# Excerpts from the Minutes of the Special TPAMB Meeting

Zoom Meeting ID: 841 2133 0179 14 March 2024

#### Present:

Ms. Katherine Custodio, WWF-Phils

2. CG Capt. Antolin R Cayabo, CGD-Pal

Mr. Mario Basaya, BFAR

4. Dr. Roger Dolorosa, Western Philippines University

Mr. Jerry Buncag, ENR-Cag

Mr. Marco Ancheta, PCSSD.

7. Col. Reynaldo B Balido Jr., Western Command

8. Pastor Jehu Cayaon, Tambuli ta mga Kagayanen

9. Mr. Wilson John Barbon, Cl- Phils

10. Hon. Sergio Tapalla, LGU- Cag.

11. Ms. Ma. Elizabeth Sabando, PGP

12. Dr. Ronald Ona, Palawan State University

Presiding Officer

Member

Member

Member

Member

Member

Member

Member Member

Member

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Member



### **TPAMB Resolution No. 24-03**

# 'APPROVING THE 'REVISED RULES OF PROCEDURE FOR THE ADJUDICATION OF ADMINISTRATIVE CASES BEFORE THE TUBBATAHA ADJUDICATION BOARD (TAB)\*

WHEREAS, the Tubbataha Reefs Natural Park Act of 2009, also known as the Republic Act (R.A.) No. 10067, which took effect on April 24, 2010, aims to ensure the protection of the globally significant economic and other values of the Tubbataha Reefs;

WHEREAS, the Tubbataha Protected Area Management Board (TPAMB) was established pursuant to Section 10 of R.A. 10067 to be the sole policy-making and permit-granting body for the Tubbataha;

WHEREAS, Section 13 (I) stated that one of the powers and functions of the TPAMB is to 'exercise quasi-judicial functions for adjudicating cases of violations of this Act and impose penalties for violations of guidelines, rules and regulations within TRNP';

WHEREAS, by virtue of TPAMB Resolution No. 10-004, 'Approving the Implementing Rules and Regulations (IRR) of the Tubbataha Reefs Natural Park Act of 2009, Providing for its Management and Other Purposes', also known as the Administrative Order No. 1, series of 2012, which established in Rule 6 the TPAMB Adjudication Board, its membership and procedural guidelines;

WHEREAS, in light of the experiences of the TAB in adjudicating cases, the procedural guidelines were removed from the IRR and made into a separate document to enhance clarity and efficiency and to streamline the procedure;

WHEREAS, upon careful deliberation, significant revisions were introduced to the TAB Rules of Procedure that would expedite the process of adjudicating administrative cases;

NOW THEREFORE, for and in consideration of the above premises, the TPAMB approves, as it is hereby approved, the REVISED RULES OF PROCEDURE FOR THE ADJUDICATION OF ADMINISTRATIVE CASES BEFORE THE TUBBATAHA ADJUDICATION BOARD (TAB):

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SUBJECT: REVISED RULES OF PROCEDURE FOR THE ADJUDICATION OF ADMINISTRATIVE CASES BEFORE THE TUBBATAHA ADJUDICATION BOARD (TAB)

# PART I. TITLE AND PRELIMINARY MATTERS

**SECTION 1. TITLE** - These Rules shall be known and cited as the "Revised Rules of Procedure for the Adjudication of Administrative Cases before the Tubbataha Adjudication Board (TAB)."

**SECTION 2. SCOPE** - These Rules shall govern the procedure of administrative cases filed before the TAB for violations of Republic Act No.10067, otherwise known as the "Tubbataha Reefs Natural Park (TRNP) Act of 2009", its Implementing Rules and Regulations, the TRNP Tourism Rules and Regulations and other TPAMB policies.

The application of this Section is without prejudice to the filing of criminal or civil cases as the case may be or under applicable laws.

**SECTION 3. THE TUBBATAHA ADJUDICATION BOARD (TAB)** - The TAB is hereby established pursuant to Section 13 (I) of the R.A. 10067. It shall be charged with adjudicating all administrative cases brought before the Tubbataha Protected Area Management Board (TPAMB).

**SECTION 4. COMPOSITION OF THE TAB** - The TAB shall be composed of the members of the Executive Committee of the TPAMB.

