Republic of the Philippines
CONGRESS OF THE PHILIPPINES
Metro Manila

Fourteenth Congress
Third Regular Session

Begun and held in Metro Manila, on Monday, the twenty-seventh day of July, two thousand nine.

Republic Act No. 9904

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 Representatives of the Philippines in Congress assembled:

CHAPTER I
TITLE AND DECLARATION OF POLICY

Section 1. *Title.* – This Act shall be known as the ***"Magna Carta for Homeowners and Homeowners' Associations".***

Section 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, in 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.

Section 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 nonstick, 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 lot 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.

Section 4. *Registration with the HLURB.* - 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.*1avvphi1* 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 HLURB 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

Section 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.

Section 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 sect 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.

Section 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.

Section 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.

Section 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

Section 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, and 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;

(I) 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.

Section 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.

Section 12. *Duties and Responsibilities of the Board.* In addition to the duties and responsibilities stated in the bylaws of the association, the board shall have the following duties and responsibilities:

(a) Regularly maintain an accounting system using generally accepted accounting principles, and keep books of accounts, which shall be open for inspection to any homeowner and duly authorized representatives of government agencies upon request, during reasonable hours, on business days;

(b) Collect the fees, dues and assessments that may be provided for in the bylaws and approved by a majority of the members;

(c) Collect reasonable charges for assessments, and after due notice and hearing by the board in accordance with the procedures as provided in the bylaws, and rules and regulations adopted by the board, charge reasonable fines for late payments and for violation of the bylaws, rules, and regulations of the association, in accordance with a previously established schedule adopted by the board and furnished to the homeowners;

(d) Propose measures to raise funds and the utilization of such funds and submit the same for consideration of the members of the association;

(e) Undergo a free orientation by the HLURB or any other competent agency deputized by it on how to conduct meetings, preparation of minutes, handling of accounts, laws and pertinent rules and regulations within thirty (30) days after election or appointment;

(f) Discharge the duties and responsibilities provided for in the association’s bylaws; and

(g) Exercise such other powers as may be necessary and proper in accordance with this Act and for the accomplishment of the purposes for which the association was organized.

The board shall act in all instances on behalf of the association, except to amend the articles of incorporation, to dissolve the association, to elect members of the board or to determine the qualifications, powers and duties, or terms of office of the board, and other instances that require the vote or approval of the members themselves. In the performance of their duties, the officers and members of the board shall exercise the degree of care and loyalty required by such position.

Section 13. *Removal of a Director or Trustee.* - Through a signed petition of a simple majority of the association members in good standing, subject to a verification and validation by the HLURB, a director/trustee may be removed for causes provided in the bylaws of the association: *Provided,* That if a majority of the members of the board is removed, it shall be considered a dissolution of the entire board, in which case, Section 14 hereof shall govern.

Within sixty (60) days after the removal of a director or trustee, an election shall be called by the remainder of the board for the purpose of determining who shall hold office for the unexpired term of the removed director/trustee.

Section 14. *Dissolution of the Board.* - Through a signed petition of two - thirds (2/3) of the association members subject to a verification and validation by the HLURB, the board of the association may be dissolved for causes provided in the bylaws of the association.

Within sixty (60) days from the above dissolution, an election for a new board shall be called and conducted by the HLURB for the purpose of determining who shall hold office for the unexpired term of the dissolved board.

Until the new board members shall have been elected and qualified, the HLURB shall designate an interim board: *Provided,* That such board shall be composed of association members in good standing: *Provided, further,* That such interim board members shall not be eligible to run in the election called for the purpose of replacing the members of the dissolved board.

Section 15. *Association Bylaws.* - The bylaws of the association shall be adopted by a simple majority of the members of the association. Consistent with the provisions of this Act, it shall provide for:

(a) The rights, duties and obligations of members;

(b) The circumstances under which membership is acquired, maintained, and lost;

(c) The schedule, venue, and manner of conducting the regular, special, and emergency meetings of the general membership, the required quorum, and allowable proxies in such meetings;

(d) The number, qualifications, powers and duties, terms of office, manner of electing and removing the board and the filling of vacancies in the board: *Provided,* That the term of office of the members of the board shall not exceed two (2) years;

(e) The qualifications, positions, duties, election or appointment, and compensation of other officers and employees of the association: *Provided,* That the term of office of the other officers shall not exceed two (2) years: *Provided, further,* That no officer of the association holding a rank of director or trustee shall likewise be entitled to any compensation;

(f) The schedule, venue, and manner of conducting the regular, special, and emergency meetings of the board, the required quorum, and allowable proxies in such meetings;

(g) Such powers that the board may delegate to a managing agent, if any, or to other persons;

(h) Which of its officers may prepare, execute, certify and record amendments to the governing documents on behalf of the association;

(i) The grounds and procedure for removal of director or trustee, and the manner of filling up vacancies in the board, consistent with Section 13 of this Act;

(j) The grounds and procedure for dissolution of the board, and the manner of reconstituting the board, consistent with Sections 13 and 14 of this Act;

