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

5 December 2005

SEC Opinion No. 05-17
Voting Requirement in
Condominium Corporation

MS. AMELIA GINA I. CARAGAY
Property Manager
Pioneer Highlands South Condo. Corp.
Pioneer corner Madison Streets,
Mandaluyong City

Madam:

This refers to your letter dated 12 July 2005 requesting opinion on the queries posed therein:

1. Whether the Master Deed of Pioneer Highlands Condominium Corporation ***(Pioneer)*** may be amended or revoked upon registration of an instrument by a simple majority of the registered owners of the property based on floor area of ownership.

2. Whether the simple majority based on floor area of ownership is also applicable in computing for the equivalent number of votes unit owners are entitled to when they participate in election process or any decision requiring their participation.

Relative to your first query, Section 1 of Republic Act No. 7899[1] categorically provides and we quote:

"Section 1.

[1] An Act amending Section Four and Section Sixteen of Republic Act Numbered Four Thousand Seven Hundred Twenty-Six, Otherwise known as "the Condominium Act".

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The enabling or master deed may be amended or revoked upon registration of an instrument executed by a simple majority of the registered owners of the property: Provided, That in a condominium project exclusively for either resident or commercial use, simple majority shall be on a per unit of ownership basis ***and that in the case of mixed use, simple majority shall be on a floor area of ownership basis.***"

Considering that Pioneer is a mixed-use condominium, amendment or revocation of the enabling or master deed requires registration of an instrument executed by a simple majority based on floor area of ownership.

Anent the second query, Article 1, Section 7 of the amended by-laws of Pioneer and Part 1, Section 14(d) last paragraph of the Amended Master Deed with Declaration of Restrictions provide 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."(Underscoring Ours)*
>
> *"Section 14. THE CONDOMINIUM CORPORATION/S:*
>
> *xxx*
>
> ***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 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."(Underscoring Ours)*

The aforequoted provisions of the amended by-laws and the amended Master Deed of Pioneer entitle every unit owner to one (1) vote irrespective of floor area of ownership in the election process or any decision requiring their participation except in cases where the R.A. 4726[2], as amended, provides otherwise.

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

Finally, it is to be stressed that, in the amendment of Articles of the Incorporation of Pioneer, the Corporation Code requires the concurrent votes of at least a majority of the board of directors and by two-thirds (2/3) of the members or unit owners.[3] In case of amendment of the By-laws, the approval of the majority of the board and majority of the unit owners or members[4] is required under the Code.

Very truly yours,

VERNETTE G. UMALI-PACO
General Counsel

[3] Section 16. Amendment of Articles of Incorporation. -- Unless otherwise prescribed by this Code or by special law, and for legitimate purposes, any provision or matter stated in the articles of incorporation may be amended by a majority vote of the board of directors or trustees and the vote or written assent of the stockholders representing at least two-thirds (2/3) of the outstanding capital stock, x x x or the vote or written assent of two-thirds (2/3) of the members if it be a non-stock corporation.
[4] Section 48. Amendment to by-laws - The board of directors or trustees, by a majority vote thereof, and the owners of at least a majority of the outstanding capital stock, or at least a majority of the members of a non-stock corporation, at a regular or special meeting duly called for the purpose, may amend or repeal any by-laws or adopt new by-laws. x x x

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