Any of the co-chairs or their designated permanent alternates, shall preside over the meeting. In the absence of both, the members present shall choose a presiding officer from among themselves.

Resource persons such as members of the Bar or persons possessing expertise in conservation or other fields of relevant expertise may be invited by the TAB in aid of adjudication.

Should the membership of a TAB member in the TPAMB expire, or the position is vacated, the TPAMB shall designate any regular member as a member of the TAB until such time as the successor to the vacated post is duly admitted as a TPAMB member.

**SECTION 5. POWERS, AND FUNCTIONS OF THE TAB** · When convened as the TAB, the Board shall perform the following functions:

- a. Organize TAB Secretariat and designate personnel thereof;
- b. Issue orders as may be necessary in the performance of its functions;
- Conduct summary hearings, when deemed necessary, in compliance with the requirements of administrative due process;
- Adopt its own internal rules to expedite the disposition of cases, if necessary;
- e. Decide cases brought before the TAB;
- Perform such other powers and functions as may be relevant and necessary in the conduct of adjudication into violations committed in TRNP.

SECTION 6. JURISDICTION OF THE TAB - The TAB shall have the original and exclusive jurisdiction to hear and decide cases for violation of the following:

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- The administrative aspect of R.A. 10067 (TRNP Act);
- The Rules and Regulations Implementing the R.A. 10067 (TRNP Act);
- The TRNP Tourism Rules and Regulations;
- d. Other rules and regulations that may be formulated by the TPAMB pursuant to its powers and functions enumerated under R.A. 10067.

SECTION 7. DUTIES AND FUNCTIONS OF THE TAB SECRETARIAT - There shall be a TAB Secretariat that shall perform the following:

- a. Record all proceedings before the TAB:
- b. Provide administrative and technical support to the TAB;
- Evaluate the form and substance of complaints or petitions if there is reasonable ground of administrative liability;
- d. Issue summons and/or subpoenas to parties and witnesses in connection with the exercise of its functions;
- Serve notices, orders, decisions and other processes to the parties and their witnesses
- Receive evidence and take custody thereof pending final disposition of the case;
- g. File petition for the final disposition of evidence;
- h. Draft decisions for deliberation of the TAB;
- Organize a technical working group or assign a person to mediate/facilitate in cases of waiver of proceedings pursuant to Section 27 of this Rules;
- Ensure the safekeeping and retrieval of all records of the TAB;
- k. Perform other functions as the TAB may deem necessary.

**SECTION 8. QUORUM** - A simple majority (50 percent plus 1) of the members shall constitute a quorum for the TAB to do business.

SECTION 9. NATURE OF PROCEEDINGS AND CONSTRUCTION - Administrative proceedings before the TAB shall be summary in nature. Any doubt in the interpretation of these Rules shall be resolved in favor of the ecosystem.

SECTION 10. SUPPLETORY APPLICATION OF THE RULES OF COURT AND THE RULES OF PROCEDURE FOR ENVIRONMENTAL CASES - The Rules of Court, as amended, along with the Rules of Procedure for Environmental Cases, shall apply in a suppletory character to these Rules in the interest of justice and whenever practicable and convenient.

### PART II. NOTICE OF VIOLATIONS & WAIVER OF PROCEEDINGS

**SECTION 11. NOTICE OF VIOLATIONS -** When any of the marine park rangers or any person with personal knowledge finds or discovers any violations of the TRNP Tourism Rules and Regulations and other TPAMB policies, the following procedures shall be followed:

a. The marine park rangers shall investigate further the details of the alleged violation, and thereafter prepare an Incident Report stating the findings of their investigation and the specific violations committed under these rules. Any person with personal knowledge shall report the incident to the marine park rangers for verification and submit an affidavit stating the details of such violation.

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- b. The marine park ranger shall forward the Incident Report to the Protected Area Superintendent, who will issue a Notice of Violation (NOV) stating the following:
  - i. relevant findings of the marine park rangers;
  - il. the specific violations committed;
  - iii. the breakdown of recommended penalties
  - iv. options to waive proceedings before the TAB and pay immediately;
  - v. the notice that when the violator/s does not respond within fifteen (15) days from the receipt of the NOV, the case shall be filed before the TAB and that violator/s and/or his/her vessel shall be disqualified from entering TRNP.

