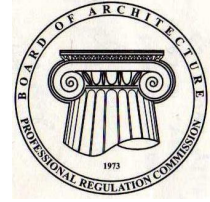




Republic of the Philippines
Professional Regulation Commission
Manila

The Professional Regulatory
Board of Architecture
(PRBoA)



Your Ref:

Our Ref: 07_PRBoA-017

14 March 2007

HON. JESSE M. ROBREDO
City Mayor
Naga City, Camarines Sur

ATTENTION : **HON. GABBY BORDADO**
Vice Mayor

THE HONORABLE MEMBERS OF
THE SANGGUNIANG PANLUNGSOD

ATTY. NELSON S. LEGACION
City Legal officer

THROUGH : **ARCHT. HERNANI AGUILAR**
Office of the City Building Official

ARCHT. JUAN O. VILLEGAS, JR.
City Zoning Administrator/ City Planning and
Development Coordinator

MR. JOAQUIN G. ATAYZA
Regional Director, PRC Region V

SUBJECT : **THE PRBoA POSITION ON THE SIGNING OF**
ARCHITECTURAL DOCUMENTS BY REGISTERED/ LICENSED
CIVIL ENGINEERS (CEs)

REFERENCES : **1)** 12 Feb 07 cover letter (1 page) from Mr. Gil de la Torre, Board Sec IV & Sec Designate addressed to Archt. Hernani Aguilar, Naga City Building Official; **2)** 6 Feb 07 letter (1 page) from the Hon. Jesse M. Robredo, Naga City Mayor addressed to Archt. Hernani Aguilar, Naga City Building Official; **3)** 23 Jan 07 letter (2 pages) from Atty. Nelson S. Legacion, Naga City Legal officer addressed to Archt. Juan O. Villegas, Jr., Naga City Zoning Administrator/ City Planning and Development Coordinator; **4)** 25 Sep 06 cover letter (1 page) from Mr. Gil de la Torre, Board Sec IV & Sec Designate addressed to Archt. Hernani Aguilar, Naga City Building Official; and **5)** fax copy of the Certified True Copy of the 21 Sep 06 Naga City Sangguniang Palungsod Committee on Laws and Ordinances Report on its 8th SP CH 2006-11 signed by Mr. Salvador M. del Castillo, Committee Chairman.

Mesdames/ Gentlemen,

Warm greetings from a half-Bicolano! The undersigned's mother hails from Sorsogon Province (the areas around Pilar and Donsol).

In response to the situation unfolding in Naga City as regards the matter of the rightful regulated professional who should prepare, sign and seal **architectural** documents, the Professional Regulatory Board of Architecture ("**PRBoA**") is making known its **position** concerning the actions taken by the LGU of Naga City and the documents officially issued by the city (forwarded to the undersigned 07 March 2007).

The continuing practice of Civil Engineers (**CEs**) in the preparation, signing and dry-sealing of **architectural** documents, not limited to architectural plans, designs and specifications, appear to be clear, unequivocal and willful violations of **Republic Act (RA) 9266 (Architecture Act of 2004)**, its **Implementing Rules and Regulations (IRR)** and derivative regulations.

Despite the **full effectivity** of **RA 9266** since 10 April 2004 (almost 3 years ago), the **CEs** continue to prepare, sign and seal **architectural** documents, with the Professional Regulatory Board of Civil Engineering (**PRBoCE**) and the the Accredited Professional Organization (**APO**) for **CEs** (the **PICE**) averring that **CEs** can legally do so by virtue of the following:

- 1) **RA 544** of 1950 (The Civil Engineering law), as amended by **RA 1582** of 1956 (which is the **actual CE law that is in effect**, having superseded RA 544 in June 1956);
- 2) **PD 1096**, otherwise known as the National Building Code of the Philippines (**NBCP**) signed by then Pres. Ferdinand Marcos in February 1977 and its **IRR**;
- 3) **Ministry Order No. 57**, supposedly based on **PD 1096** and its **IRR**;
- 4) **Writ of Preliminary Injunction (WPI or "injunction")** issued 24 May 2005 by **RTC Manila Branch 22** against the implementation by the **DPWH** of **Secs. 302.3 and 302.4** of the 2004 Revised **IRR** of **PD 1096** and based mainly on the application/s filed/ representations made by the **PICE** joined by some **CEs** in their private capacities; and
- 5) **Memorandum of the DPWH Secretary** dated 6 September 2005, issued in full compliance with the injunction.

