

Board of Commissioners

**RESOLUTION NO. 770
Series of 2004**

**FRAMEWORK FOR GOVERNANCE
OF HOMEOWNERS ASSOCIATIONS**

WHEREAS, pursuant to Executive Order No. 648, series of 1981, as amended, in relation to Republic Act No. 8763, Executive Order No. 535 series of 1979, and Presidential Decree No. 902-A, the Housing and Land Use Regulatory Board (HLURB) is charged with the regulation and supervision of the activities and operations of homeowners associations;

WHEREAS, there is a need to highlight the basic roles, powers and responsibilities of a homeowners association and its officers and members under existing laws and regulations;

WHEREAS, there is also a need to promote and operationalize the best practices and norms of good governance in the management of a homeowners association;

WHEREAS, the active and enlightened management of the affairs of a homeowners association will enhance the delivery of basic services to and promote the general welfare of its members;

NOW THEREFORE the HLURB, after a nationwide consultation with homeowners associations and concerned stakeholders hereby adopts the following Framework for the Governance of Homeowners Associations.

I. PRELIMINARY PROVISIONS

Section 1. *Definition of terms.* - Unless the context provides otherwise, the following terms shall be interpreted to mean as follows:

- a. “Association” refers to a homeowners association that is registered with the HLURB, or one previously registered with the Home Insurance Guaranty Corporation (now Home Guaranty Corporation) or the Securities and Exchange Commission (SEC) in accordance with law and shall include:
 - i. homeowner and lot owner/buyer in a subdivision project within the purview of P.D. No. 957 and related laws;
 - ii. an awardee, a lessee, and an occupant in a private or government housing or relocation project and other urban estates;
 - iii. an informal settler in the process of being accredited as beneficiary or awardee of ownership rights under the Community Mortgage Program, Land Tenure Assistance and other similar programs;
- b. “Board” refers to the board of directors or trustees of an Association that exercises, as a collegial body, all the powers, duties and responsibilities relating to the administration, management and operation of an Association; and
- c. “Director” shall refer to a member of a board.

Sec. 2. *Registration.* – An Association shall register with the HLURB in order to acquire juridical personality.

The officers or members of an unregistered association, or an unincorporated group of homeowners representing themselves as an association, or exercising the essential characteristics, rights and privileges of an Association, shall be personally liable for the obligations and liabilities that may be incurred by the *de facto* association.

Sec. 3. *General principles.* – An Association should –

- a. endeavor to serve the interest of its members through equity of access in the decision-making process, transparency and accountability, and the promotion of security in their living environment;
- b. establish its vision, define and periodically assess its mission, policies, and objectives and the means to attain the same; and
- c. without abandoning its non-partisan character:

- i. actively cooperate with local government units and national government agencies, in furtherance of its common goals and activities for the benefit of the residents inside and outside of the subdivision; and
- ii. complement, support and strengthen local government units and national government agencies in providing vital services to its members and in helping implement local government policies, programs, ordinances, and rules.

II. ASSOCIATION MEMBERS

Sec. 4. *Qualification of members.* - Unless otherwise provided in the by-laws, a member of an Association should either be:

- a. a homeowner, lot owner and lot buyer, or a mortgagee who becomes an owner by virtue of foreclosure of mortgage and consolidation of title in his name;
- b. a lessee under a contract with a term of at least three (3) years, in lieu of the owner of the leased property, if allowed in writing to be a member by said owner. However, where the Association dues are imposed other than on a per lot basis and both the owner and lessee pay said dues, both may qualify as members;
- c. an occupant by virtue of a subsisting usufruct in writing granted by the owner;
- d. a beneficiary or awardee under the Community Mortgage Program/Self-Help Land Acquisition Program/Group Land Acquisition Development Projects who is included in the registry of beneficiaries of the government financing institution concerned or its equivalent organization in the private sector; or
- e. the developer of the subdivision project who holds title to unsold lots or units.