SECTION 12. WAIVER OF ADJUDICATION PROCEEDINGS BEFORE THE TAB - Upon receipt of the NOV, the violator shall have a period of fifteen (15) days to notify the PASu in writing of his/her decision to avail of the option to waive the proceedings before the TAB and willingness to execute the Waiver of Adjudication Proceedings. Failure to communicate within the given period shall prompt the PASu to file the case before the TAB.

- a. The PASu, upon receipt of the written communication from the violator to avail of the Waiver, shall respond with a Demand to Pay, attaching therewith the Waiver of Adjudication Proceedings Form, and other relevant documents, if there are any. The said Demand to Pay shall contain a period of fifteen (15) days within which to pay the assessed penalties.
- b. Failure to pay the assessed penalties within the prescribed period shall cause the filing of an administrative case before the TAB. The permit of the violator/s, if any, may be canceled and the violator/s may be prohibited from entering Tubbataha.
- c. Any violation shall result in the issuance of a NOV; subsequent violations of the same rules shall proceed directly to administrative cases before the TAB.
- d. Upon receipt of the full and final payment from the violator/s, the PASu shall issue a certification confirming the full and satisfactory compliance, thereby releasing the violator/s from further liability.

The right to avail of a waiver of proceedings before the TAB is not applicable for any violations under Section 26 of Republic Act No. 10067.

#### PART III. PROCEDURE BEFORE THE TAB

**SECTION 13. PLEADINGS AND MOTIONS ALLOWED** - The pleadings and motions that may be filed are:

- a. Complaint;
- Answer, which may include compulsory counterclaim and cross-claim;
- c. Motion for intervention;
- d. Motion for discovery;
- e. Motion for reconsideration of the judgment;
- f. Motion for postponement;
- g. Motion for new trial; and/or
- h. Petition for relief from judgment

SECTION 14. PROHIBITED PLEADINGS OR MOTIONS- The following pleadings or motions shall not be allowed:

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- Motion to dismiss the complaint or motion to quash;
- Motion for a bill of particulars;
- c. Motion for new trial or reopening of trial;
- Motion for extension of time to file pleadings, except to file answer, the extension not to exceed fifteen (15) days;
- e. Motion to declare the defendant in default;
- f. Reply and rejoinder;
- g. Third-party complaint
- Such other dilatory motions that will delay or obstruct the disposition of cases.

SECTION 15. VERIFIED COMPLAINT OR PETITION -The verified/notarized complaint shall contain the ultimate facts of the case and shall include the following:

- Full name and address of the complainant, including electronic mail address;
- Full name and address of the person complained of, including electronic mail address registered with the Tubbataha Management Office;
- Specification of the charges;
- Statement of the ultimate and evidentiary facts which show the acts or omissions allegedly committed;
- e. Reliefs prayed for; and
- f. Certification or statement of non-forum shopping

In the absence of items (c) and (d) of the aforementioned requirements, the complaint shall be dismissed outright without prejudice. However, if the respondent cannot be identified by his name, an assumed name may be used together with the practical description of the respondent's physical appearance such as, but not limited to gender, approximate age, weight, height, color of hair, and other distinguishing physical features.

A respondent identified by an assumed name shall be required to provide his true name in order for him/her to participate in the proceedings and the complaint shall be considered as amended accordingly.

In support of his/her complaint, the complainant shall also attach evidence supporting his cause of action consisting of affidavits, piece(s) of documentary evidence(s), and object evidence(s) if possible.

SECTION 16. WHO MAY FILE A COMPLAINT OR PETITION - Any person, natural or juridical, who has personal knowledge of the facts and circumstances or any real party in interest, constituting a violation of R.A. 10067, its Implementing Rules and Regulations, and other policies of the TPAMB may file a complaint or petition against any person(s), natural or juridical, involved in such violation (s). In the absence of personal knowledge on the part of the complainant, the complaint or petition must be supported by an affidavit under oath of the person/s who has personal knowledge of the violation.

**SECTION 17. WHO MAY BE CHARGED** - Any person or persons, natural or juridical, may be charged for any violation/s of R.A. 10067, its Implementing Rules and Regulations, and other TPAMB policies. In case a juridical person is thus charged, its president, manager, or head of office shall also be impleaded in his/her official capacity.

