

**[ HLURB ADMINISTRATIVE ORDER NO. 05, S.  
2004, July 06, 2004 ]**

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

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

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

Please be guided accordingly.

Adopted: 06 July 2004

(SGD.) ROMULO Q.M. FABUL

**Board of Commissioners  
Resolution No. 765, S. 2004**

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

**Rule I  
Title and Construction**

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

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

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

## **Rule II Parties**

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

*SECTION 2. Applicant and oppositor* - Any person, natural or juridical, or entity authorized by law, who files an application before the Board for the issuance of any license, permit or clearance, or the authority to exercise any right or privilege granted under any law, proclamation, decree or executive order administered or implemented by the Board, shall be called the applicant.

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

## **Rule III Commencement of Action, Summons and Answer**

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

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

- (a) Lack of jurisdiction;
- (b) Insufficiency in form and substance; or
- (c) Non-availment of the grievance mechanism under the by-laws in homeowners association-related cases other than election contests. (n)

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

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

Whenever personal service appears impracticable or difficult, summons may be served by registered mail, and where the respondent is an unknown person or entity, or whenever his whereabouts are unknown and cannot be ascertained by

diligent inquiry, service may, by leave, be effected upon him by publication once a week in two consecutive weeks in a newspaper of general circulation. (a)

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

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

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

Upon such determination, the Regional Officer shall cause the records of the case to be transmitted to the Executive Committee, which shall assume original jurisdiction over the case. Otherwise, the Regional Officer shall act on and resolve the opposition. (a)

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

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

*SECTION 8. Executory nature of decisions of the Board en banc* - The contested application for clearance, permit or license shall be treated as a complaint and all other provisions of these rules on complaints not inconsistent with the preceding section shall, as far as practicable, be made applicable to oppositions, except that the decision of the Board en banc on such contested applications shall be final and executory.

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

## **Rule IV**

### **Prohibited Pleadings in Original Proceedings**

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

- a. Motion to dismiss;

- b. Motion for extension of time to file answer;
- c. Motion to admit answer filed beyond the reglementary period;
- d. Reply, except in answer to a compulsory counterclaim;
- e. Rejoinder and answer to rejoinder;
- f. Motion for bill of particulars;
- g. Fourth and subsequent party complaint; and
- h. Motion for reconsideration of any order or decision of the arbiter.

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

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

## **Rule V**

### **Default**

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

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

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

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

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

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

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

## **Rule VI Election Contests (n)**

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

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

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

*SECTION 4. Duty of the Regional Office upon the filing of the complaint* - Within five (5) days from the filing of the complaint, the Arbiter, with the approval of the Regional Officer, may dismiss the complaint outright if it is not sufficient in form and substance; or if it is sufficient, order the issuance of summons which shall be sent, together with a copy of the complaint, on the respondent within ten (10) days from its issuance.

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

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

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

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