

[HLURB RESOLUTION NO. 802, S. 2007, February 26, 2007]

AMENDING RULES III AND X OF THE 2004 RULES OF PROCEDURE TO INCORPORATE RULES ON MEDIATION

WHEREAS, Republic Act No. 9285, otherwise known as the *Alternative Dispute Resolution (ADR) Act of 2004*, declares it the policy of the State to actively promote party autonomy in the resolution of disputes and encourage the use of ADR as a means to speedy and impartial justice;

WHEREAS, Executive Order No. 523 Series of 2005, *Instituting the Use of Alternative Dispute Resolution in the Executive Department*, mandates the offices under the Office of the President to develop and institutionalize an ADR Program;

WHEREAS, there is a need to incorporate the mediation process in the Rules of Procedure of this Board;

WHEREAS, consistent with the thrust of ADR; there is also a need to strengthen the internal grievance mechanism in homeowners associations;

WHEREFORE, BE IT RESOLVED AS IT IS HEREBY RESOLVED, that the Rules of Procedure of this Board be amended as follows: **

(1) Sections 1 and 2 of Rule III, (COMMENCEMENT OF ACTION, SUMMONS AND ANSWER) are hereby amended to read as:

"RULE III
COMMENCEMENT OF ACTION,
SUMMONS AND ANSWER

Section 1. *When action is deemed commenced.* -An action is deemed commenced upon the filing of a verified complaint with the Regional Office of the Board, in three (3) copies and in such number of copies as there are respondents, with supporting documents. THE FOLLOWING SHALL BE ATTACHED TO THE COMPLAINT UPON FILING:

- A. PROOF OF PAYMENT FEES
- B. VERIFICATION
- C. A certification of non-forum shopping which complies with Supreme Court Circular No. 28-91, as amended [shall be attached to the complaint.]
- D. IN HOMEOWNERS ASSOCIATIONS CASES, A CERTIFICATION ISSUED BY THE CHAIRMAN OF THE ELECTION COMMITTEE IN CASES INVOLVING ELECTIONS, GRIEVANCE COMMITTEE, OR ANY OTHER COMMITTEE - CONSTITUTED TO RESOLVE THE MATTER IN CONTROVERSY AT THE

ASSOCIATION LEVEL, STATING UNDER OATH THAT THE PARTIES HAVE BEEN INVITED TO PARTICIPATE IN PROCEEDINGS TO SETTLE THE DISPUTE BUT THAT NO AMICABLE SETTLEMENT WAS REACHED.

NON-COMPLIANCE WITH ANY OF THE ABOVE REQUIREMENTS SHALL BE A GROUND FOR DISMISSAL OF THE COMPLAINT, (a)" (2) Rule X of the present rules (Conciliation Conference and Resolution) is hereby amended as follows:

"RULE X
[CONCILIATION] MEDIATION, [CLARIFICATORY CONFERENCE] AND RESOLUTION

SECTION 1. MANDATORY MEDIATION. -THE CONDUCT OF MEDIATION IN ADVERSARIAL CASES FILED BEFORE THE REGIONAL OFFICES IS MANDATORY. HOWEVER, MEDIATION SHALL STILL BE AVAILABLE AT ANY STAGE OF THE ADJUDICATION PROCEEDINGS, EVEN ON APPEAL AND EXECUTION, PRIOR TO THE FULL IMPLEMENTATION OF THE DECISION, UPON THE REQUEST OF BOTH PARTIES, (n)

SECTION 2. CONFIDENTIALITY OF MEDIATION PROCEEDINGS. -ALL INFORMATION OBTAINED DURING THE MEDIATION PROCEEDINGS SHALL BE CONFIDENTIAL. SUCH CONFIDENTIALITY SHALL BE GOVERNED BY SECTIONS 9, 10, 11 AND 12 OF REPUBLIC ACT NO. 9285. (n)

Section [1] 3. MEDIATION [conciliation] conference. - Upon receipt of the answer, the Arbitrator shall summon the parties to a MEDIATION [conciliation] conference [to explore the possibility of an amicable settlement] AND THEREAFTER ENDORSE THE CASE TO THE MEDIATION UNIT FOR ASSIGNMENT TO A MEDIATOR. (a)

SECTION 4. ROLE OF THE MEDIATOR. - PRIOR TO THE CONDUCT OF THE PROCEEDINGS, THE MEDIATOR SHALL EXPLAIN TO THE PARTIES THE OBJECTIVES, NATURE AND RULES OF THE MEDIATION PROCESS AND, UPON THE PARTIES' AGREEMENT TO SUBMIT TO THE SAME, PROCEED TO FACILITATE COMMUNICATION AND NEGOTIATION IN ORDER TO ASSIST THE PARTIES IN REACHING A VOLUNTARY AGREEMENT REGARDING THEIR DISPUTE, (n)

SECTION [2] 5. APPEARANCE OF PARTIES MANDATORY. - THE APPEARANCE OF PARTIES IN THE MEDIATION PROCEEDINGS IS MANDATORY. In case the parties CANNOT BE [are not] personally present, their representative [or counsel] shall be clothed with the proper special power of attorney or board resolution, as the case may be, WITH FULL POWER to enter into a COMPROMISE AGREEMENT OR settlement. Such authority shall be presented before the commencement of the MEDIATION proceedings, (a)

Section [2] 6. Effect of non-appearance in MEDIATION [conciliation] conference. - Where a party fails [or refuses] to appear PERSONALLY OR THROUGH A REPRESENTATIVE during the scheduled MEDIATION [conciliation] conference, the party present may move for termination of the conference AND CONTINUATION OF THE PROCEEDINGS BEFORE THE