated in the first two (2) subsections of the immediately preceding section;
- b. Upon completion of the foregoing, a petition for dissolution shall be filed with the Regional Office which shall have the following requirements:

[1] The petition shall be signed by a majority of its board of directors or trustees or other officers of the association having the management of its affairs;

[2] The petition shall be verified by its president or secretary or one of its directors or trustees, and shall set forth all claims and demands against it, and that its dissolution was resolved upon by the affirmative majority vote of its members at a meeting called for that purpose;

[3] The resolutions of the board and the general membership attesting to the consent of the majority of both the members of the Board and the general membership shall be attached to the petition, including proof of publication of the notice, its personal service or service by registered mail to all members and posting;

- c. If the petition is sufficient in form and substance, the Regional Office shall, by an order reciting the purpose of the petition, fix a date on or before which objections thereto may be filed by any person, which date shall not be less than thirty (30) days nor more than sixty (60) days

after the entry of the order. Before such date, a copy of the order shall be published at least once a week for three (3) consecutive weeks in a newspaper of local circulation in the municipality or city where the principal office of the association is situated, or if there is no such newspaper, then in a newspaper of general circulation in the Philippines, and a similar copy shall be posted for three (3) consecutive weeks in three (3) public places in such municipality or city and in the bulletin board of the association.

- d. Upon five (5) day's notice, given after the date on which the right to file objections as fixed in the order has expired, the Regional Office shall proceed to hear the petition and try any issue made by the objections filed; and if no such objection is sufficient, and the material allegations of the petition are true, it shall render judgment dissolving the association and ordering such disposition of its assets as justice requires, and may appoint a management committee to collect such assets and pay the debts of the association.

Section 41. *Dissolution by Shortening Corporate Term.* – A voluntary dissolution may be made by amending the articles of association to shorten the term of the existence of the association. A copy of the amended articles of association shall be submitted to the Regional Office in accordance with these rules. Upon approval by the Regional Office of the amended articles of association or expiration of the shortened term, as the case may be, and upon such terms as may protect the rights of creditors whose claims against the association may be affected, the association shall be deemed dissolved without any further proceedings.

Section 42. *Involuntary Dissolution.* – The association may be dissolved by the Regional Office upon the filing of a verified complaint and after proper notice and hearing on the grounds provided by existing laws, rules and regulations.

RULE 8

POST-REGISTRATION

Section 43. *Requirements after registration.* – Within thirty (30) days from the issuance of the certificate of association, the homeowners association shall submit the following to the Regional Office:

- a. Tax Identification Number;
- b. BIR Certification/Official BIR stamps or receipts; and,
- c. Updated master list of members and their authorized representatives, if any, with their corresponding signatures as attested by the association secretary.

Section 44. Books Required for Stamping. – In addition to the preceding requirements and within the same period, the association shall submit the following books in blank forms to the Regional Office for stamping or marking as official association books:

- a. Cash Receipts Book (CRB) and Cash Disbursement Book (CDB) duly registered with the Bureau of Internal Revenue (BIR); and,
- b. Ledger and journal duly registered with the Bureau of Internal Revenue (BIR).

Section 45. Books to be kept. – Every association shall keep and carefully preserve a record of all transactions and minutes of meetings of the general membership and the board of directors or trustees, setting forth, in detail, the date, time and agenda, proof of notice, whether the meeting was regular or special, and the significant acts done or ordered in the meeting.

Section 46. Annual Reports. – Within ninety (90) days from the close of the fiscal period, the association shall submit to the Regional Office the following books and documents concerning its operations during the preceding accounting period:

- a. General information sheet detailing the names of the members of the board of directors or trustees, including the executive and other accountable association officers;
- b. Latest financial statement certified correct by the treasurer and auditor of the association and attested to by the Chairman of the Board or the President, and externally audited, preferably, by an independent Certified Public Accountant; and,
- c. Certified true copy of the master list of members and the compiled resolutions duly certified by the association secretary and attested to by the Chairman of the Board or the President.

