

[HIGC, December 21, 1989]

**REVISED RULES OF PROCEDURE IN THE HEARING OF
HOMEOWNERS' DISPUTES**

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

Rule I

Definition of Terms/Construction of Rules

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

a) **HIGC** — Home Insurance and Guarantee Corporation, formerly Home Financing Commission, thereafter Home Financing Corporation, a government corporation created under and by virtue of R.A. 580, as amended by E.O. 535 and renamed as such under E.O. 90.

b) **Homeowners Association** — an association composed of members who are either present or future homeowners/awardees/occupants of private or government housing projects, subdivisions or urban estates, organized primarily for the purpose of facilitating the delivery of adequate housing and related services designed to improve the quality of life of its members and the community/subdivision concerned.

c) **Hearing Officer** — any person or officer, body board or committee duly designated or created, as the case may be, by proper order issued by HIGC, to hear and decide a particular case.

d) **Order** — any written directive of HIGC or such person, officer, body, board, or committee duly designated or created by it, as the case may be.

e) **Decision/Resolution** — the written judgment in a homeowners' case before the HIGC.

f) **Complainant** — any person, natural or juridical, seeking relief either for the violation of any law, rule, or regulation, or for the enforcement of a right in law, shall be referred to as complainant.

g) **Respondent** — any person who claims interest adverse to the complainant and necessary to the complete settlement of issues shall be referred to as respondent.

SECTION 2. Interpretation — These Rules shall be liberally construed to carry out

the objectives of E.O. 535 and to assist the homeowners associations and their members in effecting expeditious, inexpensive, and speedy settlement of their disputes.

Rule II

Disputes Triable by HIGC/Nature of Proceedings

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

a) Devices or schemes employed by or any acts of the Board of Directors or officers of the association amounting to fraud and misrepresentation which may be detrimental to the interest of the public or of the members of the association or the association registered with HIGC.

b) Controversies arising out of intra-corporate relations between and among members of the association, between any and/or all of them and the association of which they are members, and insofar as it concerns its right to exist as a corporate entity, between the association and the state/general public or other entity.

c) Controversies in the election, appointment, or selection of directors, officers, or members of the association, including the regularity thereof and eligibilities of such directors, officers or members.

d) Suspension or revocation of the certificate of registration of any homeowners association duly registered by HIGC upon any of the grounds provided by law, rules and regulations of HIGC, including but not limited to the following:

1. Fraud of misrepresentation in procuring its certificate of registration;
2. Serious misrepresentation as to what the association can do or is doing;
3. Refusal to comply with or defiance of any lawful order of HIGC or its hearing officer;
4. Misuse of a right, privilege, or franchise conferred upon it by law, or exercise of a right, privilege, or franchise in contravention of law;
5. Commission or omission of an act which amounts to a surrender of its corporate rights, privileges, or franchise;
6. Violation of any provisions of HIGC rules and regulations and those of the Corporation Code whenever the same is applicable.
7. Continuous in operation or inactivity for a period of at least five (5) years; and
8. Failure to file required reports in appropriate forms as determined by HIGC within the prescribed period.

SECTION 2. Nature of Proceedings — The hearing of the disputes above described shall be summary in nature and shall not be bound by the technical rules of

evidence, provided that the right of both parties to a fair and just hearing is assured, and the basic requirements of due process are observed.

Rule III

Commencement of Actions; Pleadings; Summons

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

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

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

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

SECTION 3. Complaint and Answer — The complaint shall contain the names and residences of the parties and a concise statement of the ultimate facts constituting the complaints' causes of action. It shall specify the relief sought or the right which

the complainant seeks to enforce, but may add a general prayer for such further or other relief as may be deemed just or equitable.

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

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

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

Rule IV Hearings; By Whom Conducted

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

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

- a) To issue preliminary or permanent injunctions, whether prohibitory or mandatory, in which case the pertinent provisions of the Revised Rules of Court as far as practicable, shall apply;
- b) To punish for contempt in accordance with the pertinent provisions of the Revised Rules of Court;
- c) To compel the officers of any homeowners association registered with it to call a meeting of members thereof or in the exercise of discretion, directly order the calling of said meeting;
- d) To pass upon the validity of the issuance and use of proxies of absent members;
- e) To issue *subpoena duces tecum* and summon witnesses to appear in any proceedings before HIGC;
- f) To impose fines and or other penalties for violation of these rules and related regulations, and any Order or Decision of HIGC;
- g) To suspend or revoke, after proper notice and hearing, the certificate of registration of the association upon any ground provided by law, rules and regulations of HIGC, including, but not limited to the following:

1. Fraud or misrepresentation in procuring its certificate of registration;