

**[HLRB ADMINISTRATIVE ORDER NO. 05. S. 1996,
June 27, 1996]**

1996 HLRB RULES OF PROCEDURE

1. The 1996 Rules of Procedure of the Housing and Land Use Regulatory Board, approved by the Board of Commissioners on 10 June 1996 under Resolution No. R-586 (Annex A hereof), was published in Malaya, on 25 June 1996, and takes effect fifteen (15) days thereafter or on 10 July 1996.

2. Section 4, Rule XXII of the above Rules provides:

"Section 4. Effectivity. These Rules shall take effect after fifteen (15) days from publication in the Official Gazette or in a newspaper of general circulation. Proceedings of cases then pending shall be governed by these Rules, except when in the opinion of the Board their application would be impractical or would work injustice, in which event the former rules of procedure would apply."

3. Rule XXI, Legal Fees, further amends Resolution No. R-581 as promulgated under Administrative Order No. 02 dated 22 February 1996.

For your guidance and information.

Adopted: 27 June 1996

(SGD.) ROMULO Q. FABUL
Commissioner and Officer-in-Charge, OCEO

ANNEX "A"

Resolution No. R- 586, s. 1996

**Adopting the 1996 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 No. 648, Series of 1981, as amended by Executive Order No. 90, Series of 1986, the following Rules of Procedure of the Housing and Land Use Regulatory Board be adopted, as the same are hereby adopted:

RULE I

Title and Construction

SECTION 1. Title — These rules shall be known as the 1996 Rules of Procedure of

the Housing and Land Use Regulatory Board. (1a)

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 inexpensive determination of every action, application or other proceedings. (2)

SECTION 3. Nature of Proceedings — Proceedings before the Board shall be summary in nature without strictly adhering to legal technicalities obtaining in the courts of law. Appearance by counsel is optional. (3a)

RULE II

Parties

SECTION 1. Complainant and Respondent — In any complaint filed with 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. (5)

RULE III

Commencement of Action, Summons and Answer

SECTION 1. When Action Deemed Commenced — An action is deemed commenced upon the filing of a verified complaint with the Regional Office of this Board, in three copies, together with the supporting documents, and upon payment of the filing fees. A certification of non-forum shopping which complies with Supreme Court Circular No. 28-91, as amended should be attached to the complaint. (6a)

SECTION 2. Summons — Upon the filing of the complaint, summons shall forthwith be issued to the respondent, together with a copy of the complaint. It shall be served by handing the summons and the complaint 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 the same and leaving a copy thereof with respondent or said responsible person.

The summons shall require respondent to file an answer and not a motion to dismiss. (8)

SECTION 3. Answer — The respondent shall file his answer together with the supporting documents thereto within a non-extendible period of twenty (20) calendar days from receipt of the summons, furnishing complainant a copy thereof. No motion to dismiss may be filed nor entertained.

All grounds for a motion to dismiss, counterclaim, crossclaim shall be pleaded or incorporated in the answer, otherwise these shall be waived. A third party complaint may with leave of the arbiter be filed by respondent provided the grounds therefor are manifested in the answer. (9)

RULE IV

Prohibited Pleadings in Original Proceedings (n)

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 of an answer and shall not bar the adjudication of a 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 and may not be filed before the Board of Commissioners of HLRB.

RULE V

Default

SECTION 1. Order of Default — If respondent fails to answer within the time specified in Rule III hereof, an order of default shall be issued, and the complainant shall submit his position paper together with supporting documents. Thereafter the case shall be submitted for resolution. (11a)

SECTION 2. Lifting of Default — A motion to lift the order of default may be filed by the party declared in default within five (5) calendar days from receipt of said order. He shall attach thereto his position paper together with supporting documents.

Upon the filing of the motion to lift the order of default, the said order shall automatically be lifted and the case shall be submitted for resolution based on the evidence and pleadings on record.