The **PRBoA** has the following statements anent the foregoing:

- 1) Neither **RA 544** nor **RA 1582** appear to allow **CEs** to prepare, sign or seal **architectural** documents; the fact that **2 separate sets of statutes** i.e. **RA 544/ 1582** and **RA 545/ 1581** were signed into law in 1950 and subsequently/ consecutively amended in 1956 clearly point to the **exclusivity** of the practice of the 2 professions; while it may be gleaned from Sec. 2 (a) of **RA 1582** that **CEs** can design and prepare plans, specifications and estimates for "buildings", the same is limited by the fact that the word or term "architectural" is **never** mentioned in **RA 1582** as it constitutes part of a separate practice of the profession of architecture as defined under **RA 1581**, a statute passed **before** **RA 1582**; moreover, the term "building" as used in Sec. 2 (a) does **not** refer to buildings per se but to buildings forming part of engineering structures or works; in fact, Sec. 23 of **RA 1582** mentions only "any building or structure intended for public gathering or assembly such as theaters, cinematographs, stadia, churches or structures of like nature" i.e. buildings with large structural spans; a

key and most important **amendatory** provision of **RA 1582** (again, **not** the superseded **RA 545**) is its Sec. 24, which states in part, that "members who are civil engineers shall only render work and services proper for a civil engineer XXX architects shall also render work and services proper for an architect; individual members of such firms XXX shall be responsible for their own respective acts."; the foregoing sections of **RA 1582** (which is the **governing law for CEs** since June 1956 i.e. **not** RA 545) clearly defines the limits of the CEs practice as **not** extending into the practice of architecture and therefore **barring** CEs from preparing/ signing/ sealing **architectural** documents, particularly in light of the more specific and recent approval of RA 9266; the **Department of Justice (DoJ)** in its **January 2004 Opinion** based on the comparison of RA 1582/ 544 and RA 1581/ 545 (at the behest of the PICE members) has already clearly spoken about the definitive distinctions of the 2 professions i.e. **architectural plans and designs are for architects** and structural plans and designs are for civil engineers; the foregoing should properly address Your LGU's continuing reference/s to the supposed "**right/s**" of CEs to prepare, sign and seal **architectural** plans, a right that was **never** vested on the CEs since the approval of both RA 544 and RA 545 in 1950, nor with the amended RA 1582 and RA 1581 which clearly separated the respective practices of the 2 professions; since then and up to the present time, CEs wanting to/ desirous of entering the practice architecture must attain the following before doing so: 1) secure a B.S. Architecture degree; 2) complete a minimum 2-year diversified training period in the planning/ design/ construction of buildings; 3) pass the Architects' Licensure Examination (ALE) and 4) be registered/ licensed as an Architect by the PRC (and taking the Architect's Oath and being issued a PRC ID as Registered Architect); lacking any of these **basic qualifications under law**, CEs **cannot** practice the separate/ distinct profession of architecture, **not now and not ever**; **the CE registration and license does NOT confer upon CEs any right to practice any branch of architecture or offer any architectural service specifically defined under Article I Sec. 3 (3) of RA 9266 (or under the applicable sections of its predecessor laws RA 1581 and RA 545)**; RA 1582 also does **not** have a recognizable IRR that should be promulgated by the PRC to implement RA 1582 nationwide. Having clearly established that the preparation of **architectural** documents do **not** form part of the practice of CEs, the CEs therefore **cannot** invoke the applicability of Sec. 43 of RA 9266, as it clearly does **not** apply. Therefore, the preparation, signing and sealing of **architectural** documents do **not** form part of the practice of the legally recognized profession of civil engineering;