Section 47. Resolutions Delisting or Expelling Association Members in Land Tenorial Projects. – In cases of CMP, GLAD and other similar land tenorial projects/arrangements, the resolution delisting/expelling members from the association, and the corresponding substitutions, if any, shall be submitted to the HLURB, within thirty (30) days from its adoption. Otherwise, the delisting or expulsion of members shall not be enforceable.

Section 48. Financial and Other Records. – The association is enjoined to observe the following, with regard to its funds, financial and other records:

- a. The association or its managing agent shall keep financial and other records sufficiently detailed to enable the association to fully declare to each member the true statement of its financial status. All financial and other records of the association including, but not limited to, checks, bank records and invoices, in whatever form these are kept, are the

property of the association. Each association's managing agent shall turn over all original books and records to the association immediately upon termination of the management relationship with the association, or upon such other demand as is made by the board. An association's managing agent is entitled to keep association records. All records which he managing agent has turned over to the association shall be made reasonably available for the examination and copying by the managing agent;

- b. All records involving the affairs of the association shall be available for examination by all owners, holders of mortgages on the lots, and their respective authorized agents upon reasonable advanced notice, during normal working hours at the office of the association: Provided, That holders of mortgages on lots may have access to the information about the property held in mortgage with the consent of the registered owner;
- c. A financial statement of the association shall be prepared annually by an auditor, the treasurer and/or an independent certified public accountant within ninety (90) days from the end of the accounting period to be posted in the association office, bulletin boards, or other conspicuous places within the subdivision/village, and to be submitted to the HLURB; and,
- d. The funds of the association shall be kept in accounts in the name of the association and shall not be joined with the funds of any other association, or any person responsible for the custody of such funds.

RULE 9

THE HOMEOWNERS ASSOCIATION

Section 49. Rights and Powers of the Association. – An association shall have the following rights and powers:

- a. Subject to consultation and with the approval of a simple majority of the members, adopt and amend the articles of association and by-laws, rules and regulations, pursuant to existing laws and regulations;
- b. In behalf of its members, institute, defend, or intervene in litigation and/or administrative proceedings affecting the welfare of the association and the subdivision/village as a whole, excluding, however, disputes that are not the responsibility of the association;
- c. Regulate the use, maintenance, repair, replacement and modification of common areas and cause additional improvements to be made part of the common areas: Provided, that the aforementioned do not contradict the provisions of the approved subdivision plan;
- d. Regulate access to, or passage through the subdivision/village roads for purposes of preserving privacy, tranquility, internal security, safety and traffic order: Provided, that: [1] public consultations are held; [2]

existing laws and regulations are met; [3] the authority of the concerned government agencies or units are obtained; and, [4] the appropriate and necessary memoranda of agreement are executed among the concerned parties;

- e. Hire, discharge or contract managing agents and other employees, agents and independent contractors to ensure the full functioning and operation of the association;
- f. Subject to consultation with and the approval of a simple majority of the association members, acquire, hold, encumber and convey in its own name any right, title to or interest in real or personal property: Provided, that such approval of a simple majority of the association members shall not be required for the acquisition, holding, encumbrance and conveyance of personal properties in amounts not exceeding ten percent (10%) of the association's cash holdings for its use in the course of its normal operations;
- g. Ensure the availability of quality water services at a reasonable price and, at its option, after consultation with the general membership, administer and manage the waterworks system of the subdivision;
- h. Upon consultation, grant easements, leases, concessions and authority to use common areas and petition for or consent to the vacation of streets and alleys: Provided, that the said grant of easements, leases, concessions and authority shall not be applicable to access roads, main interconnecting roads, alleys and sidewalks within the subdivision;
- i. Impose or collect reasonable fees for the use of open spaces, facilities, and services of the association to defray necessary operational expenses, subject to the limitations and conditions imposed under the law, the regulations of the board and the association's by-laws;
- j. Cause compliance with regard to height regulations, easements, use of homes, buildings, edifices, or structures that may be built within the subdivision, in accordance with the National Building Code, zoning laws, HLURB rules and regulations, existing local ordinances, and existing deeds of restriction;
- k. Subject to consultation and with the approval of a simple majority of the association members, allow the establishment of certain institutions such as, but not limited to, schools, hospitals, markets, grocery stores and other similar establishments that will necessarily affect the character of the subdivision/village in terms of traffic generation, and/or opening the area to outsiders which may result in the loss of privacy, security, safety, and tranquility to its residents, in accordance with the National Building Code, zoning laws, existing local ordinances, HLURB rules and regulations, and existing jurisprudence: Provided, That such prior approval shall not be necessary for the establishment of sari-sari

stores, home industries and similar small-scale business enterprises within the subdivision/village classified as socialized housing;

