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CHAMBER OF REAL ESTATE & BUILDERS' ASSOCIATIONS, INC.

## **PROPOSED REVISIONS**

*(in blue font)*

DEPARTMENT ORDER NO. \_\_\_\_\_  
Series of 2021

~~REMOVAL OF THE ANNOTATION REQUIREMENT ON THE TITLES OF SOCIALIZED HOUSING PROJECTS UNDER BP 220 (AMENDING CERTAIN PORTIONS OF HLURB BOARD RESOLUTION NO. 965, SERIES OF 2017, AND MEMORANDUM CIRCULAR NO. 9, SERIES OF 2018)~~ **AMENDING HLURB BOARD RESOLUTION NO. 965, SERIES OF 2017, AND MEMORANDUM CIRCULAR NO. 9, SERIES OF 2018 BY DISPENSING WITH THE REQUIREMENT FOR ANNOTATION OF TITLES OF SOCIALIZED HOUSING PROJECTS.**

WHEREAS, a significant number of subdivision and condominium developer groups have brought to the attention of the Department the considerable impact to the real estate industry of the requirement of annotation on the titles (OCTs, TCTs and CCTs) of socialized housing and socialized condominium projects which are utilized for purposes of compliance with Section 18 of Republic Act No. 7279, as amended by Republic Act No. 10884;

WHEREAS, instead of realizing the purpose/s for which the annotation requirement on the titles of socialized housing and socialized condominium projects has been prescribed, provision of decent and affordable housing to the underprivileged and the homeless has been compromised, by reason of the unavoidable cost of the annotation to the owner and/or developer which would be eventually passed on to the buyers, not to mention the additional amount of time, documentations, and expenses before the titles are recorded by the Office of the Register of Deeds with the requisite annotations;

WHEREAS, to streamline and simplify the process of compliance with the aforementioned laws on socialized housing programs and in accordance with Republic Act No. 11032 or "The Ease of Doing Business and Efficient Government Delivery Act", it is imperative for the Department to eliminate unwarranted and unnecessary requirements which do not find basis in the law and which would improve and hasten delivery of public service. However, the Department should also see to it that there is proper and consistent observance of its mandate so as not to render ineffective its powers and functions.

~~THEREFORE, pursuant to the foregoing, the following rules are hereby issued and ordered:~~  
**WHEREFORE, premises considered, the following are hereby ordered:**

~~Section 1. Scope of Application. This Rules shall apply to all socialized housing projects as defined under Section 2 of BP 220, including those accredited for incentivized compliance pursuant to Section 18 of RA No. 7279, as amended by RA 10884.~~

~~Sections 5.3, 5.4, and 5.5 of Memorandum Circular No. 9, series of 2018, are not covered by this Rules.~~

**Section 1. Dispensing with the annotation requirement – The requirement for annotation on titles of socialized housing projects as provided in the last paragraph of Section 4.4 of**

HLURB Resolution No. 965, s.2017 as amended by Department Order No. 2021-004, s.2021 and Sections 4.1.2, 4.2.2, 5.1.3 and 5.2 of HLURB Memorandum Circular No. 09, s.2018 are hereby revoked.<sup>1</sup>

Section 2. ~~Guidelines. In lieu of the annotation requirement, the owner and/or developer of socialized housing projects shall strictly comply with the following:~~ **Requirements in lieu of annotation. – To ensure that protection of buyers is not impaired, the owner or developer of socialized housing projects shall strictly comply with the following:**

**2.1** ~~Submission of a copy of the Contract to Sell or any sale document that would be issued to the buyers, prior to the issuance of the License to Sell, containing an express provision that the Project is a socialized housing, subject to the prevailing price ceiling.~~ **Prior to the issuance of a License to Sell, the developer shall submit a copy of the pro-forma Contract to Sell or other conveyance document that will be used in selling the project,<sup>2</sup> containing an express stipulation that the project is socialized and the contract price conforms to the prescribed ceiling.**

**2.2** ~~Indicate in all kinds of advertisements that the Project is a socialized housing and is subject to the prevailing price ceiling.~~ **Any advertisement for the project shall indicate that it is a socialized housing project and that the price conforms to the prescribed ceiling.**

**2.3** ~~Attachment of a photocopy of the License to Sell (LS) of the socialized housing project to the sale documents issued to the buyers.<sup>3</sup>~~

**2.4** ~~Consistent with Section 56 of Presidential Decree 1529, submission of proof of compliance with the first paragraph of Section 17 of PD 957 which states:~~

~~All contracts to sell, deeds of sale and other similar instruments relative to the sale or conveyance of the subdivision lots and condominium units, whether or not the purchase price is paid in full, shall be registered by the seller in the Office of the Register of Deeds of the province or city where the property is situated.~~

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<sup>1</sup> This rewording of Section 1 is proposed in order to categorically specify the annotations being dispensed with, rather than simply implying it via the Repealing Clause. It renders a statement of coverage or scope of application unnecessary.

