

**TUBBATAHA PROTECTED AREA MANAGEMENT BOARD  
TUBBATAHA ADJUDICATION BOARD (TAB) RULES OF PROCEDURE**

**PART I**

**TITLE AND PRELIMINARY MATTERS**

**SECTION 1. Title** – These Rules shall be known and cited as “Tubbataha Adjudication Board (TAB) Rules of Procedure.”

**Section 2. Scope** - These Rules shall govern the procedure of administrative cases filed before the TAB involving the violation of Administrative Order 01 Series of 2017 and other TPAMB policies that may be adopted for the effective implementation of RA No. 10067, otherwise known as the Tubbataha Reefs Act of 2009.

**Section 3. The Tubbataha Adjudication Board (TAB)** - The TAB is hereby established pursuant to Section 13 (l) of the TRNP Act. 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 pursuant to TPAMB Resolution 17-10 dated 30 May 2017.

The members present shall elect a chairman 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 Committee in aid of the adjudication.

Should the membership of a TAB member in the TPAMB expires, 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 TPAMB member.

**Section 5. Jurisdiction, Powers and Functions of the TAB** - When convened as the TAB, the committee shall perform the following functions:

- a. Issue summons and/or subpoena to parties and witnesses in connection with the exercise of its functions;
- b. Conduct summary hearings, when deemed necessary, in compliance with the requirements of administrative due process;
- c. Receive evidence and take custody thereof pending final disposition of the case;
- d. Adopt its own internal rules to expedite disposition of cases, if necessary;
- e. Issue orders as may be necessary in the performance of its functions;
- f. Draft decisions for endorsement to the TPAMB;
- g. Perform such other powers and functions as may be relevant and necessary in the conduct of investigation into violations committed in TRNP.

**Section 6. Quorum** - The majority of the members shall constitute a quorum for the TAB to conduct business.

**Section 7. Procedural Guidelines for Adjudication of Administrative Cases** - The procedural guidelines for adjudication of administrative cases filed before the TAB shall be in conformity to the Rules of Procedure for Environmental Cases (A.M. No. 09-6-8-SC).

**Section 8. Technical Rules in Administrative Proceedings**- Administrative proceedings before the TAB shall be summary in nature, as herein provided for the conduct thereof, without strictly adhering to the Rules of Court which shall only have suppletory application.

## **PART II. PROCEDURE BEFORE THE TAB**

**Section 1. Pleadings and motions allowed**- The pleadings and motions that may be filed are complaint, answer which may include compulsory counterclaim and cross-claim, motion for intervention, motion for discovery and motion for reconsideration of the judgment.



Motion for postponement, motion for new trial and petition for relief from judgment shall be allowed in highly meritorious cases or to prevent a manifest miscarriage of justice.

**Section 2. Prohibited pleadings or motions-** The following pleadings or motions shall not be allowed:

- (a) Motion to dismiss the complaint;
- (b) Motion for a bill of particulars;
- (c) Motion for extension of time to file pleadings, except to file answer, the extension not to exceed fifteen (15) days;
- (d) Motion to declare the defendant in default;
- (e) Reply and rejoinder; and
- (f) Third party complaint.

**Section 3. Verified Complaint or Petition -** The complaint or petition shall be verified and shall contain the names of the parties, their addresses, the cause of action, the reliefs prayed for, and a certification of non-forum shopping.

All evidence proving or supporting the cause of action consisting of the affidavits of witnesses, documentary evidence and if possible, object evidence, shall be submitted. The affidavits shall be in question and answer form.

**Section 4. Who May File a Complaint or Petition -** Any person who has personal knowledge of the facts and circumstances constituting a violation of this Order and other policies of the TPAMB may file a complaint or petition against any person or persons, natural or juridical, involved in such violation/s. And, in case a juridical person is thus charged, then its president, manager or head of office shall also be impleaded in his/her official capacity. 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 5. 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 and the supporting documents must be filed in nine (9) copies. 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 6. Docket Fees** - No docket fees shall be imposed in filing a complaint or petition.

**Section 7. Number of Copies of all Pleadings before the TAB** - All pleadings before the Board must be filed in nine (9) copies and must show proof of service thereof to the adverse party.

**Section 8. Assistance of Counsel** - The respondent may be assisted by counsel of choice for purposes of the proceedings before the TAB or to litigate his own action, claim or defense before it.

**Section 9. Recording of the Complaint or Petition** - The receiving officer or staff of the TAB shall record the receipt of any complaint or petition in the docket book, and assign a specific identification number for reference purposes.

**Section 10. Summons** - After evaluation of the complaint or petition, the TAB 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:

- a. Names of the parties to the action;
- b. The specific alleged violation/s;
- c. The specific provision of the rules or order allegedly violated;
- d. The applicable penalty, and;

A direction that the respondent must answer within the time fixed by these rules and that failure to answer would constitute a waiver of his/her right to refute the allegations in the complaint and petition and the case shall be decided based on the documents submitted by the complainant/petitioner.



**Section 11. Answer** - The respondent/s shall file an answer, which must be verified, copy furnished the complainant/petitioner, within fifteen (15) calendar days from receipt of the summons.

Proof of Service in the form of an affidavit of service of such copy to the complainant/petitioner shall be filed prior to or simultaneous with the filing of such answer or counter affidavit to the TAB. Said copy shall be served through personal service or by registered mail with registry return card if it cannot be effected by personal service.

**Section 12. Effect of Failure to File Answer** - Should the respondent fail to answer the complaint within the period above provided, the respondent shall be considered to have waived his right to answer and to present evidence. Moto proprio or on motion of the complainant, the TAB shall formulate its recommendation as may be warranted by the facts alleged in the complaint or petition and the evidence on record.

**Section 13. Consolidation** - Cases involving a common cause of action and involving the same respondent/s may be consolidated to avoid unnecessary costs and delay.

**Section 14. Preliminary Conference** - Not later than fifteen (15) days upon receipt of the answer, the preliminary conference may be held before the TAB:

- (a) To consider the possibility of an amicable settlement;
- (b) 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;
- (e) To record the proceedings in the "Minutes of Preliminary Conference" to be signed by both parties or their counsels;
- (f) 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 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 15. 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) Whether the parties have arrived at an amicable settlement, and if so, the terms thereof;
- (b) The stipulations or admissions entered into by the parties;
- (c) Whether, on the basis of the pleadings and the stipulations and admissions made by the parties, judgment may be rendered without the need of further proceedings, in which event judgment shall be rendered within the period stated under Section 25, Part II of this Rule;
- (d) A clear specification of material facts which remain controverted; and
- (e) Such other matters intended to expedite the disposition of the case.

**Section 16. 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 has to be fully examined in one (1) day, subject to the TAB' s discretion of extending the examination for justifiable reason.

**Section 17. 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 and the facts relied upon by them and attaching the affidavits of their witnesses as well as their documentary evidence, if any.

**Section 18. Resolution** - Within fifteen (15) days after receipt of position paper or after the expiration of the period to file position paper or after the last hearing, the TAB shall recommend a decision to TPAMB, stating therein the facts and the law upon which the same is based as well as the evidentiary bases thereof. The TPAMB shall resolve the case within thirty (30) days from the receipt of the recommendation of the TAB.

The Resolution of the TPAMB shall become final and executory fifteen (15) days after receipt of a copy thereof by the parties and if no motion for reconsideration is received or filed.

**Section 19. Motion for Reconsideration** - Any party may file a motion for reconsideration, furnishing a copy to the opposing party, within fifteen (15) days upon receipt of a copy of the TPAMB Resolution. Only one motion for reconsideration shall be allowed.

**Section 20. Resolution on the Motion for Reconsideration** - The TPAMB shall resolve the motion for reconsideration within fifteen (15) days from receipt of the motion for reconsideration. It may maintain or reverse its previous resolution.

**Section 21. Finality of the Decision** - The decision of the TPAMB shall be final. The said decision shall become executory fifteen (15) days following the receipt of a copy thereof.

**Section 22. 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. The respondent or any person acting for and in his behalf, his assigns or heirs, who shall fail or refuse to comply with the final and executory decision without justifiable cause, after being required to do so, shall be punished for contempt pursuant to the applicable provisions of the New Rules of Court promulgated by the Supreme Court of the Philippines.

**Section 23. Penalties** - The TPAMB shall impose the appropriate penalties provided for pursuant to RA No. 10067 and/or other TPAMB policies violated.

**Section 24. Notices** - All parties before the TPAMB en banc shall be furnished copies of all orders, issuances or processes from the said bodies personally or by registered mail.

**Section 25. Prosecution of Administrative Cases** - The TPAMB shall organize its prosecutorial arm to represent the complainant of the cases within the jurisdiction of the TAB.

**Section 26. Place of Hearing** - All hearings before the TAB shall be held in Puerto Princesa City, Palawan or at any place as may be designated by the TPAMB.

**Section 27. Waiver of Proceedings Before the TAB.** In consonance with Rule 39, Administrative Order No 01 series of 2017, violators of TRNP rules and regulations may opt to immediately pay the administrative fine, which shall constitute a waiver of the proceedings before the TAB.

### **PART III MISCELLANEOUS PROVISIONS**

**Section 1. 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 2. Separability Clause** - If any part of these rules is declared unconstitutional or illegal, the other parts or provisions shall remain valid.

**Section 3. Effectivity** - The provisions of this Resolution shall take effect fifteen (15) days following its publication in a newspaper of general circulation and upon filing thereof with the Office of the National Administrative Registrar at the UP Law Center, Quezon City, Philippines.

*I hereby certify that the above-quoted Resolution has been duly approved and adopted by the TPAMB on 28<sup>th</sup> day of February 2017 at Puerto Princesa City.*

  
**ANGELIQUE M. SONGCO**  
Protected Area Superintendent