



Republic of the Philippines
Professional Regulation Commission
Manila

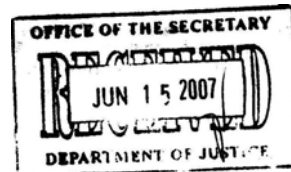
The Professional Regulatory
Board of Architecture
(PRBoA)



Your Ref:

Our Ref: 07_PRBoA-040

12 June 2007



Department of Justice (DoJ)
City of Manila, NCR

ATTENTION : THE HON. RAUL GONZALES
Secretary

SUBJECT : URGENT PRBoA REQUEST FOR LEGAL OPINION

REFERENCES : 1) Republic Act (RA) No. 9266 (Architecture Act of 2004) approved by Pres. Gloria Macapagal-Arroyo on 17 March 2004, effective 10 April 2004 and its Implementing Rules and Regulations (IRR), effective 01 December 2004 and derivative regulations; and 2) the apparent willful, orchestrated and deliberate violations of provisions of R.A. No. 9266, its IRR and its derivative regulations as reported by registered/licensed architects nationwide

Dear Secretary Gonzales,

Warm greetings from the **Professional Regulatory Board of Architecture** ("PRBoA")! The PRBoA is a member of the Philippine Association of Professional Regulatory Boards ("PAPRB") and we had You as our Guest of Honor and Speaker during our annual convention held last December 2006 at the Columbian Club in Paco, Manila.

The PRBoA is also the body under the **Professional Regulation Commission** ("PRC") which is tasked with implementing **Republic Act (R.A.) No. 9266 (Architecture Act of 2004)**, which states that only registered and licensed Architects shall sign and seal all architectural documents i.e. plans, specifications and the like for buildings.

The **Implementing Rules and Regulations** ("IRR") of R.A. No. 9266 has very explicit and detailed technical and legal definitions of the terms **architectural plans, architectural documents, contract documents** and **buildings** as these relate to the practice of the regulated profession of architecture.

Yet despite the full effectivity of R.A. No. 9266 since 10 April 2004 (over 3 years ago), registered and licensed civil engineers ("CEs") continue to **prepare, sign and dry-seal architectural** documents, plans, designs, specifications, estimates,

contract documents and the like. These acts appear to be clear, unequivocal, continuing, orchestrated and willful violations of **R.A. No. 9266**, its **IRR** and derivative regulations such as applicable resolutions, guidelines and related documents issued by the **PRBoA**.

The **PRBoA** fully believes that this **issue of signatory to architectural documents** is one of **national importance** because for the last several decades, the situation has already resulted in the **degenerative quality of our physical environment (both natural and built)** e.g. substandard and uncomfortable living spaces, overbuilding even on mandated open spaces, too much use of concrete, glass and metal surfaces that increase near-ground and ambient temperatures, incorrect building orientations, major violations of the National Building Code of the Philippines (**NBCP**, otherwise known as **P.D. No. 1096**) such as windows on firewalls, illegal structures within the road-right-of-way (**RROW**, which is part of the public domain) and the perennial lack of fire escapes, etc., improper grading coupled with the rampant cutting of trees (resulting in flooding even on higher elevations/ slopes), garish displays such as billboards all over the urban and rural landscapes, etc. to mention only a few. For the **PRBoA**, these are issues that relate to **public interest, safety and welfare** and are clearly attributable to a **non-architect's** apparent lack of training, focus and aptitude in the design and physical planning of buildings and their environs.

There is therefore clear need to effect the soonest the nationwide implementation and enforcement of the provisions of **R.A. No. 9266** and its **IRR**, particularly the multiple sections that **limit the preparation, signing and dry-sealing of all architectural documents only to Architects registered and licensed by the state**. Over the past three (3) months, the **PRBoA** has been communicating with some LGUs to make known its official **position** concerning said matter, particularly in the light of some LGUs' repeated references to a May 2005 court-issued injunction that does **not** apply to **R.A. No. 9266** (reference **Annex 1** and its attachments).

In full accord with **Sec. 44 (Enforcement of the Act)** of **R.A. No. 9266**, the **PRBoA** hereby officially calls on the Secretary of Justice or his duly designated representative to render legal advise/ assistance as may be necessary in carrying out the provisions of **R.A. No. 9266**, initially by rendering an opinion on the seven (7) key and corollary issues listed hereafter.

To avert the filing of more cases concerning the main issue of who is the rightful and possibly sole professional signatory to **architectural** plans and documents nationwide, the **PRBoA** officially requests the **DoJ** to rule on the following key issues at the soonest possible time:

- 1) whether the **DPWH** (and the **DILG**), being part of the executive branch of government are bound to observe the **DoJ Legal Opinion** promulgated January 2004 (reference **Attachment 1** of **Annex 1**), which clearly states that **only architects** are authorized under law (**R.A. No. 545** and **1581**, which were the predecessor laws of **R.A. No. 9266**) to prepare, sign and seal **architectural** plans and documents; corollarily, since the successor/ repealing law **R.A. No. 9266** is far more stronger than its predecessors **R.A. Nos. 1581** and **545**, does it follow that there is now greater legal basis to further restrict the preparation, signing and sealing of **architectural** plans and documents only to architects registered and licensed by the state?;