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**SECTION 18. MANNER OF FILING** - The complaint or petition together with the affidavit/s and other supporting documents shall be filed with the TAB through the Tubbataha Management Office (TMO). However, the complaint or petition shall be deemed filed upon receipt by the TAB Secretariat.

The complaint or petition together with the affidavit/s and other supporting documents may be filed electronically with the TAB through the official electronic mail address of the TMO as an alternative mode of filing. The complaint or petition shall be deemed filed upon acknowledgment by the TAB Secretariat.

**SECTION 19. DOCKETING** - Every complaint or petition shall be recorded in the docket book in chronological order and designated with a unique case identification number. Each case number shall be preceded by the year in which the case was filed followed by a sequence of the case numbers in the order it was received.

**SECTION 20. DOCKET FEES** - No docket fees shall be imposed in filing a complaint or petition.

**SECTION 21. NUMBER OF COPIES OF ALL PLEADINGS BEFORE THE TAB** - Legible copies of the pleadings and the supporting documents must be equivalent to the number of the TAB members, secretariat, complainant/s, and respondent/s. Additional copies equivalent to the number of respondents shall be required when the number of respondents as indicated in the complaints or petition is more than one.

SECTION 22. PROOF OF SERVICE OF PLEADINGS - Pleadings, summons, motions, notices, orders, judgments, and other submissions shall be served personally or by registered mail, accredited courier, electronic mail, facsimile transmission, or other electronic means to the official and/or electronic mail addresses provided by the complainants/respondents and other known addresses of the complainants/respondents.

Proof of Service in the form of an affidavit of service of such copy to the complainant/respondent shall be filed prior to or simultaneous with the filing of such pleadings to the TAB.

**SECTION 23. ASSISTANCE OF COUNSEL** - The respondent/s may choose to defend themselves or may be assisted by counsel of choice for purposes of the proceedings before the TAB.

SECTION 24. RECORDING AND FILING OF THE COMPLAINT, PETITION, AND OTHER PLEADINGS - The TAB Secretariat shall record and file copies of the complaint, petitions, notices, orders, and other pleadings pertaining to the same case. The record of each case shall bear the same docket number as indicated in the docket book.

SECTION 25. EVALUATION OF THE COMPLAINT OR PETITION - The TAB Secretariat shall evaluate the form and substance of complaint or petition for reasonable ground/s of administrative liability. In the absence of reasonable ground/s of administrative liability, the complaint or petition shall be returned to the complainant. When there is reasonable ground/s of administrative liability, the complaint or petition shall be received and docketed.

**SECTION 26. SUMMONS** - After evaluation of the complaint or petition, the TAB Secretariat shall immediately issue the corresponding summons to the respondent/s named in the complaint or petition, attaching therewith a copy of the complaint or petition and other supporting documents. The summons shall state the following:

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- Names of the parties to the action;
- b. The specific alleged violation/s;
- The specific provision of the rules or order allegedly violated;
- d. The applicable penalty, and;
- A notice that the respondent must answer within fifteen days and that failure to answer would constitute the following:
  - Waiver of his/her right to refute the allegations in the complaint/petition and the case shall be decided based on the evidence submitted by the complainant/petitioner.
    - If the respondent is a dive operator or private boat owner, the vessel may be disqualified from entering TRNP.

**SECTION 27. VERIFIED ANSWER** - The respondent/s shall file an answer, which must be a verified/notarized copy furnished to the complainant/petitioner, within fifteen (15) calendar days from receipt of the summons.

**SECTION 28. EFFECT OF FAILURE TO FILE ANSWER** - Should the respondent/s fail to answer the complaint within the period above provided, the respondent shall be considered:

- a. to have waived his right to answer and to present evidence. Motu proprio or on motion of the complainant, the TAB shall formulate its decision as may be warranted by the facts alleged in the complaint or petition and the evidence on record;
- to have understood that his/her vessel may be disqualified from entering TRNP.

**SECTION 29. CONSOLIDATION** - Cases involving a common cause of action and involving the same respondent/s may be consolidated to avoid unnecessary costs and delay.

