



Republic of the Philippines
Professional Regulation Commission
Manila

The Professional Regulatory
Board of Architecture
(PRBoA)
Office of the Chairman



Your Ref :

Our Ref : 07_PRBoA-023r3

15 May 2007

The Municipal/ City Mayor
Local Government Unit (LGU)

ATTENTION : **THE HONORABLE VICE MAYOR AND MEMBERS OF**
THE SANGGUNIANG BAYAN/ PANLUNGSOD

The Municipal/ City Legal officer

THROUGH : **Office of the Municipal/ City Building Official**
(or its Duly Designated Office/s in an Acting
Capacity)

Office of the Municipal/ City Zoning Administrator

Office of the Municipal/ City Planning and Development
Coordinator

Regional Director, Professional Regulation Commission
(PRC)

SUBJECT : **THE OFFICIAL PRBoA POSITION ON THE SIGNING OF**
ARCHITECTURAL DOCUMENTS BY REGISTERED/ LICENSED
CIVIL ENGINEERS (CEs) AND OFFICIAL PRBOA CALL FOR
LGUS TO FULLY IMPLEMENT/ ENFORCE RA 9266 & IRR

REFERENCES : Current Information Furnished by the United Architects of the
Philippines (UAP) Chapters Concerning the Possibly Willful/
Deliberate Violations of Provisions of Republic Act (RA) No. 9266
(The Architecture Act of 2004), its Implementing Rules and
Regulations (IRR) and its Derivative Regulations

Mesdames/ Gentlemen,

Warm greetings!

In response to the reported situation in Your LGU as regards
the matter of the **rightful** regulated professional who should
prepare, sign and seal **architectural** documents, the **Professional**
Regulatory Board of Architecture (hereinafter the "PRBoA") is herein
making known its official **position** concerning said matter.

The continuing practice of Civil Engineers (the "CEs") in the preparation, signing and dry-sealing of architectural documents, not limited to architectural plans, designs and specifications, appear to be clear, unequivocal, continuing, orchestrated 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 (over 3 years ago), the CEs continue to prepare, sign and seal architectural documents, with the Professional Regulatory Board of Civil Engineering (the "**PRBoCE**") and 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) **Presidential Decree (PD) 1096**, otherwise known as the National Building Code of the Philippines (the "**NBCP**") signed by then Pres. Ferdinand Marcos on 19 February 1977 and its Implementing Rules and Regulations ("**IRR**");
- 3) **Ministry Order No. 57**, supposedly based on PD 1096 and its IRR;
- 4) **Writ of Preliminary Injunction** (the "**WPI**" or the "**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 544**) 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 544**) 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 the Architecture Act of 2004 (the "**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 (reference **Attachment 1**); 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)**, particularly the subject of **Architectural Design and Site Planning** (as these relate to the space planning/ design of buildings and their environs) and 4) be registered/ licensed as an Architect by the PRC (and thereafter to take the Architect's Oath and be issued a PRC ID as a 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 (even if the architectural outputs are labeled/ mislabeled as civil engineering documents), 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), their IRRs and derivative regulations**; **RA 1582 also does not have a recognizable IRR that should be promulgated by the PRC and that should be used to implement RA 1582 nationwide**; in contrast, the PRC has promulgated the **IRR of RA 9266** in November 2004, where it clearly defined the terms "building", "architectural plans" and "architectural documents"; having clearly established that the preparation of **architectural** documents does **not** form part of the practice of CEs, the CEs **cannot** therefore invoke the applicability of **Sec. 43 of RA 9266**, as it clearly does **not** apply i.e. the preparation, signing and sealing of **architectural** documents (**particularly if the architectural documents are labeled/ mislabeled as civil engineering 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** (the "**PD 1096**" or the "National Building Code") 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 2**); 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/ Malacañang Records Office-certified** version of PD 1096 (reference **Attachments 2 and 3**) nor with the IRR printed in the Official Gazette (reference **Attachment 4**); **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, are MERE EXECUTIVE ISSUANCES (NOT STATUTES NOR POLICY) containing a list of documents that may accompany a building permit application; Secs. 302.3 and 302.4 DO NOT GOVERN the practice of the regulated technological professions of architecture nor civil engineering, only the professional regulatory laws such as RA 9266 and RA 1582 (amending RA 544) do; moreover, the DPWH does not regulate the practice of architecture, only the PRBoA, through the PRC do;**

- 3) Ministry Order (MO) No. 57, another mere **executive** issuance, is clearly **not** vested with the power to change Sec. 302 of the **authentic/ Malacañang Records Office-certified** copy of PD 1096; MO No. 57 is being erroneously portrayed by CEs as **supposedly capable** of amending/ superseding specific provisions under both PD 1096 (its enabling law) and its IRR as well as RA 9266 (and its predecessor laws RA 1581/ RA 545), all **special laws** being clearly **superior** to MO No. 57 i.e. the equivalent of a mere Department Order or Department or a Department Administrative Order at the present time; the CEs look to MO No. 57 **provision/s** supposedly allowing 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/ Malacañang Records Office-certified** copy of PD 1096 nor its Official Gazette-published IRR; **lacking legal basis, the said provision/s under Ministry Order 57 allowing CEs to sign architectural documents may be likened to being nothing more than a scrap of paper;**
- 4) The current **injunction** on the specified sections of a mere **executive** issuance (Secs. 302.3 and 302.4 of the 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/ Malacañang Records Office-certified** copy of PD 1096 and its published IRR which do **NOT** state that CEs can sign nor seal **architectural** documents; and 3) the qualifications restricting the practice of CEs under RA 1582/ RA 544 and even under RA 1581; **the WPI on portions of**