Sec. 5. *Nature of membership.* - Membership in an Association should be voluntary unless –

- a. the same is required under the deed restrictions annotated on the title of the property;
- b. is stipulated under the contract for the purchase of a lot in the subdivision project; or
- c. is a requirement for an award under a Community Mortgage Program project or similar tenurial arrangement.

Sec. 6. *Rights of members.* - The members of an Association shall have the following rights:

- a. to vote in person or by proxy;
- b. to inspect Association books and records during office hours and to be provided with annual reports, including financial statements;
- c. to avail of all the services and facilities of the Association; and
- d. to enjoy all other rights as may be provided in the Association by-laws.

Sec. 7. *Duties of members.* – A member shall have the following duties:

- a. to pay membership fees and dues and special assessments;
- b. to attend meetings of the Association;
- c. to support and participate in projects and activities of the Association; and
- d. to comply with all other duties as required by the Association by-laws, rules and regulations.

Non-compliance with any of the foregoing duties may be a ground for the imposition of sanctions against a member in accordance with the by laws.

Sec. 8. *Delinquent member.* - The board should establish guidelines and procedures in determining who is a delinquent member i.e. “member not in good standing,” and to prescribe the administrative sanctions against such member.

Sec. 9. *Due process.* - The right to due process should be observed in cases where administrative sanctions are imposed on a delinquent member.

III. BOARD

Sec. 10. *Composition of the board.* – The board shall be composed of at least five (5) but not more than fifteen (15) elected members of the Association.

In no case shall lessees, occupants or developers as mentioned in Section 4 hereof constitute a majority of the board.

Sec. 11. *Size of board.* - The board should examine or re-examine the number of its directors with a view to determining the impact thereof upon its effectiveness and to decide on what it considers as an appropriate size for the board that will facilitate effective decision-making.

Sec. 12. *Duties of the board.* - The Board shall have the following duties and responsibilities:

- a. to prepare an annual program of activities and the corresponding budget, and identify sources of funding for the same;
- b. to adopt a uniform accounting system in the recording and preparation of its financial records, books and statements conforming to generally accepted principles of accounting and auditing and the standard form prescribed by HLURB;
- c. to adopt a system of internal checks and balances to safeguard the integrity of the operations of the Association;
- d. to have a working knowledge of the statutory and regulatory requirements affecting the Association;
- e. to institute and sustain continuing education on collective organization and mobilization of membership for the attainment of common goals; and
- f. to exercise such other powers as may be necessary and proper for the enforcement of the by-laws of the Association.

Sec. 13. *Imposition of toll, fees and bonds.* - The board may require the members and non-members of the Association to pay a toll, fee or to post a bond for the use of roads and other facilities of the Association, the amount of which shall be approved by the general membership as being necessary to defray the cost of the operation and maintenance thereof: Provided, that the said roads and other subdivision facilities are being maintained by the Association.

Sec. 14. *Business of board.* - The board should not engage in any business other than those that are incidental to the operations of the Association and should exercise its authority within the bounds of its articles of incorporation, by-laws and other existing laws, rules and regulations.

Sec. 15. *Matters for board decision.* - The board should have a formal schedule of matters specifically reserved to it for decision.

Sec. 16. *Independent board.* - There should be a strong element in the board that is able to exercise objective judgment on Association affairs

independently of its officers. No individual or small group of individuals should be allowed to dominate the Board's decision-making activities.

Sec. 17. *Performance assessment.* - There should be a formal assessment by the Board of its effectiveness as a whole and the contribution of each director thereto.

IV. BOARD MEETINGS

Sec. 18. *Board meetings.* - The board should meet regularly and whenever particular circumstances warrant as determined by its members.

Sec. 19. *Rules on meetings.* - The board should adopt rules to govern its meetings.

Sec. 20. *Regular board meetings.* - The board shall hold its regular meetings in accordance with the schedule set forth in the by-laws.