- l. Suspend privileges of and services to and/or Impose sanctions upon its members for violations and/or noncompliance with the association's by-laws, rules and regulations;
- m. Petition for the creation of a separate barangay, independently or together with neighboring subdivisions: Provided, that all the requirements of the Local Government Code of 1991 are met; and,
- n. Exercise any other powers conferred by the by-laws and the HLURB necessary for the governance and operation of the association.

Section 50. Composition of the Board. – Unless otherwise provided in the by-laws, the board shall be composed of at least five (5) but not more than fifteen (15) elected members of the association.

Section 51. Association Officers. – Unless otherwise provided in the by-laws, an association shall have the following executive officers who shall be responsible for the management of the association's business: president, vice-president, secretary, treasurer and auditor. The board may create other management positions in the association as may be necessary.

Section 52. Qualifications of Officers. – A director and officer of an association –

- a. Must be legal age;
- b. Must be a member in good standing;
- c. Must be an actual resident of the subdivision, housing or relocation project for at least six (6) months as certified by the association secretary or in default thereof, by a member having personal knowledge thereof; and,
- d. Has not been convicted by final judgment of an offense involving moral turpitude.

The legitimate spouse of a member may be a candidate in lieu of the member.

Section 53. Disqualifications of Officers. – The by-laws shall provide for reasonable disqualifications of candidates for director and/or officer to protect the association and its members from interests inimical or inconsistent with its purpose, or practices detrimental to the welfare thereof, such as but not limited to the following:

- a. Those found guilty of having committed fraud, falsification, defalcation, or any other act inimical to the interests of the association;
- b. Former officers and directors of the association who have not turned over the books, monies and records of the association during their

term, in the interest of enforcing faithful discharge of their duties, transparency and accountability; or,

- c. Those who refused to comply with the lawful orders of the HLURB.

Section 54. Duties and Responsibilities of the Board of Trustees/Directors. – In addition to the duties and responsibilities stated in the by-laws of the association, the board shall have the following duties and responsibilities:

- a. Regularly maintain an accounting system using generally accepted accounting principles, and keep books of accounts, which shall be open for inspection to any homeowner and duly authorized representatives of government agencies upon request, during reasonable hours on business days;
- b. Collect reasonable fees, dues and assessments that may be provided for in the by-laws and approved by a majority of the members;
- c. Collect reasonable charges for assessments, and after due notice and hearing by the board in accordance with the procedures as provided in the by-laws, and rules and regulations adopted by the board, charge reasonable fines for late payments and for violation of the by-laws, rules, and regulations of the association, in accordance with a previously established schedule adopted by the board and furnished to the homeowners;
- d. Propose measures to raise funds and the utilization of such funds and submit the same for consideration of the members of the association; and,
- e. Undergo a free orientation by the HLURB or any other competent agency deputized by it on how to conduct meetings, preparation of minutes, handling of accounts, laws and pertinent rules and regulations within thirty (30) days after election or appointment.
- f. Discharge the duties and responsibilities provided for in the association's by-laws; and,
- g. Exercise such other powers as may be necessary and proper in accordance with this Act and for the accomplishment of the purposes for which the association was organized.

The board shall act in all instances on behalf of the association, except to amend the articles of association, to dissolve the association, to elect members of the board or to determine the qualifications, powers and duties, or terms of office of the board, and other instances that require the vote or approval of the members themselves. In the performance of their duties, the officers and members of the board shall exercise the degree of care and loyalty required by such position.