(k) The actions for limiting, broadening or denying the right to vote, and the extent thereof;

(l) The designation of the presiding officer at meetings of directors or trustees and members;

(m) The time for holding the regular election of directors or trustees and the mode or manner of giving notice thereof;

(n) The creation of election, grievance and audit committees, and such other committees which the association may deem necessary; as well as a conciliation or mediation mechanism for the amicable settlement of

disputes among members, directors or trustees, officers and committee members of the association;

(o) The dues, fees, and special assessments to be imposed on a regular basis, and the manner in which the same may be imposed and/or increased;

(p) The method of adopting, amending, repealing and abrogating the bylaws;

(q) The list of acts constituting a violation by its officers and the corresponding penalties therefor;

(r) The penalties for violation of the bylaws; and

(s) Such other matters necessary for the proper or convenient transaction of its corporate business and affairs.

Section 16. *Proxies.* - Association members may vote in person or by proxy in all meetings of members. Proxies shall be in writing, signed by the member and filed before the scheduled meeting with the association secretary. Unless otherwise provided in the proxy, it shall be valid only for the meeting for which it is intended, No proxy shall be valid and effective for a period longer than three (3) years at anyone time unless earlier revoked by the member.

Section 17. *Financial and Other Records.* - The homeowners' association is enjoined to observe the following, with regard to its funds, financial and other records:

(a) The association or its managing agent shall keep financial and other records sufficiently detailed to enable the association to fully declare to each member the true statement of its financial status. All financial and other records of the association including, but not limited to, checks, bank records and invoices, in whatever form these are kept, are the property of the association. Each association's managing agent shall turn over all original books and records to the association immediately upon termination of the management relationship with the association, or upon such other demand as is made by the board. An association's managing agent is entitled to keep association records. All records which the managing agent has turned over to the association shall be made reasonably available for the examination and copying by the managing agent;

(b) All records involving the affairs of the association shall be available for examination by all owners, holders of mortgages on the lots, and their respective authorized agents upon reasonable advanced notice, during normal working hours at the office of the association: *Provided,* That

holders of mortgages on lots may have access to the information about the property held in mortgage with the written consent of the registered owner;

(c) A financial statement of the association shall be prepared annually by an auditor, the treasurer and/or an independent certified public accountant within ninety (90) days from the end of the accounting period to be posted in the association office, bulletin boards, or other conspicuous places within the subdivision/village, and to be submitted to the HLURB; and

(d) The funds of the association shall be kept in accounts in the name of the association and shall not be joined with the funds of any other association, or any person responsible for the custody of such funds.

Section 18. *Relationship with LGUs.* - Homeowners' associations shall complement, support and strengthen LGUs in providing vital services to their members and help implement local government policies, programs, ordinances, and rules.

Associations are encouraged to actively cooperate with LGUs in furtherance of their common goals and activities for the benefit of the residents of the subdivisions/villages and their environs.

Where the LGUs lack resources to provide for basic services, the associations shall endeavor to tap the means to provide for the same. In recognition of the associations' efforts to assist the LGUs III providing such basic services, association dues and income derived from rentals of their facilities shall be tax - exempt: *Provided,* That such income and dues shall be used for the cleanliness, safety, security and other basic services needed by the members, including the maintenance of the facilities of their respective subdivisions or villages.

LGUs shall, upon due notice, hold public consultations with the members of the affected associations, especially their officers and directors, where proposed rules, zoning and other ordinances, projects and/or programs affecting their jurisdiction and surrounding vicinity are to be implemented prior to the effectivity or implementation of such rules, zoning, ordinances, projects or programs: *Provided,* That in cases of zonal reclassification, the approval of a simple majority of homeowners shall be required.

Such public consultations shall conform to the manner as specified in Rule XI, Article 54 of the implementing rules and regulations of Republic Act No. 7160, otherwise known as the Local Government Code of 1991.

Section 19. *Relationship with National Government Agencies.* - The associations shall complement, support and strengthen the efforts of the national government agencies in providing vital services to their members and help implement the national government policies and programs.

Associations are encouraged to actively cooperate with national government agencies in the furtherance of their common goals and activities for the benefit of the residents of the subdivisions and its environs. National government agencies shall consult the associations where proposed rules, projects and/or programs may affect their welfare.

CHAPTER IV
DUTIES AND RESPONSIBILITIES OF THE HLURB

Section 20. *Duties and Responsibilities of the HLURB.* - In addition to the powers, authorities and responsibilities vested in it by Republic Act No. 8763, Presidential Decree No. 902 - A, Batas Pambansa Big. 68 and Executive Order No. 535, Series of 1981, as amended, the HLURB shall:

(a) Regularly conduct free orientation for officers of homeowners' associations or deputize another competent agency to conduct the orientation;

(b) Formulate and publish a Code of Ethics and Ethical Standards for board members detailing prohibited conflicts of interest;

(c) Register all associations, federations, confederations or umbrella organizations of the associations;

