

Attachment “2” DoJ Opinion

Republika ng Pilipinas
KAGAWARAN NG KATARUNGAN

Department of Justice

Manila

January 9, 2004

Hon. Florante Soriquez
Acting Secretary
Department of Public Works and Highways
Bonifacio Drive, Port Area, Manila

Sir;

This has reference to your request for opinion concerning the interpretation of the pertinent provisions of the Civil Engineering Law (R.A. No. 544) and the Architects Law (R.A. No. 545), both as amended, in order to determine the realm of practice of both professions and, at the same time, avoid the alleged conflict in the enforcement of the National Building Code of the Philippines (P.D. No. 1096) and its Implementing Rules and Regulations (IRR).

The request, we assume, is made in connection with the promulgation and issuance of the revised/updated IRR of the National Building Code, the approval of final draft of which, you say, has been deferred pending resolution of the claimed conflicting provisions of R.A. No. 544 and R.A. No. 545 relating to the practice of structural and architectural designing of buildings, including the signing and sealing of architectural plans and specifications needed in securing building permits.

It appears that civil engineers, relying on the provisions of Sections 2 and 23 of R.A. No. 544, believe that it is their inherent right to sign and seal building structural and architectural plans, while architects, quoting the provisions of Section 14 of R.A. No. 545, complain that civil engineers are "unlawfully practicing architecture" when they sign and seal architectural plans and specifications of residential buildings from single-detached dwellings to multi-story condominiums, office buildings, commercial and industrial buildings and other buildings since the act of planning and architectural and structural designing, among others, are included in the "practice of architecture."

It also appears that under the final draft of the revised/updated IRR, it is proposed that only architects can sign architectural plans/documents and only civil engineers can sign structural plans/documents; and that the Philippine Institute of Civil Engineers (PICE), however, opposed the proposal. Hence, the request.

Although, in line with settled policy and precedents, the Secretary of Justice does not pass upon issues which, as in this case, involve the substantive rights of private parties, i.e., the PICE and its members, upon whom the opinion of this Department has no binding effect and which might, in all probability, take the matter to courts when they find the opinion adverse to their interest, ¹ we would like to state some relevant observation for your enlightenment. ²

¹ *Secretary of Justice Op. Nos. 33 and 35, s. 2000, citing opinions;*

² *Ibid., No. 33, s. 1983; .*

The Civil Engineering Law ³ pertinently provides:

SEC. 2. *Definition of Terms.* - (a) The **practice of civil engineering** within the meaning and intent of this Act shall **embrace services in the form of** consultation, **design, preparation of plans, specifications,** estimates, erection, installation and supervision **of the construction of streets, bridges, highways, railroads, airports and hangars, portworks, canals, river and shore improvements, lighthouses and dry docks; buildings, fixed structures for irrigation, flood protection, drainage, water supply and sewerage works;** demolition of permanent structures; and tunnels. **The enumeration of any work in this section shall not be construed as excluding any other work requiring civil engineering knowledge and application.**

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SEC. 23. *Preparation of plans and supervision of construction by registered civil engineer.* - It shall be unlawful for any person to order or otherwise cause the construction, reconstruction, or alteration of any building or structure intended for public gathering or assembly such as theaters, cinematographs, stadia, churches or structures of like nature, and any other engineering structures mentioned in section two of this Act unless **the designs, plans, and specifications of the same have been prepared under the responsible charge of, and signed and sealed by a registered civil engineer,** and unless the construction, reconstruction and/or alteration thereof are executed under the responsible charge and direct supervision of a civil engineer. Plans and designs of structures must be approved as provided by law or ordinance of a city or province or municipality where the said structure is to be constructed. ⁴

Upon the other hand, Sections 14 and 30 of R.A. No. 545, as amended, ⁵ insofar as material/ respectively read:

SEC. 14. *Definition of Terms.* - xxx

(C) *General practice of architecture.* - The practice of architecture is hereby defined to be: **The act of planning, architectural and structural designing, specifying, supervising, and giving general administration and responsible direction to the erection, enlargement or alterations of buildings and architectural design of engineering structures or any part thereof,** xxx.

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SEC. 30. *Prohibitions in the practice of architecture.* - Any person who shall practice or offer to practice architecture in the Philippines without being registered or exempted from registration in accordance with the provisions of this Act, xxx. ⁶

³ R.A. No. 544, as amended;

⁴ Underscoring supplied;

⁵ An Act To Regulate The Practice Of Architecture In The Philippines;

⁶ Emphasis ours;

It is clear from a reading of the above-quoted provisions of the subject laws that the making of plans and designs, not to mention the supervision of construction, are activities that are more or less common to both "architecture" and engineering"⁷. However, the distinction between an architect and a civil engineer is clear. Thus, in one case, ⁸ it was held:

An "**architect**" is defined as one who, skilled in the art of architecture, **designs buildings, determining the disposition of both their interior and exterior spaces, together with structural embellishments of each**, and generally supervises their erection; while a "**civil engineer**" is one **whose field is that of structures, particularly foundations**, and who designs and supervises construction of bridges, great buildings, etc. xxx ⁹

Indeed, the language of both laws confirms this distinction. The **practice of civil engineering** embraces services in the form of **preparation of structural plans, designs, specifications**, etc., and construction of streets, bridges, highways, canals and **other engineering structures** specifically mentioned in section 2 of R.A. No. 544. The law, however, is silent on whether the practice covers the preparation of architectural plans/designs of said engineering structures. Upon the other hand, **the practice of architecture** clearly concerns with the act of planning, **architectural and structural designing of buildings as well as the architectural designs of engineering structures** or any part thereof.

Having these in mind, it can, therefore, be safely said that the proposal to limit the preparation, signing and sealing of architectural plans and designs to architects and the preparation, signing and sealing of structural plans and designs to civil engineers to be in order.

Please be guided accordingly.

Very truly yours,

(ORIGINAL SIGNED)
MA. MERCEDITAS N. GUTIERREZ
Acting Secretary

⁷ See, *Smith vs. American Packing and Provision Co.*, 130 P. 2nd 951, 957;

⁸ *Rabinowitz vs. Hurwitz Mintz Furniture Co.*, 133 So. 498;

⁹ at p. 499; stress supplied.

Attachment "3" follows.