<sup>2</sup> The word “pro-forma” is inserted to avoid misconception that what is being required is a copy of the actual CTS executed between seller and buyer.

<sup>3</sup> The necessity for this requirement is unclear. If the intention is to assure buyers that the project is licensed, that purpose is already being served by the posting of all Licenses to Sell on the the DHSUD website, which buyers can access at any time to verify a project. It is assumed that said list is immediately updated as soon as a project is issued a License. Perhaps the list may be made more useful to buyers by including other searchable details such as the name of the developer, the type of project (e.g. socialized or other), the price ceiling, etc.

**Within sixty (60) days from execution of a Contract to Sell, the developer shall furnish the Housing and Real Estate Development Regulation Division of the Regional Office concerned a photocopy of the pertinent title containing the annotation by the Register of Deeds of the transaction.** <sup>4</sup>

Section 3. Monitoring. The Housing and Real Estate Development Regulation Division of the concerned Regional Office shall monitor compliance hereof by the owner/developer, in accordance with existing laws, rules, and regulations.

Section 4. Penalty Clause. **Subject to the requirements of due process,**<sup>5</sup> ~~any~~ The owner/developer who is found to have violated this ~~Rules Order~~ shall be subject to ~~imposition of sanctions as follows~~ **the following penalties:**

- a) **First offense:** Fine of not ~~less~~ **more** than ~~five hundred thousand pesos~~ Fifty Thousand Pesos ~~(P500,000.00),~~ **(P50,000.00);**<sup>6</sup>
- b) **Second offense:** Suspension of ~~license to do business such as but not limited to, selling, collecting amortizations from buyers, and mortgaging the project or any portion thereof,~~ **business registration and all Licenses to Sell** for a period of three (3) to six (6) months **with prohibition against selling and collecting amortizations from buyers,** and a fine of not less than ~~five hundred thousand pesos~~ **One Hundred Thousand** ~~(P500,000.00),~~ for the second offense **(P100,000.00);**<sup>7</sup> and
- c) **Third offense:** Cancellation of ~~license to do business, such as but not limited to, selling, collecting amortizations from buyers, and mortgaging the project or any portion thereof,~~ for the third offense **business registration and all Licenses to Sell with prohibition against selling and collecting amortizations from buyers, blacklisting and other penalties imposed by law.**

Section 5. Repealing Clause. The last paragraph of Section 4.4. of HLURB Resolution No. 965, series of 2017, as amended by D.O. 2021-004, series of 2021, is hereby repealed. All other issuances inconsistent herewith are likewise deemed revoked or superseded, including Sections 4.1.2, 4.2.2, 5.1.3 and 5.2 of HLURB Memorandum Circular No. 09, series of 2018.

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<sup>4</sup> The CTS is registered and annotated on the title after said contract has been duly executed. Thus, the best proof of compliance to this legal requirement would be the annotated title. If this proof is to be required, then the developer would have to submit to DHSUD a copy of the annotated title for every unit sold.

<sup>5</sup> The phrase “subject to the requirements of due process” is inserted in order to make it clear that penalties will not be imposed arbitrarily – i.e. on the basis of a mere complaint. Due process requires investigation and hearing, among others, before penalties may be applied.

<sup>6</sup> P500,000 for the 1<sup>st</sup> offense may be considered onerous and confiscatory.

<sup>7</sup> Mortgaging is not prejudicial to a buyer’s interest since the mortgagee assumes the mortgagor’s obligations or liabilities. Thus, suspension or cancelation should not include a prohibition against mortgaging.

Section 6. Separability. ~~Should any provision of this Rules be declared unconstitutional or contrary to law, the same shall not affect the validity of the other provisions of the same.~~ **In the event that any provision herein is declared null and void, the validity of all other provisions shall not be affected thereby.**

Section 7. Effectivity. This Department Order shall ~~immediately~~ take effect upon publication in a newspaper of general circulation.