Sec. 21. *Personal attendance.* - A director should attend all board meetings in person. He may not attend or vote by proxy at board meetings.

Sec. 22. *Special board meetings.* - Special board meetings may be called by its chairperson or by majority of the directors of the board.

Sec. 23. *Quorum in board meetings.* - Unless the articles of incorporation or the by-laws provide otherwise, a majority of the number of directors as fixed in the articles of incorporation shall constitute a quorum for the transaction of Association business. Every decision of at least a majority of the directors present at a meeting at which there is a quorum shall be valid as a corporate act, except for the election of officers, which shall require the vote of a majority of all the members of the board.

Sec. 24. *Number of board meetings.* - The number of board meetings held in a year, as well as the attendance of every board member at those meetings and meetings of special committees established by the board, should be disclosed in the Association's annual report.

V. GENERAL MEMBERSHIP MEETINGS

Sec. 25. *Regular meetings.* - The regular meetings of members shall be held at least annually on the date fixed in the by-laws. Written notice of regular meetings, including the agenda, shall be sent to all members at least

two (2) weeks prior to the meeting unless a different period is required by the by-laws.

Sec. 26. *Special meetings.* – The board may call special membership meetings at any time whenever it is deemed necessary, or as provided in the by-laws. A written notice, including the agenda shall be sent to all members at least one (1) week before the scheduled meeting, unless otherwise provided in the by-laws.

Sec. 27. *Quorum.* – A quorum in general membership meetings shall consist of the majority of the members, unless otherwise provided for in the by-laws.

In the election of directors and officers, the by-laws may provide that only members of good standing shall be considered in determining a quorum.

Sec. 28. *Voting by proxy.* - Members may vote in person or by proxy in all meetings of the Association.

Sec. 29. *Form of proxy.* – Proxies shall be in writing and signed by the member. It shall be filed with the Association secretary before the scheduled meeting and duly validated in accordance with the by-laws.

Sec. 30. *Validity of Proxy.* - Unless otherwise provided in the proxy or in the by-laws, the proxy shall be valid only for the date of the meeting for which it is intended. No proxy shall be valid and effective for a period of more than five (5) years.

Direct member participation in Association affairs shall be encouraged and voting by proxy should not be allowed to enable an individual or group of individuals to subvert the true will of the members or to dominate the activities of the Association.

Sec. 31. *Voting by mail.* - Voting by mail or other similar means by members of the Association may be authorized under such conditions as may be prescribed in the by-laws.

Sec. 32. *Voting rights in membership meetings.* A member, regardless of his standing, shall be entitled to vote on the following matters:

- a. amendment of the articles of incorporation;

- b. delegation to the Board of the power to amend or repeal the by-laws or adopt new by-laws;
- c. sale, lease, exchange, mortgage, pledge or other disposition of all or substantially all of the Association properties;
- d. incurring, creating or increasing bonded indebtedness;
- e. increase or decrease of members' equity;
- f. merger or consolidation of the Association with another Association, membership in or disaffiliation from a federation, and segregation from the Association;
- g. use of Association funds in projects not otherwise included in the regular or approved program of activities and expenditures;
- h. ratification of adverse interest or business transactions by directors as provided for under this Framework;
- i. extension or shortening of the term of existence of the Association; and
- j. dissolution of the Association.

A vote of at least two-thirds (2/3) of the general membership shall be necessary for the approval of the corporate acts enumerated above.

VI. DIRECTORS

Sec. 33. *Competence of director.* - The board should be composed of directors who, as a group, provide competencies that are required by the Association, such as accounting or finance and business or management experience.

Sec. 34. *Independence of directors.* - A majority of the directors should be free from any business or other relationship that could materially interfere with the exercise of their independent judgment.

Directors who are lessees, occupants or developers as provided in Section 4 hereof should not constitute a majority of the board.

Sec. 35. *Disclosure of relationship of directors and officers.* - The board should disclose the relationship between the directors and officers whenever they are related to each other by blood or marriage.