a mere executive issuance (reference Attachment 5) 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 No. 57, the Memorandum is another mere executive issuance that CANNOT supersede/ take precedence over a national law (RA 9266) that is in full effect; the same document also does NOT govern professional practice; only the professional regulatory laws, such as RA 9266, do; however, if such an order is NOT founded on law, then such an order becomes illegal and unenforceable i.e. if the authentic Sec. 302 of PD 1096 does NOT state that civil engineers (CEs) can sign and seal architectural documents, then Building Officials (or the City/ Municipal Engineers in an acting capacity) cannot and must NOT accept architectural documents signed and sealed by CEs, or else they clearly run the risk of being charged for multiple violation/s of RA 9266.

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 itself (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 i.e. **portions** of Secs. 302.3 and 302.4 of the 2004 Revised IRR of PD 1096/ the NBCP, which are **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 and quasi-legislative body, **not** with the DPWH **nor** with the DILG, which are line agencies that do **NOT** regulate professional practice.

As such, the **injunction** on a mere **executive** issuance (reference Attachment 5) issued by a line agency (the 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 such as **RA 9266**, a **superior statute** and **special law** crafted (with the recorded participation of civil engineers) 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/ applications for TRO/ WPI filed by the CEs, was **not** addressed in the **injunction**.

While **RA 9266** may already be deemed part of the case by virtue of the architects' timely intervention in the case in late 2005, RA 9266 was however never part of the April/ May 2005 TROs nor

injunction, issued many months before and which have **not** been modified since to encompass RA 9266, its IRR and derivative regulations.

Therefore, an unrestrained national law such as RA 9266 must be accorded its due respect and be made to prevail over inferior regulations/ incorrectly invoked or non-existent laws (such as the alleged CE version of Sec. 302 of PD 1096) or over superseded and antiquated laws.

In view of the powers vested upon the LGU by virtue of RA 7160, and in full accord with **Sec. 44 (Enforcement of the Act)** of RA 9266 (a law that is in full effect), **the PRBoA hereby officially calls on/ requests the assistance of the LGU in fully enforcing the provisions of RA 9266 (and its IRR as well as 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)** pertaining to the seal of the architect;
- 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."; since Your LGU has now been properly apprised of this provision of law, You are now accountable under RA 9266 should You continue to accept architectural plans/ documents that do **not** bear the signature and seal of registered/ licensed architects; and
- 3) **Sec. 35 (Positions in Government Requiring the Services of Registered and Licensed Architects)**, which was **scheduled to take effect on 10 April 2007** (last month); if Your LGU has a legitimate (not acting) Office of the Building Official, the position of Building Official should rightfully be occupied by a registered/ licensed architect to comply with this provision of RA 9266.

While the undersigned and the PRBoA fully appreciate Your LGU's desire to fully comply with the **injunction**, albeit applicable only to portions of a **mere** executive issuance (and **not** to RA 9266), the undersigned must however **insist** that the **implementation of a national law (RA 9266) takes precedence and should no longer be delayed,** as said law 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 and even**

under RA 1582 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 "fully capable" of doing the architect's work. If CEs want to practice architecture, they must become registered/ licensed architects first!!! Many CEs have already fully complied in the past several decades by submitting themselves to the state's requirements for legal architectural practice. Do the other CEs think that they are above the law such that they continue to defy the dictates of **RA 9266** and its predecessor laws? **The law may be harsh but it is the law!**

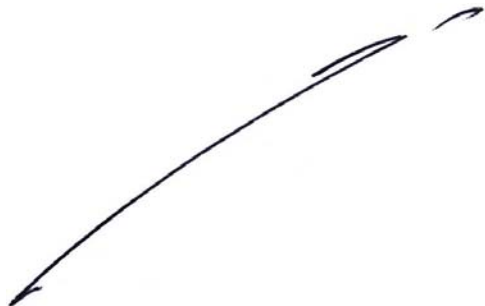
The PRBoA looks forward to Your kind attention and prompt/ resolute action on this very, very urgent matter. Your understanding and assistance in Your LGU will go a very long way in helping relieve the continuing/ decades-long injustice foisted on Philippine architects, presently **exacerbated by the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

The prompt response of Your LGU, dictated by laws in force at this time, including **RA 6713** ("The Code of Conduct and Ethical Standards for Public Officials and Employees"), is eagerly anticipated by the PRBoA, so that the PRBoA, as a key implementing entity for **RA 9266**, shall be properly guided in its next course/s of action.

Thank You all very much.

Yours sincerely,

For the PRBoA



Armando N. ALLÍ
Chairman

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- att: 1) copy of the Department of Justice (DoJ) Legal Opinion (sought by the DPWH on behalf of Civil Engineers) and issued by the Secretary of Justice in January 2004
- 2) copy of Sec. 302 of PD 1096 as signed by Pres. Ferdinand Marcos in February 1977 (as certified by the Malacañang Records Office)
- 3) copy of signature page of PD 1096 as signed by Pres. Ferdinand Marcos in February 1977 (as certified by the Malacañang Records Office)
- 4) copy of Sec. 302 appearing in the published Official Gazette
- 5) copy of Secs. 302.3 and 302.4 of the 2004 Revised IRR of PD 1096 of 1977.

cc : Offices of the PRC Chairperson, Secretary and Head of the Legal Division
United Architects of the Philippines (UAP)