Section 55. Relationship with LGUs. – Homeowners associations shall complement, support and strengthen LGUs in providing vital services to their members and help implement local government policies, programs, ordinances, and rules.

- a. Associations are encouraged to actively cooperate with LGUs in furtherance of their common goals and activities for the benefit of the residents of the subdivisions/villages and their environs;
- b. Where the LGUs lack resources to provide for basic services, the associations shall endeavor to tap the means to provide for the same. In recognition of the associations' efforts to assist the LGUs in providing such basic services, association dues and income derived from rentals of their facilities shall be tax-exempt: Provided, that such income and dues shall be used for the cleanliness, safety, security and other basic services needed by the members, including the maintenance of the facilities of their respective subdivisions/villages;
- c. LGUs shall, upon due notice, hold public consultations with the members of the affected associations, through their officers and directors, where proposed rules, zoning and other ordinances, projects and/or programs affecting their jurisdiction and surrounding vicinity are to be implemented prior to the effectivity or implementation of such rules, zoning, ordinances, projects or programs: Provided, that in cases of zonal reclassification within the subdivision/village, the views of the simple majority of homeowners shall be obtained;
- d. Such public consultations shall conform to the manner as specified in Rule XI, Article 54 of the Implementing Rules and Regulations of Republic Act NO. 7160, otherwise known as the Local Government Code of 1991.

Section 56. Relationship with National Government Agencies. – The associations shall complement, support and strengthen the efforts of the National Government Agencies in providing vital services to their members and help implement the national government policies and programs.

- a. Associations are encouraged to actively cooperate with National Government Agencies (NGAs) in the furtherance of their common goals and activities for the benefit of the residents of the subdivisions and its environs; and,
- b. NGAs shall consult the associations where proposed rules, projects and/or programs may affect their welfare.

RULE 10

ELECTIONS

*Section 57. **Holding of Elections.*** – A homeowners association shall hold regular membership meetings or elections on the time or date set forth in its by-laws.

*Section 58. **Proxies.*** – Association members may vote in person or by proxy in all meetings of members. Proxies shall be in writing, signed by the member and filed before the scheduled meeting with the association secretary. Unless otherwise provided in the proxy, it shall be valid only for the meeting for which it is intended. No proxy shall be valid and effective for a period longer than three (3) years at any one time unless earlier revoked by the member.

*Section 59. **Failure of Election.*** –

- a. When a regular or special election cannot be held or conducted due to lack of quorum as defined under the association by-laws or for any other serious cause such as violence, terrorism, force majeure, and other analogous causes of such a nature that the holding of a free, orderly and honest election should become impossible, the Election Committee shall call for another election within a period of thirty (30) days from the date of the failed election or the cessation of the cause for such failure of election.
- b. In case a regular or special election is not held, the following shall be submitted by the association to the Regional Office:
 - [1] Notice of postponement of the regular or special membership meeting; and,
 - [2] Affidavit of non-holding stating categorically the reasons why no election was conducted in accordance with the provisions of the association by-laws.

The notice or affidavit shall be executed by the Secretary and attested to by its President and shall be filed with the Regional Office within five (5) days from the date of the scheduled election.

- c. If the reasons stated in the affidavit of non-holding of election are found to be without merit, the Regional Office shall order the director/ trustee and officers of the association to immediately call for the conduct of the election within fifteen (15) days from receipt of the Order. The director/trustees and officers who failed to comply with the order of the Regional Office shall be held, jointly and severally, liable therefore.

The Regional Office shall call a special election for the officers of the association and set the rules that shall govern the conduct thereof in consultation with the members thereof.

The Regional Office shall designate its responsible officials to supervise the conduct of the special election with the participation of the Federation as observer. Within ten (10) working days after the date of the election, said election supervisor shall submit a report to the Regional Office stating, among others, the following:

- [1] Whether the special election was held as scheduled;
- [2] Time of the commencement and end of election; and,
- [3] The following information as appearing in the report of the committee on election of the homeowners association: [a] number of qualified voters; [b] Number of votes cast; [c] Number of votes received by individual candidates; d) Protest registered on the day of election, if any; and, e) such other information relevant and necessary in the conduct of election.

