



COOPERATIVE DEVELOPMENT AUTHORITY

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223-32



MEMORANDUM CIRCULAR NO. 2024 - 08 Series of 2024

SUBJECT: SUPPLEMENTAL RULES OF PROCEDURE GOVERNING VOLUNTARY ARBITRATION BEFORE THE COOPERATIVE DEVELOPMENT AUTHORITY

Pursuant to Article 137 of Republic Act (R.A.) No. 9520, also known as the "Philippine Cooperative Code of 2008," Rule 13 of the Revised Implementing Rules and Regulations of R.A. No. 9520, and Rule IV of the CDA Omnibus Rules of Procedure, the following supplemental rules of procedure governing voluntary arbitration before the Cooperative Development Authority (CDA) are hereby promulgated:

SUPPLEMENTAL RULES OF PROCEDURE GOVERNING VOLUNTARY ARBITRATION BEFORE THE COOPERATIVE DEVELOPMENT AUTHORITY

Article I ELECTRONIC PROCEEDING

Section 1. Mutual Agreement. The conduct of voluntary arbitration hearing through electronic proceeding shall be mutually agreed upon by the parties and the Sole Arbitrator or Arbitral Tribunal. In case of disagreement, the decision of the Arbitrator/s shall prevail.

Sec. 2. When to Avail. The mutual agreement or the decision of the Arbitrator/s for the conduct of voluntary arbitration hearing through electronic proceeding shall be made during the preliminary conference and indicated in the Terms of Reference.

Sec. 3. Electronic Platform. The conduct of hearing and taking of testimonies of witnesses through videoconferencing shall only use the official Google Account of the CDA which has the Gmail application for the official email accounts and the Google Meet to host the hearing.

For purposes of this section, videoconferencing shall refer to a conference between two or more participants at different sites using computer networks to transmit audio and video data; Provided that, each participant must have a video camera, microphone, and speakers built in or mounted on his/her laptop, desktop, cellular phone, tablet computer and/or any other electronic gadget/device capable of being used for video conferencing. As the two or more participants speak to one another, their voices are carried over the network and delivered to the other's speaker, and whatever images appear in front of the video camera will appear in a window on the other participant's monitor.

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Sec. 4. Notice of Hearing. All notices of electronic hearings shall be served by the Sole Arbitrator/Panel of Arbitrators to the parties and their witnesses, if any, through their valid email address, indicating the following, *viz*:

- a. The date and time of the scheduled hearing;
- b. A link to join the hearing and the password thereto;
- c. A reminder that all details and information used to gain access to the proceedings shall be treated with strict confidentiality and any sharing of such to any unauthorized person is expressly prohibited; and
- d. Brief and concise rules of decorum to be observed during the conduct of the hearing.

The parties must notify the Sole Arbitrator/Panel of Arbitrators of the names and email addresses of their counsel/s and witness/es at least five (5) working days before the scheduled hearing in order for them to gain authorized access to the said hearing.

Sec. 5. Conduct of hearing through videoconferencing. The host or the Sole Arbitrator/Arbitral Tribunal must ensure that prior to the start of the electronic hearing, the parties are present, including their counsel/s, if represented, and their witness/es, if any.

The Voluntary Arbitration Secretariat and a representative from the CDA ICTD are enjoined to attend the electronic hearing for the purpose of assisting in the conduct of the hearing.

Sec. 6. Hearing Proper. When the parties are present, the Sole Arbitrator/Arbitral Tribunal shall call the hearing to order. The parties shall then be required to open at all times, during the course of the hearing, the camera of their laptop, desktop, cellular phone, tablet computer and/or any other electronic gadget/device capable of being used for video conferencing. They shall place under mute setting their microphone unless recognized to speak or being asked by the Sole Arbitrator/Arbitral Tribunal.

The electronic hearing shall strictly follow the Terms of Reference. Moreover, the dignity and solemnity of the electronic hearing must be observed at all times. Accordingly, the parties and their witnesses shall be required to appear in proper dress code and observe proper online decorum.

Sec. 7. Presentation of witness. Prior to the presentation of a witness, such witness shall be required to move his/her camera in such a manner that will show his/her immediate surrounding. Once it is determined that there is no other person within the immediate surrounding of the witness capable of coaching him/her during his/her testimony, the Head of the Voluntary Arbitration Secretariat shall administer the oath of the witness.

The witness shall then be required to open at all times, during the course of the hearing, the camera of his/her laptop, desktop, or cellular phone. The witness shall also place under mute setting his/her microphone unless recognized to speak or being asked by the Sole Arbitrator/Arbitral Tribunal.

Sec. 8. Suspension of the Hearing. The Sole Arbitrator/Arbitral Tribunal may *motu proprio* suspend the hearing if technical problems are encountered that cannot be resolved immediately, or if both parties are not present during the hearing. In such a case, the parties shall be immediately notified, by email, of the next schedule hearing.

In no case shall the electronic hearing be suspended by the absence of the witness to be presented by the parties on the date of the said hearing. However, suspension of the electronic hearing on the ground of absence of the complainant or of the respondent shall be left to the sound discretion of the Sole Arbitrator/Arbitral Tribunal.

Sec. 9. Record of the Hearing. The electronic hearing shall be recorded by the CDA using the Google Meet application with the prior consent of both parties. The CDA ICTD personnel assisting in the hearing shall store and file the video recordings which shall form part of the records of the case. A copy of the recordings of the hearing may be furnished to the parties upon written request directed to the Sole Arbitrator/Panel of Arbitrators.

Any unauthorized recording of the proceedings by any party shall be considered as contempt in accordance with the applicable CDA rules.

Sec. 10. Filing and service of documents. Any document presented during the electronic hearing may be submitted by email to the Sole Arbitrator/Panel of Arbitrators during or after the hearing. Thereafter, hard copies of the said documents shall be transmitted to the CDA, directed to the Office of the Voluntary Arbitration Secretariat, within fifteen (15) working days from the submission of the soft copies. In the event that the hard copies of the documents are not timely submitted to the Secretariat, the said documents shall be deemed not filed and shall not be taken into consideration in rendering an award.

Article II EMERGENCY ARBITRATION

Section 1. Grounds for the Conduct of Emergency Arbitration. If either or both of the parties allege issues that need to be resolved with urgency which would otherwise cause grave and irreparable damage and upon evaluation of the Voluntary Arbitration Secretariat, Emergency Arbitration may be resorted to, an Emergency Arbitrator may be appointed.

Sec. 2. Necessity of Joint Manifestation. The mutual agreement of the parties for the appointment of Emergency Arbitrator shall be made in a Joint Manifestation duly executed under oath and filed before the Office of the Voluntary Arbitration Secretariat at any time prior to the conduct of preliminary conference.

Sec. 3. Action on the Joint Manifestation. Within five (5) working days from the receipt of the Joint Manifestation, the Head of the Voluntary Arbitration Secretariat shall:

- a. determine the sufficiency of the Joint Manifestation, in form and in substance; and
- b. recommend in writing to the Deputy Administrator, Legal Affairs Service, the appointment of Emergency Arbitrator.

Thereafter, the Deputy Administrator for the Legal Affairs Service shall, within five (5) working days from the receipt of the written recommendation of the Head of the Voluntary Arbitration Secretariat, cause the raffling of the case to all available Accredited Arbitrators for cooperatives.

Sec. 4. Notice to the Parties and the Emergency Arbitrator/s. Upon the selection of the Emergency Arbitrator, the Voluntary Arbitration Secretariat shall notify the parties and the appointed Emergency Arbitrator in writing..

The Emergency Arbitrator duly appointed pursuant to this Supplemental Rules of Procedure shall not be allowed to decline the appointment.

Sec. 5. Conduct of Proceedings. Once appointed, the Emergency Arbitrator shall immediately proceed with the conduct of the proceedings in accordance with Rule 13 of the Revised Implementing Rules and Regulations of R.A. No. 9520 and Rule IV of the CDA Omnibus Rules of Procedure by setting the case for preliminary conference until its final termination.