**SECTION 30. PRELIMINARY CONFERENCE** - Not later than fifteen (15) days upon receipt of the answer, a preliminary conference may be held before the TAB:

- To consider the possibility of an amicable settlement;
- To mark the documents or exhibits to be presented by the parties and copies thereof to be attached to the records after comparison with the originals;
- c. To ascertain from the parties the undisputed facts and admissions on the genuineness and due execution of the documents marked as exhibits;
- d. To consider such other matters as may aid in its prompt disposition;
- To record the proceedings in the "Minutes of Preliminary Conference" to be signed by both parties or their counsels;
- To mark the affidavits of witnesses which shall be in question and answer form and shall constitute the direct examination of the witnesses.

The TAB Secretariat shall issue a notice of preliminary conference on such time as to ensure receipt by the parties at least three (3) days prior to the scheduled preliminary conference.

SECTION 31. MEDIATION - Mediation is the voluntary process in which a mediator, selected by the complainant/s and the respondent/s, facilitates communication and

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negotiation, and assists the parties in reaching a voluntary agreement regarding the dispute.

When the respondent/s opt to avail themselves of amicable settlement under Section 30 (a) above, Mediation as an alternative dispute resolution (ADR) method shall be adopted. The Secretariat may organize a third-party mediator/s acceptable to both parties to mediate the proceeding. The third-party mediator/s shall conduct the mediation proceedings and the final agreement, signed by the third-party mediator/s and the parties, shall be submitted to the TAB for confirmation during its regular/special meeting or by referendum.

A referendum, as used in this Rules of Procedure, means the process of securing confirmation through individual consultations, with the majority of TAB members expressing agreement, as indicated by their signatures on the parties' final agreement.

The final agreement of both parties shall be final and executory immediately upon the confirmation of the TAB. The Secretariat shall issue a Notice of Execution to the respondent/s in accordance with the agreement.

Upon the full execution of the agreement, the TAB Secretariat shall issue a certification confirming its full and satisfactory compliance, thereby terminating the case.

**SECTION 32. RECORD OF PRELIMINARY CONFERENCE** - Within five (5) days after the termination of the Preliminary Conference, the TAB shall issue a record of the preliminary conference stating the matters taken up therein, including but not limited to:

- a. The stipulations or admissions entered into by the parties;
- b. Whether, on the basis of the pleadings and the stipulations and admissions made by the parties, judgment may be rendered without the need for further proceedings, in which event judgment shall be rendered within the period stated under Section 35 of this Rule;
- c. A clear specification of material facts which remain controverted; and
- d. Such other matters were intended to expedite the disposition of the case.

**SECTION 33. CLARIFICATORY HEARINGS** - Where necessary, after all the issues have been joined, the TAB shall determine the need for a clarificatory hearing. Otherwise, it shall issue an order that the case is submitted for resolution.

The affidavits of the parties and their witnesses shall take the place of their direct testimony. In case hearings are held, only those witnesses who have submitted their affidavits on or before the preliminary conference or specified date shall be allowed to testify.

In lieu of direct examination, affidavits marked during the pre-trial shall be presented as direct examination of affiants subject to cross-examination by the adverse party.

The TAB shall strictly adhere to the rule that a witness is to be fully examined in one (1) day, subject to the TAB's discretion of extending the examination for justifiable reason/s.

**SECTION 34. SUBMISSION OF POSITION PAPERS** - In the event that no clarificatory hearing is conducted, the parties shall, within fifteen (15) days from the termination of Preliminary Conference, submit their respective position papers setting forth the law

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and the facts relied upon by them and attaching the affidavits of their witnesses as well as their documentary evidence, if any,

**SECTION 35. DECISION** - Within fifteen (15) days after receipt of the position paper or after the expiration of the period to file a position paper, or after the last hearing, the TAB shall decide the case, stating therein the facts and the law upon which the same is based as well as the evidentiary bases thereof.

The decision of the TAB shall become final fifteen (15) days after receipt of a copy thereof by the parties and if no motion for reconsideration is received from either **SECTION 36. MOTION FOR RECONSIDERATION**. Any party may file a motion for reconsideration before the TAB, furnishing a copy to the opposing party, within fifteen (15) days upon receipt of a copy of the TAB Decision. Only one motion for reconsideration shall be allowed.

A Motion for Reconsideration may only be entertained if filed within fifteen (15) days from receipt of the TAB decision by the parties on any of the following grounds:

New evidence has been discovered which materially affects the decision; or Errors of facts and/or of law or irregularities have been committed prejudicial to the interest of the movant.