Section 60. Hold-Over. – Where there is failure to elect a new set of directors or officers, the incumbent directors/trustees/officers shall be allowed to continue in a hold-over capacity until their successors are elected and qualified, subject to compliance with the preceding sections of this Rule on the non-holding or postponement of regular and special elections. In no case shall the hold-over term of the officers/directors/trustees exceed two (2) years.

Section 61. Election Contests. – Election contests and their resolutions shall be governed by the by-laws of the association. Unless otherwise provided by the Association's by-laws, the election contest shall be in writing and filed by any of the aggrieved candidate/s within five (5) days after the proclamation of the winning candidates, specifically stating the grounds thereof. The duly constituted Election Committee of the Association shall decide on the controversy brought before it within the non-extendible period of five (5) days.

The aggrieved candidate/s may file the necessary complaint before the HLURB Regional Office within ten (10) days from receipt of the decision of the Election Committee. The complaint shall be accompanied by a certification that the dispute was referred to, and resolved by the appropriate committee duly constituted by the association.

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 further stating that complainant has exhausted administrative remedies, which shall be attached to the complaint.

Section 62. Turnover of Records and Properties by Outgoing Directors/ Officers. – To ensure the orderly turnover of the management of an Association, the outgoing directors and officers of an Association shall turn over all Association books, records, properties and other assets, to the new set of directors and officers within sixty (60) days from the election of the new Board.

Section 63. Election Reports. – Within fifteen (15) days from the date of any regular or special election, the association shall submit the following to the Regional Office:

- a. Proof of notice of election;
- b. A copy of the notice sent to the members or posted in conspicuous places stating the time, date and place of the election;
- c. Attendance sheet signed by the members and attested by the Secretary;
- d. Notarized minutes of elections prepared and signed by the committee which supervised the election of the association;
- e. Election returns duly certified by the committee which supervised the election of the association; and,
- f. Master list of qualified voters as certified by the association secretary and treasurer.

RULE 11

DUTIES AND RESPONSIBILITIES OF THE HLURB

Section 64. Duties and Responsibilities of the HLURB. – In addition to the powers, authorities and responsibilities vested in it by Republic Act No. 8763, Presidential Decree No. 902-A, Batas Pambansa Blg. 68 and Executive Order No. 535, Series of 1981, as amended, the HLURB shall:

- a. Regularly conduct free orientation for officers of homeowners associations or deputize another competent agency to conduct the orientation;
- b. Formulate and publish a Code of Ethics and Ethical Standards for board members detailing prohibited conflicts of interest;
- c. Register all associations, federations, confederations or umbrella organizations of the associations;
- d. Hear and decide intra-association and/or inter-association controversies and/or conflicts, without prejudice to filing civil and criminal cases by the parties concerned before the regular courts: *Provided*, That all decisions of the HLURB are appealable directly to the Court of Appeals;
- e. Formulate the rules or manner of verification and validation of petitions for the removal of director/s or trustee/s of the association or dissolution of the board;

- f. Exercise the same powers over federations, confederations or umbrella organizations of the associations;
- g. Formulate, in consultation with the representatives of associations, federations, confederations or umbrella organizations of the associations, standard nomenclatures to be used for the associations' books of accounts, and a standard articles of association and by-laws for homeowners association for reference purposes;
- h. Formulate, in consultation with the representatives of associations, federations, confederations or umbrella organizations of the associations, the guidelines in regulating the kinds of contributions and fees that may be charged and/or collected by associations; and,
- i. Call upon the Philippine National Police, other law enforcement agencies, and other instrumentalities of the government, if necessary, for the enforcement of its functions.

