Republic of the Philippines
Department of Finance
Securities and Exchange Commission
SEC Building, EDSA, Greenhills, Mandaluyong City
Office of the General Counsel

18 September 2012
SEC-OGC Opinion No. 12-18
Re: Quorum and Voting Rights in a Condominium Corporation

VELASCO LAW OFFICE
116 Malakas St. Diliman,
1100 Quezon City

Attention: Atty. Brenda Angeline K. Velasco-Ho

Dear Atty. Velasco-Ho:

This refers to your query on the proper computation of the quorum and "vote entitlement" of each member of the condominium corporation, East Side Condominium Association, Inc. (ECAI). Specifically, you are seeking clarification regarding the perceived conflict between the By-Laws of ECAI and the Second Amended Master Deed and Declaration of Restriction (Master Deed) dated 15 January 2007 executed by BSC Realty Incorporated, which developed East Side Condominium in accordance with Republic Act No. 4726 (the Condominium Act).

ECAI is a non-stock non- profit association, with SEC Registration No. CN 200818473, with Certificate of Incorporation dated 26 November 2008. It is composed of unit owners of East Side Condominium located at No. 77 Malakas St. Bgy. Pinyahan, Quezon City. The purpose for which ECAI is incorporated is:

> "xxx own, hold title to the common areas in the condominium project known and identified as East Side Condominium which has been constituted pursuant to the provisions of Republic Act No. 4726 on the property described in and brought under the operation of said Act by the Master Deed with Declaration of Restrictions executed by BSC Realty, Inc. on 07 October 2005 xxx"

Section 6, Article I, of the By-Laws of ECAI provides:

"Voting Proxy – **Each member shall be entitled to one vote**, and he 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."

On the other hand, Section 8 c),[1] Part I, of the Master Deed provides:

"Each condominium unit owner, as an appurtenance of such ownership, shall automatically become a member of the condominium corporation provided for above. **The proprietary interest acquired by each member of the condominium corporation shall be equal to the appurtenant interest of his unit in the common areas as provided in Section 7 above.** Each condominium unit owner shall also acquire, as an appurtenance of the unit, an easement for the limited common areas as may be provided herein." (Emphasis supplied)

Section 7[2] referred to above provides:

"To each unit in the Condominium Project shall indirectly appertain an undivided interest in the common areas equal to the percentage which the floor area of the unit and the corresponding parking space purchased in conjunction therewith, if any, bears to the floor area of all the units and parking spaces in the condominium project exclusive of common areas. Thus:

Area of Unit and Area of Parking Space
Total area of all units and parking spaces in the Condominium Project exclusive of Common Areas = Percentage of interest of unit in the Common Areas"

You believe that Section 6, Article I, of the By-Laws of ECAI is inconsistent with Section 8 c), Part I, of the Master Deed.

In view of the foregoing provisions, you have asked for an opinion thus: "Due to the apparent conflict between the By-Laws and the Master Deed xxx should a unit member of a condominium corporation be entitled to one (1) vote as stated in the By-laws (regardless of its percentage interest) or to the extent of its interest in the Condominium project using the formula for the Master Deed?"

Section 10 of the Condominium Act as amended, provides:

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[1] Nature and Extent of Interest Acquired by Purchasers of Phase I and Phase II Units.
[2] Appurtenant Interest of Each Unit in the Common Areas.

> "The articles of incorporation or **by-laws of the corporation 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**." (Emphasis ours)

Therefore, for purposes of determining the voting rights of each member, it is the Master Deed that should be followed.

It shall be understood, however, that the foregoing opinion is rendered based solely on the facts and circumstances disclosed and relevant solely to the particular issues raised therein and shall not be used in the nature of a standing rule binding upon the Commission in other cases or upon the courts whether of similar or dissimilar circumstances.[3] If, upon further inquiry and investigation, it will be disclosed that the facts relied upon are different, this opinion shall be rendered void.

Please be guided accordingly.

Very truly yours,

CAMILO S. CORREA
General Counsel

[3] Paragraph 7, SEC Memorandum Circular No. 15, Series of 2003.