Upon receipt of the Motion for Reconsideration, the TAB Secretariat shall forward the same to the TAB, which shall accordingly resolve the matter.

**SECTION 37. DECISION ON THE MOTION FOR RECONSIDERATION** - The TAB shall resolve the Motion for Reconsideration within fifteen (15) days from receipt of the Motion for Reconsideration. It may maintain or reverse its previous decision.

**SECTION 38. APPEAL TO TPAMB** - Any party not satisfied with the TAB decision on the Motion for Reconsideration may appeal to the TPAMB within fifteen (15) days upon receipt of the TAB decision. The TPAMB shall decide and issue a resolution affirming, modifying, or denying the appeal within forty-five (45) days from receipt of the Motion for Reconsideration.

**SECTION 39. FINALITY OF THE DECISION** - The TPAMB's decision shall become final fifteen (15) days upon receipt thereof by the complainant/s and/or respondent/s. The TAB's decision shall become final and executory upon the expiration of the 15-day period without any Motion for Reconsideration from either party.

**SECTION 40. EXECUTION OF THE DECISION** - When the decision becomes final and executory, the TPAMB shall issue an order directing the party concerned to comply with the decision within fifteen (15) days from receipt of such order. Such decision shall be binding upon the respondents or any person/s acting for and on his behalf, his assigns or heirs.

The execution of the decision or its stay pending appeal shall be governed by Section 12, Rule 43 of the Rules of Court.

**SECTION 41. ENTRY OF DECISIONS** - The TAB Secretariat shall keep a Book of Entry of decisions containing a copy of each decision rendered by the TAB and/or TPAMB in chronological order.

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**SECTION 42. FILING OF CRIMINAL CASE.** When there is sufficient evidence to support a conviction for criminal liability, the TAB may recommend to the TPAMB the filing of a criminal case/s.

**SECTION 43. PENALTIES** - The TPAMB shall impose the appropriate penalties provided pursuant to RA No. 10067 and its Implementing Rules and Regulations and/or other TPAMB policies violated.

Additional penalties defined in Section 45 of the TRNP Tourism Rules and Regulations may be imposed by the TAB/TPAMB.

**SECTION 44. MITIGATING CIRCUMSTANCES** - In determining imposable fines within a given range, the minimum fine shall be imposed as may be applicable under the following circumstances:

- No prior violation of park rules and regulations;
- Admission of offense;
- Assisted and supported the filing and resolution of administrative cases before the TAB resulting to the imposition of penalty to the violator;
- Waived proceedings before the TAB.

**SECTION 45. AGGRAVATING CIRCUMSTANCES** - In determining imposable fines within a given range, the maximum fine shall be imposed if the violator/s:

- a. Has committed multiple and/ or successive violations;
- b. Is a repeat offender,
- Attempts to flee apprehension;
- d. Possesses unlicensed firearms;
- e. Uses force or intimidation against TRNP enforcement officers

**SECTION 46. NOTICES** - All parties before the TAB shall be furnished copies of all orders, issuances, or processes personally, by registered mail, electronic mail, or by courier.

**SECTION 47. PROSECUTION OF ADMINISTRATIVE CASES** - The TPAMB shall organize its prosecutorial arm to represent the complainant of the cases within its jurisdiction.

**SECTION 48. PLACE OF HEARING** - All hearings before the TAB may be held in Puerto Princesa City, Palawan, in person or online or at any place as may be designated by the TAB.

#### PART III. MISCELLANEOUS PROVISIONS

**SECTION 49. REPEALING CLAUSE** - All existing rules, regulations, orders or circulars or any part thereof inconsistent with these rules are hereby repealed, amended or modified accordingly.

**SECTION 50. SEPARABILITY CLAUSE** - If any part of these rules is declared unconstitutional or illegal, the other parts or provisions shall remain valid.

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# ADOPTED AND APPROVED this 14th day of March at Puerto Princesa City.

I hereby certify to the correctness and accuracy of the above - quoted resolution.

Prepared by:

ANGELIQUE M. SONGCO

Secretary

Attested by:

KATHERINE P. CUSTODIO

Presiding Officer

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SIGNED:

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