Section 65. Verification and Validation of Petition for Removal of Director or Trustee. – The following procedure shall be observed in case of removal of a director or trustee of an association:

- a. A director or trustee may be removed from office, through a verified petition duly signed by the majority members of an association, for any cause provided in the by-laws of the association;
- b. The duly signed petition, subscribed and sworn to before a notary public, shall be submitted to the Regional Office of the HLURB for purposes of verification and validation. Within five (5) days from receipt of the petition, the Regional Office shall determine whether the petition complies with the required formalities and based on any of the grounds or causes for removal provided under the by-laws. Upon being satisfied that the petition is sufficient in form and substance, the Regional Office shall determine, based on its record, whether the petition is signed by majority of the members of the association concerned;
- c. If the Regional Office determines that the petition is not signed by the required number of the members of the association, it shall then dismiss the petition and shall inform the member who filed the petition of its decision, furnishing a copy thereof to the board and the director or trustee subject of the petition;

If, on the other hand, the petition is signed by the required number of the members of the association, the Regional Office shall then proceed with the validation of the petition. The Homeowners Association Administration Division of the Regional Office shall compare the signatures appearing in the petition with the records on file with the Regional Office;

- d. The Homeowners Association Administration Division shall then prepare a report on the conduct of validation and submit the same to

the Regional Officer/Director. The Regional Director/Officer shall then issue an order validating the petition and the removal of the director or trustee, furnishing a copy thereof to the director/trustee concerned and the board;

- e. Within sixty (60) days from the receipt of the order from the Regional Director/Officer, an election shall be called by the remainder of the board for the purpose of determining who shall hold office for the unexpired term of the removed director or trustee;
- f. The director or trustee who has been removed shall have the right to question his removal on the sole ground of the validity of the cause relied upon by the members of the association, through a petition filed before the Regional Office within fifteen (15) days from receipt of the order of his removal; and,
- g. The pendency of the petition filed by the director or trustee shall not prevent the board from conducting the special election called for the purpose of filling up the vacancy. In the event the HLURB decides that the removal is invalid, the removed director or trustee shall then be reinstated to his former position and serve the remainder of his term. The tenure of the person who replaced the removed director from the time of his election up to the time of the reinstatement of the latter shall be respected.

Section 66. Dissolution of the Board. – In the event two-thirds (2/3) of the association's members submit a verified petition for the dissolution of the board, the following procedure shall be observed:

- a. The petition for the dissolution of the board shall be based solely on the grounds or causes provided in the association's by-laws;
- b. The procedure provided in subsections (b) to (g) of the immediately preceding Section shall be observed;
- c. Until the new board members shall have been elected and qualified, the HLURB shall designate an interim board: Provided, That such board shall be composed of association members in good standing: Provided, further, That such interim board members shall not be eligible to run in the election called for the purpose of replacing the members of the dissolved board.

This procedure shall also be adopted if a majority of the members of the board is removed, which shall be considered as a dissolution of the entire board.

Section 67. Monitoring. – The Regional Office may, *motu proprio* or upon report or request of an interested party, inspect and examine documents, books and records, and investigate transactions and activities of the association for the purpose of ascertaining and enforcing its compliance with laws, rules and

regulations being implemented by HLURB, and in proper cases, impose appropriate sanctions.

Section 68. Examination of Financial Transactions. – After the submission by the association of the annual reports required to be submitted, the Regional Office shall conduct an examination and evaluation thereof within fifteen (15) days from receipt and shall complete the review and evaluation within an equal period of fifteen (15) days.

If the Regional Office finds that the documents submitted are incomplete or inconsistent with generally accepted accounting principles, the Regional Office shall issue a notice to the association for the submission of the pertinent books and records, including but not limited to its audited balance sheet or income statement, cash book, ledger and journal, or cash flow statement. For this purpose, the Regional Office may also conduct its own examination and evaluation of the required reports of the association in its designated administrative office upon prior notice to the concerned association when circumstances warrant.

Section 69. Show Cause Order. – If, after investigation or upon evaluation of the reports, it appears that a violation of existing laws, rules and regulations of HLURB has been committed by the homeowners association, the Regional Office shall require the association, its directors/trustees and officers to submit a sworn statement explaining why no sanctions should be imposed for the reported violation within ten (10) days from receipt thereof.

Section 70. Evaluation. – Upon receipt of the sworn statement, the Regional Office shall determine if any violation exists. If the Regional Office determines that no violation was committed, it shall issue an order considering the matter as terminated.

