



**Board of Commissioners**  
**RESOLUTION NO. 818**  
**Series of 2008**

**AMENDING CERTAIN PROVISIONS OF THE 2004 RULES OF PROCEDURE  
OF THE BOARD (Board Resolution No. 765, S. 2004)**

**WHEREAS**, after a revisit and re-examination of the Rules of Procedure of the Board and after consultation and consensus building with key personnel in the operating units, certain amendments have been recommended with the end in view of clarifying ambiguities, reconciling conflicting provisions, facilitating the adjudication process, limiting the exercise of certain discretionary powers, particularly the issuance of Cease and Desist Orders, and facilitating the appeal process;

**WHEREFORE**, the Board of Commissioners hereby resolves to amend the following provisions of Board Resolution No. 765, Series of 2004: **\*\***

- 1.] Section 8 of Rule III, (COMMENCEMENT OF ACTION, SUMMONS AND ANSWER) is hereby amended to read as follows:

**"RULE III  
COMMENCEMENT OF ACTION,  
SUMMONS AND ANSWER**

**Section 8. Executory Nature of Decisions [of the Board en banc].** - The **opposition to** 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 decisions [of the Board en banc] on [such] contested applications shall be [final and] **IMMEDIATELY** executory.

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

\*\* New text in ALL CAPITAL LETTERS; text for deletion in [brackets]  
(n) New provision.  
(a) Existing provision amended

- 2.] Section 3 of Rule V, (DEFAULT) is hereby amended to read as follows:

**"RULE V  
DEFAULT**

**Section 3. Effect of order of Default.** – The Arbiter or Executive Committee, upon declaring a party in default shall direct the complainant to file WITHIN FIFTEEN (15) DAYS 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]. AFTER WHICH THE CASE SHALL BE DEEMED SUBMITTED FOR RESOLUTION. The party declared in default shall be entitled to a notice of subsequent proceedings [but not take part in submitting position papers, or such clarificatory hearings or examination of records] as the arbiter may require BUT SHALL NOT TAKE PART THEREIN.

Where the order of default is lifted, the answer shall be admitted and the Arbiter shall THEN order the respondent to file his position paper and draft decision TOGETHER WITH ALL SUPPORTING EVIDENCE WITHIN FIFTEEN (15) DAYS. Thereafter, the case shall be submitted for resolution. (a)"

- 3.] Section 8 of Rule VI, **ELECTION CONTEST** is hereby amended to read as:

**"RULE VI  
ELECTION CONTEST**

**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 other evidence on record]. AFTER THE ISSUES HAVE BEEN JOINED AND THE MEDIATION TERMINATED, THE ARBITER SHALL REQUIRE THE PARTIES TO SUBMIT THEIR RESPECTIVE POSITION PAPERS, DOCUMENTARY AND OTHER EVIDENCE AS WELL AS DRAFT DECISION, WITHIN FIFTEEN (15) DAYS, AFTER WHICH THE CASE SHALL BE DEEMED SUBMITTED FOR RESOLUTION. (a)"

- 4.] Section 9 of this rule (RULE VI, ELECTION CONTEST) is hereby deleted.
- 5.] Section 7 of Rule VIII, (INSPECTION OF BOOKS AND RECORD OF THE ASSOCIATION) is hereby amended to read as follows:

**"RULE VII  
INSPECTION OF BOOKS AND  
RECORDS OF THE ASSOCIATION**

**Section 7. Decision** – [The Arbiter, with the approval of the Regional Officer, shall render a decision based on the pleadings, affidavits and documentary and other evidence attached thereto within thirty (30) days from receipt of the last pleading. A decision ordering the respondent to allow the inspection of books and records and/or to furnish copies thereof shall also order the complainant to deposit the estimated cost of the manpower necessary to produce the books and records and the cost of copying, and state, in clear and categorical terms, an limitations and conditions to the exercise of the right allowed or enforced.] AFTER THE ISSUES HAVE BEEN JOINED AND THE MEDIATION TERMINATED, THE ARBITER SHALL REQUIRE THE PARTIES TO SUBMIT THEIR RESPECTIVE POSITION PAPERS, DOCUMENTARY AND OTHER EVIDENCE, AS WELL AS DRAFT DECISION, WITHIN FIFTEEN (15) DAYS, AFTER WHICH THE CASE WILL BE DEEMED SUBMITTED FOR RESOLUTION. (a)"