- 2) There is absolutely **nothing** in Section 302 of the February 1977 National Building Code of the Philippines/ NBCP (PD 1096) which can be remotely construed as allowing CEs to act as a signatory to **architectural** documents; its Sec. 302 (*Application for Permits*) clearly states "To be submitted together with such application are at least five sets of corresponding plans and specifications prepared, signed and sealed by a duly (sic) mechanical engineer in case of mechanical plans, and by a registered electrical engineer in case of electrical plans, except in those cases exempted

- by the Building official under this Code." (reference **Attachment 1**); Sec. 302 of the version/s of Sec. 302 of PD 1096 and its IRR invoked by the CEs are therefore **not** consistent with the **authentic/ Malacanang Records Office-certified** version of PD 1096 (reference **Attachments 1 and 2**) nor with the IRR printed in the Official Gazette (reference **Attachment 3**); moreover, PD 1096 and its IRR only cover matters attendant to the planning/ design of buildings/ structures in general and to securing building permits in particular; **PD 1096 and its IRR, specifically its questioned Sec. 302.3 and 302.4, notwithstanding the injunction, do NOT govern the practice of the regulated technological professions. Only the professional regulatory laws such as RA 9266 and RA 1582 (amending RA 544) do;**
- 3) Ministry Order (MO) No. 57, a mere **executive** issuance which is **not** vested with the power to change Sec. 302 of the **authentic/ Malacanang Records Office-certified** copy of PD 1096, is being erroneously portrayed by CEs as **supposedly capable** of amending/ superseding specific provisions under both PD 1096 and its IRR (its enabling law) as well as RA 9266 (and its predecessor laws RA 1581/ RA 545), all **special laws** being clearly **superior** to MO No. 57 which is the equivalent of a mere Department Order or a Department Administrative Order at the present time. The CEs refer to MO No. 57 **provision/s** which supposedly allow CEs to sign and seal **architectural** documents as if these were laws to govern the professional practice of CEs and architects, when in fact, said **provision/s** have **no legal basis** i.e. nothing anchored on Sec. 302 of the **authentic/ Malacanang Records Office-certified** copy of PD 1096 nor its Official Gazette-published IRR. **Lacking legal basis, the said provision/s under Ministry Order 57 may be likened to being nothing more than a scrap of paper;**
 - 4) The injunction on the specified sections of a mere **executive** issuance (2004 Revised IRR of PD 1096) **does not address** the following important laws that materially affect the issues raised in the PICE application for TRO/ WPI: 1) RA 9266 (and even its predecessor laws RA 1581/ 545); 2) the original and **authentic/ Malacanang Records Office-certified** copy of PD 1096; and 3) the qualifications restricting the practice of CEs under RA 1582/ RA 544 and even under RA 1581; **the WPI on an executive issuance should NOT be used as an excuse to restrain the operation, implementation and enforcement of a national law that is in full effect (RA 9266), particularly if RA 9266 is NOT the subject of the said injunction;** and
 - 5) The Memorandum of the DPWH Secretary issued 26 September 2005 was but in faithful compliance with the injunction; **as with MO 57, the Memorandum is a mere executive issuance that CANNOT supersede/ take precedence over a national law that is in full effect; the same document also does NOT govern professional practice; only the professional regulatory laws do.**

It is very important to note that the acknowledged father of both RA 7160, otherwise known as the Local Government Code and of RA 9266, The Architecture Act of 2004, the good **Senator Aquilino Q. Pimentel, Jr.**, has on many occasions confirmed the **primacy and sole vested right** of registered/ licensed architects insofar as the preparation, signing and sealing of **architectural** documents are concerned.

Summing up, the PRBoA would like to remind our brothers in government service that we are still a government of laws and we all must dutifully work to maintain such a state. The injunction applies only to specified portions of a mere **executive** issuance (Secs. 302.3 and 302.4 of the 2004 Revised IRR of PD 1096/ the NBCP) i.e. minor regulations covering the filing of support documents for a building permit application. The injunction does **not** apply to **regulated professional practice per se**, as clearly defined under the pertinent professional regulatory laws (RA 9266 and RA 1582, amending RA 544), which are all under the aegis of the PRC i.e. a quasi-judicial body, **not** the DPWH **nor** the DILG, which are line agencies.

