

**[HLURB BOARD OF COMMISSIONERS
RESOLUTION NO. 818 S. 2008, July 21, 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)"

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 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 I (e) and section 2 (e) of Rule XII, (POWERS OF THE ARBITER AND THE REGIONAL OFFICER) are hereby deleted:”