

[REPUBLIC ACT NO. 9904, January 07, 2010]

AN ACT PROVIDING FOR A MAGNA CARTA FOR HOMEOWNERS AND HOMEOWNERS' ASSOCIATIONS, AND FOR OTHER PURPOSES

Be it enacted by the Senate and House of Representative of the Philippines in Congress assembled:

SECTION 1. *Title.* — This Act shall be known as the "Magna Carta for Homeowners' Associations".

SEC. 2. *Declaration of Policy.* — In fulfillment of the constitutional principles directing the State to encourage, promote and respect nongovernmental, community-based and people's organizations in serving their legitimate collective interests in our participatory democracy, it is hereby declared the policy of the State to uphold the rights of the people to form unions, associations, or societies, and to recognize and promote the rights and the roles of homeowners as individuals and as members of the society and of homeowners' associations. To this end, the State shall endeavor to make available resources and assistance that will help them fulfill their roles in serving the needs and interests of their communities, complementing the efforts of local government units (LGUs) in providing vital and basic services to our citizens, and in helping implement local and national government policies, programs, rules and ordinances for the development of the nation.

SEC. 3. *Definition of Terms.* — For purposes of this Act, the following terms shall mean:

- a. "Accounting period" refers to the fiscal or calendar year adopted by a homeowners' association in the recording and reporting of its fiscal transactions.
- b. "Association" refers to the homeowners' association which is a nonstock, nonprofit corporation registered with the Housing and Land Use Regulatory Board (HLURB), or one previously registered with the Home Insurance Guarantee Corporation (now Home Guaranty Corporation) or the Securities and Exchange Commission (SEC), organized by owners or purchasers of a lot in a subdivision/village or other residential real property located within the jurisdiction of the association; or awardees, usufructuaries, legal occupants and/or lessees of a housing unit and/or in a government socialized or economic housing or relocation project and other urban estates; or underprivileged and homeless citizens as defined under existing laws in the process of being accredited as usufructuaries or awardees of ownership rights under the Community Mortgage Program (CMP), Land Tenure Assistance

- Program (LTAP) and other similar programs in relation to a socialized housing project actually being implemented by the national government or the LGU.
- c. "Association member" refers to a homeowner who is a member of the association where his/her housing unit or lot is situated and those defined in the articles of incorporation and bylaws of the association.
 - d. "Basic community services and facilities" refer to services and facilities that redound to the benefit of all homeowners and from which, by reason of practicality, no homeowner may be excluded such as, but not limited to: security; street and vicinity lights; maintenance, repairs and cleaning of streets; garbage collection and disposal; and other similar services and facilities.
 - e. "Board" refers to the board of directors or trustees of the association which has primary authority to manage the affairs of the association.
 - f. "Common areas" refer to property owned or otherwise maintained, repaired or administered in whole or in part by the association including, but not limited to, roads, parks, playgrounds and open spaces as provided in Presidential Decree No. 1216.
 - g. "Common expense" refers to costs incurred by the association to exercise any of the powers provided for in this Act.
 - h. "Economic housing" refers to a type of housing project with lower interest rates and longer amortization periods provided to moderately low-income families, as defined under existing laws, rules and regulations.
 - i. "Governing document" refers to the articles of incorporation, bylaws, conditions, rules and regulations of the association, or other written instrument by which the association has the authority to exercise any of the powers provided for in this Act.
 - j. "Homeowner" refers to any of the following:
 - 1. An owner or purchaser of a lot in a subdivision/ village;
 - 2. An awardee, usufructuary, or legal occupant of a unit, house and/or lot in a government socialized or economic housing or relocation project and other urban estates; or
 - 3. An informal settler in the process of being accredited as beneficiary or awardee of ownership rights under the CMP, LTAP, and other similar programs.
 - k. "Residential real property" refers to any real property, the use of which is limited by law to primarily residential purposes.
 - l. "Simple majority" refers to fifty percent (50%) plus one (1) of the total number of association members.
 - m. "Socialized housing" refers to housing programs and projects covering houses and lots or home lots only undertaken by the government or the private sector for the underprivileged and homeless citizens which shall include sites and services development, long-term financing, liberalized terms on interest payments, and other benefits in accordance with the provisions of Republic Act No. 7279, otherwise known as the Urban Development and Housing Act of 1992 (UDHA).
 - n. "Subdivision/Village" refers to a tract or parcel of land partitioned into individual lots, with or without improvements thereon, primarily for residential purposes.

SEC. 4. *Registration with the BLURB.* — Every association of homeowners shall be required to register with the HLURB. This registration shall serve to grant juridical personality to all such associations that have not previously acquired the same by operation of the General Corporation Law or by any other general law.

The procedure for registration shall be specifically provided for in the implementing rules and regulations to be promulgated by the HLURB pursuant to Section 28 of this Act. Such procedure shall provide for an adjudicatory mechanism that will be observed in the event there is a dispute involving two (2) or more associations established within the same subdivision/village, community/area, or housing project seeking registration. In resolving this type of dispute, the BLURB shall take into account the date each association was legally established, the date of submission of its application for registration, the number of members, and other similar factors.

The existence of associations previously registered with the Home Insurance Guarantee Corporation or the SEC shall be respected, and the said associations shall not be charged a penalty when they register with the HLURB after this Act takes effect.

CHAPTER II

HOMEOWNERS

SEC. 5. *Rights and Duties of Every Homeowner.* — Every homeowner has the right to enjoy the basic community services and facilities: *Provided,* That he/she pays the necessary fees and other pertinent charges.