After the lapse of said five (5)-day period, and no motion to lift the order of default is filed, the arbiter can proceed to decide the case based on the evidence and the records of this Board. (n)

SECTION 3. Review of Judgment of Default — If the party declared in default who for good cause was unable to file a motion to lift the order of default, and a judgment by default was consequently rendered, he may still file a petition for review of the judgment by default with the Board in accordance with Rule XII of these Rules and whatever defenses he has against the complainant may still be raised in said petition. (n)

RULE VI

Preliminary Conference and Resolution

SECTION 1. Preliminary Conference — Upon receipt of the answer, the arbiter shall set the case for preliminary conference.

During said conference, the arbiter shall explore possibility of an amicable settlement and arriving at an admission or stipulation of facts, and define, clarify and/or simplify the issues for resolution.

Said proceedings shall be terminated within sixty (60) calendar days from the date of the initial conference. (10)

SECTION 2. Ocular Inspection and/or Clarificatory Questions — During the conference, and/or at any time before or after the case is submitted for resolution, the arbiter may in his discretion, require an ocular inspection of the project, examination of the records of the owner or developer, and the presentation of witnesses solely for purposes of clarification or additional information on the evidence on record. (15a)

SECTION 3. Amicable Settlement — If an amicable settlement is reached, then a judgment shall be rendered based on the compromise agreement. (13a)

SECTION 4. Position Papers — If the parties fail to settle within the period of preliminary conference, then they will be given a period of not more than thirty (30) calendar days to file their respective verified position papers, attaching thereto the affidavits of their witnesses and documentary evidence.

In addition, as provided for by Execution Order No. 26, Series of 1992, the parties shall be required to submit their respective draft decisions within the same thirty (30)-day period.

Said draft decision shall state clearly and distinctly the findings of facts, the issues and the applicable law and jurisprudence on which it is based. The arbiter may adopt in whole or in part either of the parties' draft decision, or reject both and prepare his own decision.

The party who fails to submit a draft decision shall be fined P2,000.00. (n)

SECTION 5. Summary Resolution — With or without the position paper and draft decision the Arbiter shall summarily resolve the case on the basis of the verified pleadings and pertinent records of the Board. (14a)

RULE VII

Cease and Desist Order (n)

SECTION 1. Temporary Restraining Order — Upon the filing of a complaint with a prayer for a temporary restraining order (TRO), the Arbiter upon consideration of the merits of the complaint may immediately issue a TRO valid only for twenty (20) calendar days from the date of receipt of the order by the adverse party.

The order granting the TRO shall already state the hearing for a cease and desist order, which shall be within the period of three (3) calendar days from the date of issuance of the said order.

SECTION 2. Cease and Desist Order — After said hearing, the arbiter shall immediately resolve whether or not to grant a cease and desist order (CDO). No CDO shall be granted unless it is established that: (a) the complainant is entitled to the relief demanded, and the whole or part of such relief consists in restraining the commission or continuance of such act or acts, either for a limited period or perpetually; (b) that the commission or continuance of such act complained of during the litigation, would probably work injustice or cause grave and irreparable injury to the complainant; or (c) that the respondent is doing, threatening or is about to do, or is procuring or suffering to be done, some act probably in violation of existing laws and/or regulations being implemented by this Board, or of complainant's rights respecting the subject of the action, tending to render the judgment ineffectual.

If the arbiter decides to grant a CDO, the complainant shall be required to file with the Regional Office of the Board, a bond executed in favor of the party enjoined in an amount to be determined by the arbiter, to the effect that the complainant will pay to such party all damages which he may sustain by reason of the injunction if the Board should finally decide that the complainant is not entitled thereto.

SECTION 3. Effectivity of Cease and Desist Order — An order to cease and desist from performing an illegal act shall be immediately executory, without prejudice to a petition for review therefrom being filed in accordance with the next section. The CDO shall be valid from the date of issuance until final judgment of the case.

SECTION 4. Review of Cease and Desist Order — The party against whom a CDO has been issued can elevate the said order to the Board for review, by way of a petition for review in accordance with Rule XII of these Rules. The filing of such a petition shall NOT have the effect of automatically staying such CDO, unless a supersedeas bond executed in favor of the enjoining party, equal to twice the amount of the original CDO bond, is also posted with the Board.

RULE VIII

Powers of the Arbiter

SECTION 1. Powers of the Housing and Land Use Arbiter — The Housing and Land Use Arbiter shall have the following powers: