

Philippine Institute for Development Studies

TERMS OF REFERENCE

Assessment of the Regulation on Balanced Housing Development

1. Background and Rationale

Republic Act No. 7279 (RA 7279) or the Urban Development and Housing Act of 1992”, which was approved on March 24, 1992, requires the developers of subdivision projects to develop an area for socialized housing.¹ The balanced housing development is expected to contribute to achieving the objectives of RA 7279. Additional guidelines have been released over time in order to improve the implementation of the policy. Despite the changes that have been made over time, the significance of the balanced housing requirement to the socialized housing development is yet to be determined.

Article V, Section 18 of RA 7279 is concerned on Balanced Housing Development. Under Section 18, the developers of subdivision projects are required to develop an area for socialized housing equivalent to at least 20% of either the total subdivision area or total subdivision project cost. The requirement may also be complied by the developers through: (1) the development of a new settlement; (2) slum upgrading/renewal of areas for priority development either through zonal improvement programs/slum improvement and resettlement programs; (3) joint-venture projects with either the local government units (LGUs) or any of the housing agencies; or (4) participation in the Community Mortgage Program (CMP).

The compliance of the developers to the balanced housing requirement is supposed to help achieve the objectives of RA 7279. The requirement should help improve of the conditions of the underprivileged and homeless citizens in urban areas and in resettlement areas by increasing their access to decent and affordable housing.

In order to facilitate the implementation of the policy and further ensure the achievement of the objectives of RA 7279, implementing rules and regulations have been issued. On June 1992, the Implementing Rules and Regulations (IRR) for the balanced housing provisions (Sec. 18) of RA 7279 were approved.² The 1992 IRR was to cover residential subdivision and condominium projects and/or proposed expansions of already existing projects. It provided the mode of compliance for main subdivision projects limited to the sale of lots only, main subdivision projects which consist of the sale of house and lot packages, and residential condominium projects.

¹ Republic Act No. 7279: Urban Development and Housing Act of 1992. An Act to Provide for a Comprehensive and Continuing Urban Development and Housing Program, Establish the Mechanism for its Implementation, and for Other Purposes

² Implementing Rules and Regulations to Govern Section 18 of Republic Act No. 7279 Otherwise Known as the Urban Development and Housing Act of 1992.

Additionally, the 1992 IRR emphasizes the options on how the 20% of the total project cost may be complied, *i.e.*, through new settlements, slum upgrading, CMP, and joint-venture projects. It also provides that the developers in metropolitan areas may earn credits which could be used to comply with the requirement for future main subdivision projects. The 1992 IRR requires that the developers secure a develop permit and a license to sell. A performance bond is also required to guarantee the completion of the socialized housing project. From the date of issuance of the License to Sell, the developers are given one year to complete their socialized housing project or as approved by the Board. A revised IRR, Board Resolution No. 890 (BR 890) (Series of 2012), was approved on October 2012.³ BR 890 clarified that the developers may not combine project area and cost in their computation for a single compliance. BR 890 also laid out other ways in which developers could comply with the requirement and provided additional details. Developers could, for instance, engage in a joint venture project with its subsidiary and even with other developers accredited by the Housing and Land Use Regulatory Board (HLURB) in the production of new socialized housing.⁴ BR 890 states that the solidary liability to complete the development, nevertheless, should remain with the developers of the main subdivision project.⁵ Developers may also contribute to new socialized housing projects of HLURB-accredited non-governmental organizations (NGOs), as long as they keep the liability to complete the development. They could also provide educational facilities, health facilities, productivity/livelihood centers, and other basic amenities and facilities in socialized housing projects, as provided in Sec. 21 and 22 of RA 7279.⁶ The joint-venture projects of the developers with LGUs or any of the housing agencies may be made through the development of a socialized housing or resettlement project, or takeover by the HLURB of the development of socialized housing projects; purchase of socialized housing bonds approved by the HLURB; rehabilitation of non-performing socialized housing assets; and provision of educational facilities, health facilities, productivity/livelihood centers, and other basic amenities and facilities as provided in Sec. 21 and 22 in socialized housing projects. This is provided that the liability for the completion remains with the developer of the main subdivision project. The revised IRR also provides that the developers who choose to participate in the Community Mortgage Program may fulfill the balanced housing requirement by: (1) providing a parcel of land to a CMP project; (2) providing or developing a right-of-way, access to roads, or public transportation lines; or providing or upgrading amenities, facilities, or other forms

³ Board Resolution No. 890 (Series of 2012). Revised Implementing Rules and Regulations to Govern Section 18 of Republic Act No. 7279 Otherwise Known as the Urban Development and Housing Act of 1992.

⁴ Sec. 5 of BR 890 provides that the subsidiaries and other developers, who enter the joint venture, must apply for accreditation in accordance with the guidelines issued by the HLURB.

⁵ Solidary liability is defined in BP 890 as the obligation to comply with the socialized housing standards and complete the development of the socialized housing project if the developer of the compliance project fails to do so.

⁶ The basic amenities and facilities found in Sec. 21 of RA 7279 include potable water; power, electricity, and an adequate power distribution system; sewerage facilities and an efficient and adequate solid waste disposal system; and access to primary roads and transportation facilities. Sec. 22 of RA 7279, meanwhile, is concerned on livelihood and employment opportunities.

of development in an existing CMP project; or (3) subscribing or purchasing asset-backed securities as originated or conveyed by the SHFC. The revised IRR has a provision (Sec. 8) stating that the License to sell of the main subdivision project may be suspended, cancelled, or revoked if the corresponding compliance project has not been completely developed after one year or after the period approved by the HLURB.

The HLURB also issued Memorandum Circulars to provide guidelines for the provisions of BR 890. Sec. 5, HLURB Memorandum Circular No. 01, Series of 2013 provides that a combination of one mode of compliance with other allowable modes is not prohibited, except when the combination is based on both project area and project cost.⁷ Sec. 5 also makes possible the development of a socialized housing project as compliance for a developer's future main subdivision project(s), as well as the development of a socialized housing project where excesses are used for the same developer's other main subdivision project(s). For developers of main subdivision projects, who are able to submit a proof of completion of their respective compliance project, a Compliance Certificate shall be provided by the HLURB. Some of the other guidelines are specifically concerned on the different modes of compliance that developers may pursue (e.g. development of new settlement, slum upgrading, joint venture with either the LGUs or any of the housing agencies, and participation in the Community Mortgage Program).⁸ Most of these guidelines contain provisions regarding the application for the Certificate of Registration and License to Sell; publication of the notice of filing of the registration statement and the posting of billboard notices; issuance of the Compliance Certificate; etc. The HLURB also released guidelines for the utilization of unconstructed housing components of socialized housing projects.⁹

⁷ HLURB Memorandum Circular No. 01, Series of 2013. Guidelines for Section 3 (Balanced Housing Development Compliance) of the Revised Implementing Rules and Regulations to Govern Section 18 of Republic Act No. 7279.

*HLURB Memorandum Circular No. 13, Series of 2013. Deletion of the Word "Subsidiary" in the Title of Section 15 of Memorandum Circular No. 01, Series of 2013, Entitled "Guidelines for Section 3 (Balanced Housing Development Compliance) of the Revised Implementing Rules and Regulations to Govern Section 18 of Republic Act No. 7279".

⁸ *HLURB Memorandum Circular No. 02, Series of 2013. Guidelines for Section 4.1 (Development of New Settlement) of the Revised Implementing Rules and Regulations to Govern Section 18 Republic Act No. 7279.

*HLURB Memorandum Circular No. 02-A, Series of 2013. Sample Joint Venture Agreements for Joint Ventures with Accredited Subsidiaries and Developers of Socialized Housing Projects.

*HLURB Memorandum Circular No. 03, Series of 2013. Guidelines for Section 4.2 (Slum Upgrading) of the Revised Implementing Rules and Regulations to Govern Section 18 Republic Act No. 7279.

*HLURB Memorandum Circular No. 04, Series of 2013. Guidelines for Section 4.3 (Joint Venture with Either the Local Government Units or Any of the Housing Agencies) of the Revised Implementing Rules and Regulations to Govern Section 18 Republic Act No. 7279.

*HLURB Memorandum Circular No. 05, Series of 2013. Guidelines for Section 4.4 [Participation in the Community Mortgage Program (CMP)] of the Revised Implementing Rules and Regulations to Govern Section 18 Republic Act No. 7279.

⁹ *HLURB Memorandum Circular No. 19, Series of 2013. Guidelines for the Utilization of Unconstructed Housing Components of Socialized Housing Projects.

There are also guidelines on the accreditation of developers of socialized housing projects and of NGOs.¹⁰ HLURB Memorandum Circular No. 06 (MC 06), Series of 2013 provides that a developer of a socialized housing project should apply for general accreditation with the HLURB before entering a Joint Venture with a developer of a main subdivision project, and the developer of the socialized housing project should be engaged in the development of socialized housing projects. HLURB Memorandum Circular No. 07A, Series of 2013 provides that the developer of the socialized housing project must have already produced at least 500 housing or condominium units in a project/projects either covered by BP 220 or PD 957; this requirement was previously set at 2,000 units under HLURB MC 06, Series of 2013.¹¹ HLURB Memorandum Circular No. 07, Series of 2013 provides that an NGO should also apply for accreditation with the HLURB before entering an agreement with the developer of a main subdivision project. The NGO must have the following qualifications: (1) be a domestic, non-stock corporation organized under the Philippine laws; (2) engaged in the development of socialized housing projects, in the production of socialized units, or in the construction of basic amenities and facilities; and (3) already produced at least 500 socialized housing units. Additionally, the HLURB issued guidelines on the provisional accreditation of developers of socialized housing projects.¹² HLURB Memorandum Circular No. 10 (MC 10), Series of 2015 provides that developers of socialized housing projects that have not yet constructed/developed at least 500 housing units may apply for provisional accreditation provided that it has already secured the development permit of the socialized housing project. HLURB MC 10 further provides that applicants for provisional accreditation must be engaged in the development of socialized housing projects. Lastly, the HLURB also provided guidelines that give

¹⁰ *HLURB Memorandum Circular No. 06, Series of 2013. Guidelines for the Accreditation of Developers of Socialized Housing Projects as Provided Under Section 5 of Board Resolution No. 890, Series of 2012, or the Revised Implementing Rules and Regulations to Govern Section 18 of Republic Act No. 7279.

*HLURB Memorandum Circular No. 07, Series of 2013. Guidelines for the Accreditation of Non-Government Organizations as Provided Under Section 5 of Board Resolution No. 890, Series of 2012, or the Revised Implementing Rules and Regulations to Govern Section 18 of Republic Act No. 7279.

*HLURB Memorandum Circular No. 07A, Series of 2013. Amendments to memorandum Circulars No. 06 and 07, Series of 2013.

*HLURB Memorandum Circular No. 10, Series of 2013. Revised Registration Statement and Applications for Additional Annotation of License to Sell of Compliance Project, Accreditation of Developers of Socialized Housing Projects and Non-Governmental Organizations.

¹¹ *Batas Pambansa Blg. 220. An Act Authorizing the Ministry of Human Settlements to Establish and Promulgate Different Levels of Standards and Technical Requirements for Economic and Socialized Housing Projects in Urban and Rural Areas from Those Provided Under Presidential Decrees Numbered Nine Hundred Fifty-Seven, Twelve Hundred Sixteen, Ten Hundred Ninety-Six and Eleven Hundred Eighty-Five.

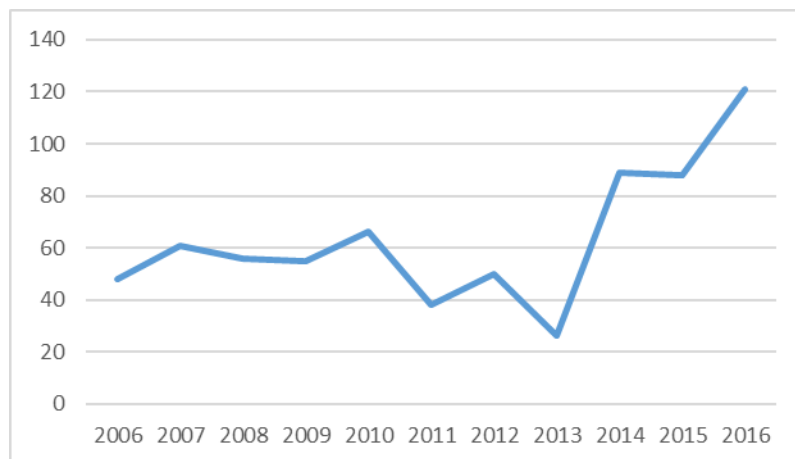
*Presidential Decree No. 957: The Subdivision and Condominium Buyers' Protective Decree. Regulating the Sale of Subdivision Lots and Condominiums, Providing Penalties for Violations Thereof.

¹² *HLURB Memorandum Circular No. 10, Series of 2015. Guidelines for the Provisional Accreditation of Developers of Socialized Housing Projects as Provided Under Section 5 of Board Resolution No. 890, Series of 2012, or the Revised Implementing Rules and Regulations to Govern Section 18 of Republic Act No. 7279.

incentives and uniform procedures for developers of main subdivision projects complying with Sec. 18 of RA 7279 to benefit areas affected by calamities.¹³

Republic Act No. 10884, known as the “Balanced Housing Development Program Amendments”, amended RA 7279 in order to strengthen the Balanced Housing Development Program.¹⁴ The Act provides a distinction between the balanced housing requirements for subdivision and condominium projects. Sec. 18 provides that owners and/or developers of a proposed subdivision projects should develop an area for socialized housing equivalent to at least 15% of the total subdivision area/ project cost. Owners and/or developers of proposed condominium projects, meanwhile, should develop an area for socialized housing equivalent to at least 5% of condominium area/project cost.

From 2006 to 2016, there have been 698 projects which have been issued with a license to sell specifically for the compliance of the balanced housing requirement (see Figure 1). It is noticeable that the number of compliance projects issued with a license to sell from 2013 to 2016, the period in which the HLURB released additional



guidelines on the balanced housing requirement, is on an upward trend.

Figure 1. Compliance Projects Issued with a License to Sell from 2006 to 2016
Basic Data Source: Based on monitoring reports of Housing and Land Use Regulatory Board (various years). Data retrieved on March 9, 2017 from <http://hlurb.gov.ph/license-to-sell-statistics>.

The increase in the number of compliance projects is apparent; nevertheless, the significance of the balanced housing requirement to socialized housing development and to total housing production in general is yet to be determined.

¹³ *HLURB Memorandum Circular No. 01, Series of 2014. Guidelines Providing for Incentives and Uniform Procedures for Developers Complying with Section 18 of Republic Act No. 7279, or the Urban Development and Housing Act of 1992, to Benefit Areas Affected by Calamities.

¹⁴ Lapsed into law on July 17, 2016 (without the signature of then President Benigno Aquino III, in accordance with Art. VI, Section 27 (1) of the Constitution)

2. Objectives

The objectives of the project are the following:

- Assess the compliance modes of developers to the balanced housing requirement
- Determine or demonstrate the contribution of the balanced housing requirement to the supply of socialized housing development
- Determine/demonstrate the adverse effects of balanced housing requirement to housing development
- Examine the consequences of the recent changes in the balanced housing requirement provisions and guidelines
- Provide policy recommendations on how to improve regulatory performance.

3. Scope of Work

Under the guidance and technical oversight of a PIDS Senior Research Fellow who serves as Project Director, the Consultant shall be the Research Associate for this study. He/She is expected to work with the Project Team and provide technical assistance in the conduct of the following tasks:

- Provide a review of the balanced housing provisions and guidelines, and their implementation
- Collect historical data on developer's compliance to the law
- Conduct relevant interviews or focus group discussions with Housing and Land Use Regulatory Board, LGUS, NHA, SHFC, developers of main subdivision/condominium projects, socialized housing developers, and NGOs
- Process data and provide analysis
- Prepare reports on the results of the interviews and FGDs
- Assist in the presentation of the draft report

4. Qualifications of the Consultants

The Consultant should have the following qualifications:

- MA degree in Economics or Development Economics
- At least 3 years of relevant research experience
- Desirable Qualifications: with research experience in the housing or real estate sector and good track record of delivering high quality products

5. Deliverables and Schedule of Payment Releases

The Consultant will prepare the following outputs based on the schedule below:

Activities and Deliverables	Due Dates	Payment Tranches
Upon submission of Inception Report describing in detail the methodology, work plan, and schedule of activities, acceptance and approval of PIDS	September 21, 2017	10%
Upon submission of Preliminary or Progress Report containing the literature review, acceptance and approval of PIDS	October 19, 2017	25%
Upon submission of Draft Report and presentation in an internal Research Workshop , acceptance and approval of PIDS	November 16, 2017	25%
Submission of Final Report addressing comments to the Draft Report and comments from the Research Workshop, Policy Notes and turnover of data and materials used , acceptance and approval of PIDS	December 14, 2017	40%

6. Project Duration

The contract period is from September 11, 2017 to December 31, 2017 on a part-time basis.

7. Project Cost

The estimated cost of this consulting service is Two hundred eighty thousand pesos (Php280,000). This does not include the cost of field visits which will be shouldered by PIDS.

8. Evaluation Criteria

Proposals will be evaluated using the following criteria:

- a. Consultant's Qualifications: 50%
 - MA Degree in Economics or Development Economics;
 - At least three (3) years of relevant research experience;
 - Research experience in the housing or real estate sector;
 - Good track record of delivering high quality products
- b. Plan of approach and methodology, with emphasis on the clarity, feasibility, innovativeness, and comprehensiveness of the plan approach, and the quality of interpretation of project problems, risks, and suggested solutions: 50%

To be registered and eligible to be included in the PIDS' database of research consultants, interested proponents must submit the following documents:

- a) PhilGEPS registration number
- b) Tax Identification Number (TIN) and Curriculum Vitae (for individual consultants)
- c) Filled-up accreditation form/registration form*, which includes information on completed contracts and all on-going government and project contracts, including contracts awarded but not yet started.
- d) Notarized Affidavit* containing: statement of Filipino citizenship and supporting documents, i.e., birth certificate, passport, or other documents relative to citizenship; statement of not "blacklisted" or "barred" from bidding by any government agency, office, or corporation, and authority to verify documents.
- e) *Registered professional authorized by appropriate regulatory body to practice those profession or allied professions, if applicable.*
- f) BIR Certificate of Registration (for individual consultants)
- g) DTI/SEC/CDA registration, and Mayor's Permit (for consultancy firms)
- h) *Audited financial statements for the immediately preceding calendar year stamped "received" by BIR or its duly authorized/accredited institutions (for consultancy firms)*
- i) Income/Business Tax Return

*Registration of qualified proponents is on-going. Please secure copies of the registration form and affidavit from the Procurement Management Division c/o Sharold B. Magallones at 18/F Three Cyberpod Centris – North Tower, EDSA cor. Quezon Ave., Quezon City. These documents may also be requested via email at smagallones@mail.pids.gov.ph.

Deadline for the submission of eligibility requirements and technical and financial proposals for the abovementioned research project is on or before **September 7, 2017**.