Sec. 36. *Briefing of directors.* - The chairman of the board should ensure that all directors are properly briefed on issues arising at board meetings.

VII. OFFICERS

Sec. 37. *Association officers.* - Unless otherwise provided in the by-laws, an Association should 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.

Sec. 38. *Division of responsibilities.* - There should be a clear division of responsibilities of the officers of the Association so as to maintain a balance of power and authority, such that no one individual or group has unfettered powers of decision.

Sec. 39. *Secretary.* - The secretary of the Association shall be responsible to the board for ensuring that board procedures are followed and that applicable rules and regulations are complied with. All directors should have access to the advice and services of the Secretary.

Sec. 40. *Removal of Secretary.* - Any question of the removal of the Association secretary should be a matter for the board to decide as a whole.

VIII. SPECIAL COMMITTEES

Sec. 41. *Grievance Committee.* - The board should constitute a Grievance Committee that shall resolve disputes between and among members of the association or the board; or between members of the Association and the board or any of its members and officers.

Sec. 42. *Audit Committee.* - The board should establish an Audit committee that shall review the accounts and physically examine the books and assets of the Association. A director and the internal auditor of the Association may not sit as members of said committee.

Sec. 43. *Election Committee.* - The board should establish an independent body that shall prepare election guidelines and its mechanics in accordance with the by-laws, supervise all election activities of the Association, and resolve election contests at the Association level.

Sec. 44. *Membership in special committees.* - The members of the above committees shall be drawn from the membership of the Association.

Sec. 45. *Attendance of heads of special committees in meetings.* - When required to do so, the heads of the Grievance, Audit and Election committees should be present and available to answer questions at board or membership meetings. External auditors, if any, should be present in membership meetings to assist the directors in addressing any relevant queries by the members.

IX. CONFLICT OF INTEREST

Sec. 46. *Conflict of interest.* - The board should specify the instances where questions on conflict of interests may arise that would require the approval of the board or a percentage of the total membership of the Association.

Sec. 47. *Avoidance of conflict of interest.* - To avoid conflicts of interest and to ensure transparency in the management of the Association, a member or an officer should not enter into contracts with the Association for provision of services, unless all the following conditions are present:

- a. The presence of such director in the board meeting in which the contract was approved was not necessary to constitute a quorum for such meeting;
- b. The vote of such director was not necessary for the approval of the contract;
- c. The contract is fair and reasonable under the circumstances; and
- d. The board has previously authorized the contract.

However, when either condition (a) or (b) above is absent in the case of a contract involving a director, the contract may be ratified by the vote of the members representing at least two-thirds (2/3) of the total membership in a meeting called for the purpose. Full disclosure of the adverse interest of the directors involved should be made in such meeting.

X. TRANSPARENCY

Sec. 48. *Transparency.* - To promote transparency and consistent with the policy of full disclosure, the Association shall maintain such books and records as may be required under existing rules of the HLURB.

Sec. 49. *Posting of collections.* - The board shall account for all fees, tolls and bonds it may collect by regularly posting on the bulletin board of

the Association a report of its income and expenditures, or by regularly disseminating said information through other means.

Sec. 50. *Association funds.* - The funds of the Association should be kept and deposited in bank accounts in the name of the association and shall not be joined or commingled with the fund of any other director, officer, or any other person, or Association.

Sec. 51. *Reporting of compensation.* - The annual report of the Association should contain details of the remuneration of each director.

Sec. 52. *Nomination procedure.* - There should be a formal and transparent procedure for the nomination of new board directors and officers of the Association.

Sec. 53. *Dialogue with members.* - The directors and officers should be ready, where practicable, to enter into a dialogue with Association members based on the understanding of mutual interests and objectives.

Sec. 54. *Disclosure of information.* - The officers should disclose, disseminate and make available to the members of the Association material information regarding its activities, transactions and operations.

XI. ELECTIONS

Sec. 55. *Regular elections.* – Regular elections shall be held annually, unless the by-laws provide otherwise.