As such, the injunction on a mere **executive** issuance issued by a line agency (DPWH) **cannot** and **must not** be used to circumvent or delay the implementation/ enforcement of the clear provisions and unequivocal intent of a Republic Act, a **superior statute** and **special law** crafted and approved by the **legislative and executive branches of government**, particularly if the injunction does **not** apply to RA 9266 and more particularly since RA 9266, a material law to consider in the case filed by the CEs, was **not** addressed in the injunction. **An unrestrained national law such as RA 9266 has to be accorded its due respect and be made to prevail over inferior regulations/ incorrectly invoked laws or over superseded and antiquated laws.**

In full accord with **Sec. 44 (Enforcement of the Act)** of RA 9266 (a law that is in **full effect**), **the PRBoA (the "Board") hereby officially requests the assistance of the LGU of Naga City in enforcing the provisions of RA 9266 (and its derivative regulations) and to prosecute any person violating provisions of the same.**

As a parting reminder, the PRBoA is constrained to list the other pertinent provisions of RA 9266 that directly/ specifically affect/ apply to fellow servants in government service, to wit:

- 1) **Sec. 20 (2)**;
- 2) **Sec. 29** (*Prohibition in the Practice of Architecture and Penal Clause*), particularly the portion stating "or **any person** XXX who knowingly allows the use, adoption, implementation of plans, designs or specifications made by **any person**, firm, partnership or company not duly licensed to engage in the practice of architecture, or **any person** who shall violate any of the provisions of this Act, its IRR XXX or any policy of the Board and the Commission (PRC), shall be guilty of misdemeanor and charged in court by the Commission and shall, upon conviction be sentenced to a fine of not less than One hundred thousand pesos (P100,000.00) but not more than Five million pesos (P5,000,000.00) or to suffer imprisonment for a period not less than six (6) months or not exceeding six (6) years, or both at the discretion of the Court."; and
- 3) **Sec. 35** (*Positions in Government Requiring the Services of Registered and Licensed Architects*), which is **scheduled to take effect on 10 April 2007** (next month).

While the undersigned is most grateful for the constant assurances of Naga City officials in enforcing RA 9266 once the injunction is lifted, the undersigned must however insist that the implementation of the law (RA 9266) should **no** longer be delayed, as it has already been in effect since 10 April 2004. For the last fifty six (56) years, our fellow technological professionals, the CEs have continued to reap benefits that were never theirs by right nor as prescribed under law. **RA 9266 only reiterated what was already stated under RA 1581 and RA 545 i.e. that the practice of**

architecture is vested only on registered/ licensed architects and on no one else. It is now time for the rightful regulated professionals to do the job and to render services to a public that has long been deprived and confused by the CEs' selfish insistence that they are "capable" of doing the architect's work. If CEs want to practice architecture, they must become architects first. The law may be harsh but it is the law.

The PRBoA looks forward to Your kind attention and prompt/ resolute action on this very, very urgent matter. Your understanding and assistance in Naga City will go a very long way in helping relieve the continuing/ decades-long injustice foisted on Philippine architects, presently **exacerbated by the flagrant and willful violations of RA 9266 for the nearly three (3) years that it has been in full effect.**

Thank You all very much.

Yours sincerely,

FOR THE PRBoA

ORIGINAL SIGNED

Armando Nicoleta ALLÍ
Chairman, PRBoA

cc : Office of the PRC Chairperson Rosero
Office of the PRC Commissioner Valdecantos
Office of the PRC Secretary Almelor
Office of the PRC Legal Division (Atty. Mapalo)

att : 1) copy of Sec. 302 of PD 1096 as signed by Pres. FM in Feb 77
(as certified by the Malacanang Records Office)
2) copy of signature page of PD 1096 as signed by Pres. FM in Feb 77
(as certified by the Malacanang Records Office)
3) copy of Sec. 302 appearing in the published Official Gazette.

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