(d) Hear and decide inter - association and/or inter - association controversies and/or conflicts, without prejudice to filing civil and criminal cases by the parties concerned before the regular courts: *Provided,* That all decisions of the HLURB are appealable directly to the Court of Appeals;

(e) Formulate the rules or manner of verification and validation of petitions for the removal of director(s) or trustee(s) of the association or dissolution of the board pursuant to Sections 13 and 14 of this Act;

(f) Exercise the same powers over federations, confederations or umbrella organizations of the associations;

(g) Formulate, in consultation with the representatives of associations, federations, confederations or umbrella organizations of the associations, standard nomenclatures to be used for the associations' books of accounts, and a standard articles of incorporation and bylaws for homeowners' association for reference purposes;

(h) Formulate, in consultation with the representatives of associations, federations, confederations or umbrella organizations of the associations, the guidelines in regulating the kinds of contributions and fees that may be charged and/or collected by associations; and

(i) Call upon the Philippine National Police, other law enforcement agencies, and other instrumentalities of the government, if necessary, for the enforcement of its functions.

Section 21. *Additional Positions and Personnel for the HLURB.* - For purposes of this Act, the HLURB shall, upon its discretion, create positions and enlist additional personnel to carry out its mandate.

CHAPTER V
FINAL PROVISIONS

Section 22. *Prohibited Acts.* - It shall be prohibited for any person:

(a) To compel a homeowner to join the association, without prejudice to the provisions of the deed of restrictions, its extensions or renewals as approved by the majority vote of the members or as annotated on the title of the property; the contract for the purchase of a lot in the subdivision project; or an award under a CMP project or a similar tenurial arrangement;

(b) To deprive any homeowner of his/her right to avail of or enjoy basic community services and facilities where he/she has paid the dues, charges, and other fees for such services;

(c) To prevent any homeowner who has paid the required fees and charges from reasonably exercising his/her right to inspect association books and records;

(d) To prevent any member in good standing from participating in association meetings, elections and referenda;

(e) To deny any member due process in the imposition of administrative sanctions;

(f) To exercise rights and powers as stated m Section 10 in violation of the required consultation and approval of the required number of homeowners or members;

(g) To unreasonably fail to provide basic community services and facilities and maintain, repair, replace, or modify such facilities;

(h) To unreasonably fail to comply with Section 17 of this Act; or

(i) To violate any other provision of this Act.

Section 23. *Penalties and Sanctions.* - Any person who, intentionally or by gross negligence, violates any provision of this Act, fails to perform his/her functions under this Act and/or violates the rights of the members, shall be punished with a fine of not less than Five thousand pesos (Php5, 000.00) but not more than Fifty thousand pesos

(Php50, 000.00) and permanent disqualification from being elected or appointed as member of the board, officer or employee of the association, without prejudice to being charged before a regular court for violations of the provisions of the Revised Penal Code, Civil Code and other pertinent laws.

If the violation is committed by the association, the members, officers, directors or trustees of the association who have actually participated in, authorized, or ratified the prohibited act shall be held liable.

If the violation is committed by the employees and agents who acted in gross violation of the provisions of this Act, the officers, directors or trustees, or incorporators of the association shall be jointly and severally liable with the offending employees, agents, and the association.*1avvphi1*

Section 24. *Review of Association's Bylaws.* - In order to comply with the provisions of this Act, the homeowners' association shall, within six (6) months from the effectivity of this Act, conduct a review of its bylaws, draft its own rules of procedure to be incorporated in the bylaws and conduct a plebiscite for the approval of the members of the association. A simple majority shall be used to determine the approval of the bylaws.

Section 25. *Appropriations.* - The amounts necessary for the implementation of this Act and for carrying out the additional functions and responsibilities of the HLURB shall be included in the annual General Appropriations Act.

Section 26. *Separability Clause.* - If any provision of this Act is declared invalid or unconstitutional, the remainder of the Act shall remain valid and subsisting.

Section 27. *Repealing Clause.* - All other issuances, laws, decrees, orders, rules and regulations, or parts thereof inconsistent with this Act are hereby repealed or modified accordingly.

Section 28. *Implementing Rules and Regulations.* - The HLURB shall formulate and promulgate, in consultation with concerned sectors, rules and regulations necessary to implement the provisions of this Act within SIX (6) months of its effectivity.

No rule or regulation shall be issued which tends to undermine the organizational and territorial integrity of any association.

Section 29. *Effectivity.* - This Act shall take effect fifteen (15) days following Its publication ill the Official Gazette or III at least two (2) national newspapers of general circulation.

Approved,

Approved,

PROSPERO C. NOGRALES
Speaker of the House of Representatives

JUAN PONCE ENRILE
President of the Senate

This Act which is a consolidation of Senate Bill No. 3106 and House Bill No. 50 was finally passed by the Senate and the House of Representatives on October 13, 2009.

MARILYN B. BARUA-YAP
Secretary General House of Representatives

EMMA LIRIO-REYES
Secretary of the Senate

Approved: JAN. 07, 2010

GLORIA MACAPAGAL-ARROYO
President of the Philippines