6.] Rule IX (MANAGEMENT COMMITTEE), is hereby deleted in its entirety:

7.] Section I of Rule XI, (CEASE AND DESIST ORDER) is hereby amended to read as follows:

**"Rule XI  
CEASE AND DESIST ORDER**

**Section 1. Temporary Restraining Order.** – Within five (5) days from receipt of a complaint with prayer for a temporary restraining order, the Arbiter may, upon consideration of the merits of the complaint [immediately issue a temporary restraining order valid only for twenty (20) days from the date of receipt of the order by the adverse party.] AND WITH THE APPROVAL OF THE REGIONAL OFFICER, RECOMMEND TO THE BOARD OF COMMISSIONERS, THE ISSUANCE OF A TEMPORARY RESTRAINING ORDER, VALID ONLY FOR TWENTY (20) DAYS, AND SHALL ELEVATE THE RECORDS OF THE CASE TO THE BOARD OF COMMISSIONERS, WHICH WILL RESOLVE THE INCIDENT.

The Order granting Temporary Restraining Order shall [already] state the DATE OF hearing [for a] ON THE Cease and Desist Order, which shall be within three (3) days from the date of issuance of said order. For this purpose, the [Arbiter] movant may be authorized to personally serve the said order. (a)"

8.] Section 2 of Rule XI, (CEASE AND DESIST ORDER) is hereby amended to read as follows:

**Section 2. Cease and Desist Order** – After said hearing, the [Arbiter] BOARD OF COMMISSIONERS shall [immediately] resolve the prayer for cease and desist order. No cease and desist order shall be granted unless it is established that:

(a) The movant 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) The commission or continuance of such act complained of during litigation, would [probably work injustice or] cause grave and irreparable injury to the movant; or

(c) The adverse party is doing, threatening or is about to do, or is procuring to be done, some act probably in violation of existing laws under / or regulation being implemented by this Board, or of movant's rights respecting the subject of the action tending to render the judgment ineffectual.

If the prayer for the issuance of a cease and desist order is granted, the [Arbiter shall] BOARD may require the movant to file [with the Regional Office,] a bond [executed in favor of the party enjoined in an amount to be determined by the Arbiter or the Executive Committee to the effect that the movant will pay to such party all damages which he] TO ANSWER FOR WHATEVER DAMAGES THAT THE ADVERSE PARTY may sustain by reason of the [injunction, if the Arbiter should finally] ORDER IF IT LATER BE decided that the movant is not entitled [thereto] to the relief. (a)"

9.] Section 1 (e) and section 2 (e) of Rule XII, (POWERS OF THE ARBITER AND THE REGIONAL OFFICER) are hereby deleted."

**"RULE XII  
POWERS OF THE ARBITER AND  
THE REGIONAL OFFICER**

**Section 1 [(e). Cease and Desist Order.** – Subject to paragraph A of this section, to issue cease and desist order and temporary restraining order in accordance with Rules XI of these rules, and such other similar ancillary writs and orders;]

**Section 2 [(e). Powers of the Regional Officer.** – To Issue cease and desist order, temporary restraining order, and such other similar ancillary writs and order"]

10.] The last paragraph of Section 4 Rule XIII, (INHIBITION OF THE ARBITER AND/OR REGIONAL OFFICER) is hereby deleted:

**Rule XIII  
INHIBITION OF THE ARBITER  
AND/OR REGIONAL OFFICER**

**Section 4. Signatory or case assignment in case of inhibition of Arbitrator or Regional Officer.** – In case the Arbitrator or Regional Officer inhibits himself from adjudicating a case, the same shall be assigned by raffle to another Arbitrator. In the Absence thereof, the records of the case shall be transmitted to the Director of the Legal Services Group (LSG) who shall assign the case by raffle to an Arbitrator therein.

In case the Regional Officer inhibits or disqualifies himself from adjudicating a case, the records thereof shall be transmitted to the Legal Services Group (LSG) for further proceedings and resolution.