If the BOD/Trustees and officers fail or refuse to submit the sworn statements as required herein, the Regional Office may make a determination on the basis of the records at hand and shall apply the penalties and sanctions provided under Section 23 of the RA No. 9904.

Section 71. Independent Audit; when necessary. – If, upon evaluation, the Regional Office finds ambiguity or inconsistency in the documents submitted, it may require the board of directors of the association to engage, at its own expense, the services of an independent auditor who shall conduct and review the said financial records, and finish the same within thirty (30) days from receipt of the HLURB order. The independent auditor shall be an accredited CPA of the Board of Accountancy and the Securities and Exchange Commission (SEC). Thereafter, the association shall submit the report of the independent auditor.

RULE 12

FINAL PROVISIONS

Section 72. Prohibited Acts. – It shall be prohibited for any person:

- a. To compel a homeowner to join the association, without prejudice to the provisions of the deed of restrictions, its extensions or renewals as approved by the majority vote of the members or as annotated on the title of the property; the contract for the purchase of a lot in the subdivision project; or an award under a CMP project or a similar tenurial arrangement;
- b. To deprive any homeowner of the right to avail of or enjoy basic community services and facilities provided that the dues, charges, and other fees for such services have been duly paid;
- c. To prevent any homeowner who has paid the required fees and charges from reasonably exercising the right to inspect association books and records;
- d. To prevent any member in good standing from participating in association meetings, elections and referenda;
- e. To deny any member due process in the imposition of administrative sanctions;
- f. To exercise rights and powers as stated in Section 10 of the Act in violation of the required consultation and approval of the required number of homeowners or members;
- g. To unreasonably fail to provide basic community services and facilities and maintain, repair and replace their residential abode.

Section 73. Penalties and Sanctions. – Any person who, intentionally or by gross negligence, violates any provision of law, rules and regulations, fails to perform duties and functions mandated by law and/or violates the rights of the members, shall be punished with a fine of not less than Five Thousand Pesos (Php5,000.00) but not more than Fifty Thousand Pesos (Php50,000.00) and permanent disqualification from being elected or appointed as member of the board, officer or employee of the association, without prejudice to being charged before a regular court for violations of the provisions of the Revised Penal Code, Civil Code and other pertinent laws.

If the violation is committed by the association, the members, officers, directors or trustees of the association who have actually participated in, authorized, or ratified the prohibited act shall be held liable.

If the violation is committed by the employees and agent who acted in gross violation of the provisions of the Act, the officers, directors or trustees, or incorporators of the association shall be jointly and severally liable with the offending employees, agents, and the association.

Section 74. Application of HLURB Rules of Procedure. – The existing HLURB Rules of Procedure, insofar as not inconsistent with this Rules shall govern the adjudication process involving the associations, its members, officers and directors or trustees.

The provisions of the Corporation Code of the Philippines and the Rules of Court, as amended, shall be applied in suppletory character.

Section 75. Amendments. – This Rules, or any provision thereof, may be amended by the HLURB.

Section 76. Separability Clause. – If any provision of this Rules is declared invalid or unconstitutional, the remainder of the Rules shall remain valid and subsisting.

APPROVED, this 24th day of June, 2011, Quezon City.

HON. JEJOMAR C. BINAY
Vice-President of the Philippines
and Chairman, HUDCC

JOSE VICENTE SALAZAR
Undersecretary, DOJ
Ex Officio Commissioner

ANTONIO M. BERNARDO
Chief Executive Officer
and Commissioner

AUGUSTO B. SANTOS
Deputy Director-General, NEDA
Ex Officio Commissioner

**RIA CORAZON A. GOLEZ-
CABRERA**
Commissioner

JAIME A. PACANAN
Undersecretary, DPWH
Ex Officio Commissioner

**FELIX WILLIAM B.
FUENTEBELLA**
Commissioner

DOMINA T. RANCES
Representative, DILG
Ex Officio Commissioner

LUIS A. PAREDES
Commissioner

Attested By:

CHARITO B. LANSANG
Board Secretary