At the preliminary conference, the Emergency Arbitrator must be personally present or, in the case of Arbitral Tribunal, at least one (1) Arbitrator must be personally present, who shall endeavor, as much as possible, that the parties to the case voluntarily agree for the conduct of the subsequent hearing/s online and the submission of their evidence online in pdf form, subject to the condition that the physical copies of the pieces of evidence presented during the hearing are transmitted to the Voluntary Arbitration Secretariat by registered mail or by private courier.

However, the duration of the Arbitration should as much as possible be concluded within thirty (30) days after the conduct of the preliminary conference.

Sec. 6. Pool of Accredited CDA Voluntary Arbitrators. In order to ensure continuous and sufficient supply of Accredited CDA Voluntary Arbitrators, the CDA shall regularly cause the training, in-house or otherwise, of CDA personnel who are able and willing to serve as Voluntary Arbitrator. The CDA personnel who will undergo arbitration training must proportionately come from all Regional Extension Offices and the Head Office and must bind themselves to readily serve as Voluntary Arbitrators after their training by applying for accreditation with the CDA Board of Directors.

The CDA shall also ensure that the accreditation of existing CDA Voluntary Arbitrators are renewed at least six (6) months prior to the expiration of their current accreditation.

Furthermore, so as not to delay the arbitration proceedings, the retiring personnel of the CDA shall be purged from the current list of accredited CDA Voluntary Arbitrators.

Article III AUTOMATIC RENEWAL OF ACCREDITATION

Section 1. Automatic Renewal of Accreditation. In the interest of speedy and efficient administration of justice, the accreditation of past CDA Voluntary Arbitrators is hereby renewed subject to the following conditions, to wit:

- a. The CDA Voluntary Arbitrator was appointed prior to the effectivity of the CDA Omnibus Rules of Procedure on 17 December 2022; and
- b. The CDA Voluntary Arbitrator has a pending and unresolved voluntary arbitration case filed prior to 17 December 2022.

Sec. 2. Notification of Renewal. Upon the effectivity of this Supplemental Rules of Procedure, the Office of the Voluntary Arbitration Secretariat shall cause to notify the CDA Voluntary Arbitrators whose accreditation is deemed renewed pursuant to the preceding provision. The notice shall be accompanied by a Special Order duly issued by the CDA directing the Voluntary Arbitrator to immediately assume jurisdiction over their pending voluntary arbitration case/s and to continue the proceeding until its final termination.

Sec. 3. Duration of Renewal. The renewal of accreditation shall be limited only until the judgment, decision, order, or award of the Sole Arbitrator/Arbitral Tribunal has become final and executory, unless if the CDA Voluntary Arbitrator has previously applied for a renewal of accreditation in accordance with existing rules and the same was granted by the CDA Board of Directors. In the latter case, the duration of the said accreditation shall depend on the CDA Board Resolution granting the renewal.

Sec. 4. Cases with Retired, Resigned, or Deceased Voluntary Arbitrator. Unless archived in accordance with the rules, cases with retired, resigned, or deceased Voluntary Arbitrator shall proceed upon the appointment of Emergency Arbitrator/s in accordance with Article II of this Supplemental Rules of Procedure.

**Article IV
COMMON PROVISIONS**

Section. 1. Revision and supplement. The CDA may revise and supplement this Supplemental Rules of Procedure and issue related guidelines, circulars, and other subsidiary issuances as it deems necessary for the effective implementation of Article 137 of R.A. No. 9520.

Sec. 2. Effectivity. This Circular shall take effect after fifteen (15) days following the approval by the CDA Board of Directors and the filing of the copy thereof to the Office of the National Administrative Register (ONAR) and the official gazette.

Approved by CDA Board of Directors per Board Resolution No. 018, S-2024, dated 17 January 2024.

Issued this 1st day of March, 2024, at Quezon City, Philippines.

FOR THE CDA BOARD OF DIRECTORS

By:

USEC. JOSEPH B. ENCABO
Chairman