[Where the Director for Legal Services Group acts as Arbitrator on a case, his decision shall be approved by the Supervising Commissioner]. (a)"

11.] Section 1 (c) Rule XIV, (PROCEDURE IN REGIONAL OFFICES WITHOUT ARBITER) is hereby amended to read as follows:

**"RULE XIV  
PROCEDURE IN REGIONAL OFFICES  
WITHOUT ARBITER**

**Section 1 (c).** *Procedure in regions without Arbitrator.* - The case shall be raffled by the LSG Director to an Arbitrator in the Legal Services Group for the preparation of the decision or resolution. The arbitrator shall sign said decision or resolution and the same shall be subject to the approval of the Director of the Legal Services Group."

**12.]** Section 1 Rule XVI, (APPEAL TO THE BOARD) is hereby amended to read as follows:

**"RULE XVI  
APPEAL TO THE BOARD**

**Section 1.** *Appeal Memorandum.* - Any party aggrieved by the decision of the Regional Officer, on any legal ground and upon payment of the appeal fee, may appeal by filing with the Regional Office a verified appeal memorandum in three (3) copies within FIFTEEN (15) days from receipt thereof.

**Section 3.** *Counter Memorandum.* - Upon receipt of a copy of the appellant's Memorandum and without waiting for any separate Order from the Board, the appellee shall file three (3) copies of a Counter Memorandum with the Board of Commissioners within an inextendible period of FIFTEEN (15) days from receipt of appellant's Memorandum, with proof of service to the appellant.

**13.]** Section 1 Rule XIX, (INCIDENTAL PROCEEDINGS AND REMEDIES) is hereby amended to read as follows:

**"Rule XIX  
INCIDENTAL PROCEEDINGS AND REMEDIES**

**Section 1.** *Ancillary remedies pending appeal.* - Pending resolution of the case [sought to be reviewed by the Board of Commissioners, the Board may, *motu proprio* or upon motion by either party, issue a cease and desist order, special orders to perform, order of execution pending appeal, or such other ancillary writs], THE BOARD MAY ALSO CALL THE PARTIES TO MEDIATION. (a)"

- 14.] Section 1 Rule XX, (SUBMISSION AND RESOLUTION) is hereby amended to read as follows:

**"RULE XX  
SUBMISSION AND RESOLUTION**

**Section 1. Submission of draft decision. –**

THE PARTIES SHALL SUBMIT THEIR DRAFT DECISION WITHIN THE SAME PERIOD FOR THE FILING OF APPEAL MEMORANDUM OR COUNTER MEMORANDUM, IN ACCORDANCE WITH THE PROVISIONS OF EXECUTIVE ORDER NO. 26, SERIES OF 1992. (a)

- 15.] Section 1 of Rule XXI, (MOTION FOR RECONSIDERATION AND APPEAL FROM BOARD DECISIONS) is hereby amended to read as follows:

**"RULE XXI  
MOTION FOR RECONSIDERATION  
AND APPEAL FROM BOARD DECISIONS**

**Section 1. Motion for reconsideration. –** Within five (5) days from receipt of the decision, order or ruling of the Board of Commissioners, any aggrieved party may file a motion for reconsideration, with proof of service to the other party, only on the following grounds:

- (a) Serious errors of law which would result in grave injustice if not corrected; or
- (b) Newly discovered evidence.

Only one (1) motion for reconsideration shall be entertained.

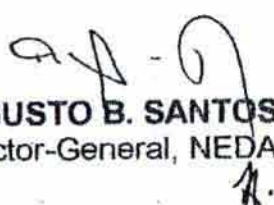
Any opposition/ comment to the motion for reconsideration shall be filed within an inextendible period of five (5) days from receipt of a copy of said motion.

The motion for reconsideration shall be assigned to the division from which the decision, order or ruling originated.

APPROVED, this 21st day of July 2008, Pasay City.



**THE HONORABLE NOLI L. DE CASTRO**  
Vice-President of the Philippines & HUDCC Chairman




**AUGUSTO B. SANTOS**  
Director-General, NEDA



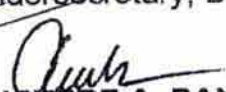
**ROMULO Q. FABUL**  
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Commissioner




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**JESUS YAP PANG**  
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**JOEL T. JACOB**  
DPWH



**ARTURO M. DUBLADO**  
Commissioner

Attested:



**CHARITO B. MANSANG**  
Board Secretary