

## REFERENDUM FOR THE AMENDMENT OF THE ARTICLES OF INCORPORATION

July 7, 2022

To: All Members of the Association:

### **NOTICE OF SPECIAL MEETING OF ALL MEMBERS**

Please be formally notified of a Special Meeting of all the members of our Association on Sunday, July 17, 2022, at 2:00 p.m. Should a quorum not be reached on July 17, 2022, an additional Meeting will be held on Sunday, July 24, 2022, at 2:00 p.m. Both will be held at the Multi-Purpose Pavilion, Alabang Hills Village, Barangay Cupang, Muntinlupa City.

The agenda for the Meeting will be:

1. Call to Order, Proof of Notice and Quorum; and
2. **Amendment of the Articles of Incorporation for the Association to have perpetual existence.**

Members may attend the Meeting in person. Given, however, the sole purpose of the Meeting, **we prefer that you fill up, and sign, the attached numbered Ballot/Proxy/Authorization, and submit it to any of the Association's Directors, Officers, or employees, or drop it at any designated Drop Box, not later than the start of the July 17 Meeting. Once you have submitted that signed numbered document before the Meeting, there is no further need for you to attend the Meeting in person. That signed numbered document authorizes counting the signing member for quorum.**

### **EXPLANATION**

As you may be aware, our Association was organized as a non-stock corporation under the Securities & Exchange Commission (SEC). On August 7, 1972, the SEC issued a certificate with Reg. N° 48260, stating that the Association's Articles had been duly registered with the SEC. Article Fourth states: "That the term for which this Corporation is to exist is FIFTY (50) years from and after the date of its incorporation."

In January of 2010, the *Magna Carta for Homeowners and Homeowners Association*, Republic Act N° 9904, took effect, and it required all homeowners' associations to register with the Housing and Land Use Regulatory Board (HLURB).

In February of 2016, after registering its amended by-laws with the HLURB, the Association registered its Articles with the HLURB. On March 7, 2016, the HLURB issued the Association a Certificate of Incorporation N° NCR HOA 16-0091, stating that the Association's Articles had been duly registered with the HLURB.

In February of 2019, the *Department of Human Settlements and Urban Development Act*, Republic Act N° 11202, took effect, and created the said Department (or "DHSUD"), which absorbed the HLURB.

On September 15, 2021, the DHSUD issued its *2021 Implementing Rules and Regulations of Republic Act No. 9904* (the "Rules"). Section 34 of these Rules state, in part, that: "Unless otherwise provided in the Articles of Incorporation, associations shall have perpetual existence." Section 60, also states, in part, that: "Associations whose term of existence as provided in its Articles of Incorporation has expired shall be deemed dissolved without need of any proceedings. ..."

On June 25, 2022, Board members and the Village Manager, among others, attended a webinar entitled "Revised IRR of the Charter for Homeowners' Associations". The Center for Global Best Practices hosted the webinar, with the cooperation of the DHSUD, to inform homeowners' associations about the Rules. At that webinar, a DHSUD official indicated that the DHSUD could

deem a homeowners' association dissolved if its term under its original articles of incorporation had lapsed.

The Association's original Articles were that of a non-stock corporation under the SEC. We have requested the DHSUD to confirm that the Association's fifty-year term **starts on the date of its incorporation as a homeowners' association, or on March 7, 2016**. However, we are not sure of the content, or the timing, of DHSUD's reply. If the DHSUD confirms our request, then the Association's 50-year term expires in 2066. If the DHSUD advises otherwise, or does not reply in time for the Association to amend its Articles, then a third party could argue that a 50-year term starting from August 7, 1972 ends by August 7, 2022.

**The Board therefore finds it necessary to amend the Articles so that the Association "shall have perpetual existence."** This requires, among others, a special meeting of the members. The sole agenda of that meeting is the approval of the above amendment to the Association's Articles. For that amendment, the Association needs to generate the following documents, among others, which the DHSUD requires:

1. "Notarized Secretary's Certificate attesting that the amendments were approved by the majority vote of all members of the association regardless of standing, and stating therein the date of the members' meeting and the fact of quorum;"
2. "Minutes of the general assembly called for the purpose, duly certified as true and correct by the association's secretary;" and
3. "Attendance sheet of the general assembly signed by the members present and indicating therein their corresponding votes."

Please note that "all members of the association regardless of standing" have 1,119 votes, so **the "majority vote", rounded-up, is at least 561 (50% +1). To validly amend the Articles, members representing at least 561 votes must attend the Meeting on July 17<sup>th</sup> (or, if no quorum is reached on that date, on July 24<sup>th</sup>), and members representing at least 561 votes must vote in favor of the amendment.**

Members may attend the Meeting in person, or by proxy. From July 9, 2022, the Board will issue each member a numbered Ballot/Proxy/Authorization, which each member could sign and then submit to any of the Association's Directors, Officers or employees, or, drop at designated Drop Boxes at or before the Meeting. **If you have signed, and submitted to us, that numbered document before the Meeting, then there is no further need to attend the Meeting in person. That signed and submitted document is your attendance, and your vote.**

**If no quorum, or approval, is achieved at the July 17 Meeting, the Association will try to achieve a quorum and an approval at the July 24 Meeting.**

Please note the DHSUD requirement for an "Attendance sheet ... signed by the members present and indicating therein their corresponding votes." Thus, the DHSUD wants a record of how each member voted, which some members may want to keep private. If you wish to keep your vote secret from third parties, kindly detach the Signature and Information Stub of the Ballot/Proxy/Authorization, or instruct us to do so, and we will reveal your vote only to the DHSUD.

Thank you.

For the Board of Directors

By: Joaquin A. Franco  
Vice President