SEC. 6. *Qualification of a Member.* — A homeowner as defined under this Act shall be qualified to be a member of an association: *Provided, however,* That a lessee, usufructuary, or legal occupant shall have the right of a homeowner as set forth under this Act upon procurement of a written consent or authorization from the owner of the lot or housing unit.

Until such consent or authorization is revoked in writing, the owner of the lot or housing unit is deemed to have waived his/her rights enumerated under Section 7 of this Act, except subsection (b) of the same section which can be simultaneously enjoyed by both the owner and the lessee.

For purposes of this Act, the lessee authorized in accordance with this section shall qualify as a member with all the rights enumerated in this Act, including the duties and obligations enumerated under Sections 7, 8 and 9 hereof: *Provided, further,* That lessees in government socialized housing projects or urban estates and those in communities of underprivileged and homeless citizens covered under the term under Section 3 of this Act will be considered as homeowners for the purpose of qualifying as a member of a homeowners' association without need of such written consent or authorization.

SEC. 7. *Rights of a Member.* — An association member has full rights:

- a. to avail of and enjoy all basic community services and the use of common areas and facilities;
- b. to inspect association books and records during office hours and to be provided upon request with annual reports, including financial statements;
- c. to participate, vote and be eligible for any elective or appointive office of the association subject to the qualifications as provided for in the bylaws;
- d. to demand and promptly receive deposits required by the association as soon as the condition for the deposit has been complied with or the period has expired;
- e. to participate in association meetings, elections and referenda, as long as his/her bona fide membership subsists; and
- f. to enjoy all other rights as may be provided for in the association bylaws.

SEC. 8. *Duties of a Member.* — A member shall have the following duties:

- a. to pay membership fees, dues and special assessments;
- b. to attend meetings of the association; and
- c. to support and participate in projects and activities of the association.

SEC. 9. *Delinquent Member.* — The bylaws shall provide for guidelines and procedures in determining who is a delinquent member, or a member not in good standing, and to prescribe the administrative sanctions to be imposed on such member. The right to due process shall be observed in cases where administrative sanctions are imposed on a delinquent member.

CHAPTER III

HOMEOWNERS' ASSOCIATION

SEC. 10. *Rights and Powers of the Association.* — An association shall have the following rights and shall exercise the following powers:

- a. Subject to consultation and with the approval of a simple majority of the members, adopt and amend the articles of incorporation and bylaws, rules and regulations, pursuant to existing laws and regulations;
- b. In behalf of its members, institute, defend, or intervene in litigation and/or administrative proceedings affecting the welfare of the association and the subdivision/village as a whole, excluding, however, disputes that are not the responsibility of the association;
- c. Regulate the use, maintenance, repair, replacement and modification of common areas and cause additional improvements to be made part of the common areas: *Provided*, That the aforementioned do not contradict the provisions of the approved subdivision plan;
- d. Regulate access to, or passage through the subdivision/village roads for purposes of preserving privacy, tranquility, internal security, safety and traffic order: *Provided*, That: (1) public consultations are held; (2) existing laws and regulations are met; (3) the authority of the concerned government agencies

- or units are obtained; and (4) the appropriate and necessary memoranda of agreement are executed among the concerned parties;
- e. Hire, discharge or contract managing agents and other employees, agents and independent contractors to ensure the full functioning and operation of the association;
 - f. Subject to consultation with and the approval of a simple majority of the association members, acquire, hold, encumber and convey in its own name any right, title to or interest in real or personal property: *Provided*, That such approval of a simple majority of the association members shall not be required for the acquisition, holding, encumbrance and conveyance of personal properties in amounts not exceeding ten percent (10%) of the association's cash holdings for its use in the course of its normal operations;
 - g. Ensure the availability of quality water services at a reasonable price and, at its option, administer and manage the waterworks system of the subdivision;
 - h. Upon consultation, grant easements, leases, concessions and authority to use common areas and petition for or consent to the vacation of streets and alleys: *Provided*, That the said grant of easements, leases, concessions and authority shall not be applicable to access roads, main interconnecting roads, alleys and sidewalks within the subdivision;
 - i. Impose or collect reasonable fees for the use of open spaces, facilities, and services of the association to defray necessary operational expenses, subject to the limitations and conditions imposed under the law, the regulations of the board and the association's bylaws;
 - j. Cause compliance with regard to height regulations, easements, use of homes, buildings, edifices, or structures that may be built within the subdivision, in accordance with the National Building Code, zoning laws, HLURB rules and regulations, existing local ordinances, and existing deeds of restriction;
 - k. Subject to consultation and with the approval of a simple majority of the association members, allow the establishment of certain institutions such as, but not limited to, schools, hospitals, markets, grocery stores and other similar establishments that will necessarily affect the character of the subdivision/village in terms of traffic generation, and/or opening the area to outsiders which may result in the loss of privacy, security, safety, and tranquility to its residents, in accordance with the National Building Code, zoning laws, existing local ordinances, HLURB rules and regulations, and existing jurisprudence: *Provided*, That such prior approval shall not be necessary for the establishment of sari-sari stores, home industries and similar small-scale business enterprises within the subdivision/village classified as socialized housing;
 - l. Suspend privileges of and services to and/or impose sanctions upon its members for violations and/or noncompliance with the association's bylaws, and rules and regulations;
 - m. Petition for the creation of a separate barangay, independently or together with neighboring subdivisions: *Provided*, That all the requirements of the Local Government Code of 1991 are met; and
 - n. Exercise any other powers conferred by the bylaws and the HLURB necessary for the governance and operation of the association.

SEC. 11. *Board of Directors or Trustees.* — The bylaws of the association shall provide for the qualifications and number of the directors or trustees that will comprise the board.