Republic of the Philippines
SECURITIES AND EXCHANGE COMMISSION
SEC Building, EDSA, Greenhills
Mandaluyong City Metro Manila
Philippines

05 December 2005

SEC Opinion No. 05-16
Voting Requirement in Condominium Corporation

MR. PACIFICO SANCHEZ, JR.
Unit Owner
Pioneer Highlands South Condo. Corp.
Suite 712, 7/F Globe Telecom Plaza 1,
Pioneer St., Mandaluyong City

Sir:

This refers to your letter dated 20 July 2005 requesting opinion on the manner of voting of unit owners in Pioneer Highlands South Condominium Corporation (*"Pioneer" for brevity*).

Article 1, Section 7 of the by-laws and Part 1, Section 14(d) last paragraph of the Master Deed of Pioneer provides and we quote respectively:

> "Section 7. Voting Proxy - Members shall be entitled to one vote, and they may vote either in person or by proxy, which shall be in writing and filed with the Secretary of the association before the scheduled meeting." and
>
> "Section 14. xxx
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> Each unit owner shall have one vote in the Condominium Corporation/s. However, in cases where Republic Act No. 4726, as amended, requires the vote of owners owning a specific percentage

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interest in the common areas as a condition precedent for the approval of certain corporate acts, then the interest of the owner shall be determined on the basis of the formula used to determine its pro-rata share in the expenses for general common/areas under Section 13. For purposes of this Section, Unit owners are defined as those who have paid for their units and who are not delinquent in the payment of any assessment levied upon them at the time of the transfer of the unit. The manner and procedure for voting shall be governed by the By-laws of the Condominium Corporation."

It is worthy to emphasize that under R.A. 4726 "[T]he Articles of Incorporation or by-laws of Condominium Corporations shall not contain any provision contrary to or inconsistent with the provisions of this Act, the enabling or master deed, or the declaration of restrictions of the project."[1]

Considering that both the master deed and the by-laws of Pioneer entitle a member or unit owner to one vote per unit, any change adopted by the board on the manner of voting of unit owners requires amendment of the master deed and the by-laws.

In view thereof, the board of trustees of the subject corporation must strictly enforce the provision of the master deed and the by-laws granting a member or unit owner one vote per unit for the purpose of electing the members of the Board of Pioneer Highlands South Condominium Corporation.

Very truly yours,

VERNETTE G. UMALI-PACO
General Counsel

[1] Section 10 of Republic Act No. 4726, otherwise known as "An Act to Define Condominium, Establishing Requirements for its Creation, and Govern its incident.

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