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- 2) whether the **DPWH** (or even the **DILG** for that matter) can issue an order (reference **Attachment 7** of **Annex 1**) that is clearly violative of professional regulatory laws that are implemented and enforced by a **quasi-judicial and quasi-legislative** agency such as the Professional Regulation Commission ("**PRC**"), through bodies, such as the **PRBoA**, specifically designated to implement and enforce **R.A. No. 9266**; corollarily, what is the standing of a DoJ opinion insofar as then PRC is concerned?; as the **PRC** is also largely part of the executive branch of government and considering the effectivity of **R.A. No. 8981** (The PRC Modernization Act of 2000 and its IRR), would the **PRC** and the concerned Professional Regulatory Boards ("**PRBs**") be obligated to observe the **DoJ** opinion as well?;
- 3) what is actually stated under Sec. 302 of the authentic **P.D. No. 1096**, otherwise known as "The National Building Code of the Philippines of 1977" inasmuch as **neither** the original **P.D. No. 1096** document found in the Malacañang Archives/ Records Office (as signed by Pres. F.E. Marcos in 1977) **nor** the Official Gazette mention the civil engineer as a signatory to **architectural** plans/ documents (reference **Attachments 2, 3 & 4** of **Annex 1**); and corollarily, what would be the standing of **MPWTC Ministry Order No. 57** given the fact that Sec. 302 of the authentic **P.D. No. 1096** does **not** mention civil engineers as signatory to architectural plans/ documents;
- 4) whether **R.A. No. 9266**, its IRR and its derivative regulations are presently in full effect, are implementable and are enforceable, despite the existence of the May 2005 writ of preliminary injunction on portions of Section 302.3 and 302.4 of the **2004 Revised IRR** of **P.D. No. 1096**, reference **Attachment 6** of **Annex 1**), particularly since the said restrained sections are mere listings of documents (reference **Attachment 5** of **Annex 1**) to be submitted as part of a building permit application (and **not** prescriptions for the practice of the regulated profession of architecture), and generally since the said injunction does **not** at all refer to **R.A. No. 9266**, its IRR or derivative regulations;
- 5) whether Article IV Sec. 35 (*Positions in Government Requiring the Services of Registered and Licensed Architects*) of **R.A. No. 9266**, which took effect last 10 April 2007, could now be implemented and enforced by both the **DPWH** and the **DILG** in the case of cities and municipalities with an incumbent building official who may be other than a registered/ licensed architect i.e. compare with Article Seven Sec. 477 of **R.A. No. 7160** (Local Government Code of 1991);
- 6) under existing laws e.g. **R.A. No. 7160**, **R.A. No. 6713**, etc., what are the accountabilities of local government executives who adamantly refuse to heed the official **PRBoA** call (reference **Annex 1**) to fully implement and enforce **R.A. No. 9266**?; would such executives be answerable to the Office of the Ombudsman for their unbridled support of the Civil Engineers despite the clear dictates of **R.A. No. 9266**?; incidentally, the present Ombudsman, a past Member of the **DPWH** Board of Consultants (**BoC**), the body responsible for revising the

IRR of P.D. No. 1096, is also the author of the January 2004 DoJ Opinion; and

- 7) is an executive order ("EO") from the Office of the President still needed or would such an EO be helpful to compel the DPWH and DILG to implement and enforce R.A. No. 9266 in its entirety?; in the alternative, would a case/s against the DPWH and/or the DILG to compel the same to fully enforce R.A. No. 9266 still be necessary e.g. for the PRBoA to possibly secure a mandamus order from the court?.

The PRBoA looks forward to the DoJ's kind attention and to Your prompt/ resolute action on these very urgent and important matters. Your understanding and assistance will go a very long way in helping relieve the continuing/ decades-long injustice foisted on Philippine architects, presently **exacerbated by the flagrant, orchestrated and willful violations of R.A. No. 9266 for the 3 years that it has been in full effect.**

Thank You very much.

Yours sincerely,

Armando N. ALLÍ
Chairman


ANGELINE T. CHUA CHIACO
Member


MARIETTA B. SEGOVIA
Member

att : **Annex 1)** PRBoA Letter Addressed to All LGUs under the 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

- attachments1) copy of the January 2004 Department of Justice (DoJ) Legal Opinion addressed to the DPWH (which sought the opinion) - 3 pages;
- 2) copy of Sec. 302 of PD 1096 (The National Building Code of the Philippines) as signed by Pres. Ferdinand E. Marcos (FEM) in February 1977 (as certified by the Malacañang Records Office) - 1 page;
 - 3) copy of signature page of PD 1096 as signed by Pres. FEM in February 1977(as certified by the Malacañang Records Office) - 1 page;
 - 4) copy of Sec. 302 of PD 1096 appearing in the published Official Gazette - 1 page;
 - 5) copy of Secs. 302.3 and 302.4 of the 2004 Revised IRR of PD 1096 of 1977 - 2 pages;
 - 6) copy of the Writ of Preliminary Injunction Issued by Branch 22 of the Manila RTC in May 2005 - 0 pages;
 - 7) copy of the DPWH Order issued 16 April 2007 by the DPWH OIC Manuel Bonoan, allowing Civil Engineers (CEs) to sign and seal architectural documents;
 - 8) Chronology of Important Events (June 1950 thru June 2007) - 4 pages;
 - 9) copy of various international definitions of the common terms "architect", "architecture", "civil engineer" and "civil engineering" - 0 pages; and
 - 10) copy of the PRBoA Position Paper against the practice of Civil Engineers (CEs) signing and sealing architectural documents as filed with the PRC in April 2007 - 0 pages;

Annex 2) PRC BoA Memorandum Circular No. 2005-08 dated July 2005

Annex 3) Important Excerpts from R.A. No. 9266 and its IRR concerning the legal and illegal practice of the regulated profession of architecture

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