Sec. 56. *Procedures and guidelines.* – The by-laws shall contain the general procedures for the conduct of elections, including the date and frequency thereof.

Sec. 57. *Referendum, recall, and other initiatives.* – The by-laws may provide for the procedure, manner and the votes required for the holding of a referendum, recall election, and other initiatives of the general membership.

Sec. 58. *Information on candidates for director or officer.* - The names of members submitted for election or re-election as a director or officer should be accompanied by sufficient biographical details to enable members to take an informed decision on his qualifications.

XII. PROVISIONS COMMON TO DIRECTORS AND OFFICERS

Sec. 59. *Conduct of directors and officers.* - The directors and the officers should act in the best interest of the Association in a manner characterized by transparency, accountability and fairness.

The directors and officers shall in all instances act on behalf of the Association and shall perform their duties with the utmost degree of diligence and loyalty required by their positions.

Sec. 60. *Qualifications.* – A director and officer of an Association shall have the following qualifications:

- a. of legal age;
- b. a member in good standing;
- c. 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.

Sec. 61. *Qualifications of Secretary.* – The Secretary of the Board shall have the same qualifications as an officer of an Association. In addition, he shall be a Filipino citizen.

Sec. 62. *Disqualifications.* – The by-laws should provide for reasonable disqualifications of candidates for director 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. the election of long-term lessees and developers as described in Section 4 hereof, to the positions of president, vice- president or treasurer of the Association, in that they lack permanent and compelling interests in the welfare of the Association as opposed to those of homeowners;
- b. the election of 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. the election of a member of the board or officer who has served for three consecutive terms immediately preceding the election, in order to encourage active participation and develop leadership capabilities of other equally qualified and interested members.

Sec. 63. *Training of directors and officers.* - The chairperson, directors and officers should be made aware of their specific duties and receive appropriate training when they are first elected.

Sec. 64. *Compensation.* - The directors and officers shall not receive any compensation except for reasonable per diems.

Sec. 65. *Holding of two posts in association.* - One person should not hold two posts in an Association at the same time. A member may not be president and secretary of the Association, or president and treasurer at the same time.

The posts of chairman and president in one person should be avoided.

Sec. 66. *Election of directors and officers.* - The directors and officers should stand for election every year.

Sec. 67. *Hold-over.* - Where there is failure to elect a new set of directors or officers, the incumbents should be allowed to continue in a holdover capacity until their successors are elected and qualified, subject to compliance with applicable HLURB Rules on the non-holding or postponement of regular or special elections.

Sec. 68. *Turnover of books by outgoing directors or 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 and records to the new set of directors or officers.

XIII. COMPLIANCE WITH FRAMEWORK

Sec. 69. *Registration of Association.* - An Association that intends to register as such under the HULRB “Rules on the Registration and Supervision of Homeowners Associations” shall submit by-laws that are consistent with the provisions of this Framework.

Sec. 70 *Enrolment of Association.* – An Association that was previously registered with the HIGC and/or the SEC, upon enrollment under the aforementioned “Rules on the Registration and Supervision of Homeowners Associations” shall commit itself to observe the basic rules, principles and best practices contained in this Framework.

XIV. FINAL PROVISIONS

Sec. 71 *Penalties for non-compliance.* – Failure to comply with any provision of this Framework shall be subject to the imposition of administrative sanctions or penalties as may be provided under the existing rules and regulations of the HLURB.

Sec. 72. *Separability Clause.* - If any section or portion of this Framework shall be found invalid or unenforceable, that finding shall not serve as an invalidation of, or affect the validity or enforceability of any other section or provision of the Framework.

Sec. 73. *Effectivity.* – This Framework shall take effect fifteen (15) days after its publication in a newspaper of general circulation.

Approved this 20th day of September 2004, Quezon City.

(SGD)THE HONORABLE NOLI L. DE CASTRO
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Attested:

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