CAVEAT: For all UAP Members who intend to use this <u>pro-forma Complaint</u> against a Civil Engineer (CE) serving as a Building Official or against any other Local or National Government Executive (all of whom refuse or fail to implement and enforce the specific provisions of R.A. No. 9266 and even of Sec. 302 of P.D. No. 1096 itself), please be advised that it is always best to consult a lawyer before filing (and to let the lawyer do the actual filing with the Office of the Ombudsman). PRBoA

Republic of the Philippines
OFFICE OF THE DEPUTY OMBUDSMAN
FOR LUZON/ VISAYAS/ MINDANAO
3rd Floor, Ombudsman Bldg., Agham Road, Quezon City

United Architects of the Philippines (**UAP**)
_____ Chapter, represented
by its President, Full Name of UAP Chapter President

Complainant,

-versus-

OMB Case No. _____
For: Violation of R.A. No. 9266
Sections 3 (2) (a), 20 (2), 20 (5), 29, 32 & 44;
of P.D. No. 1096 Section 302;
of R.A. No. 3019, Section 3 (e);
of R.A. No. 6713, Sections 4 (a) and
(c); Grave misconduct

Name of Building Official
(a Registered/ Licensed Civil Engineer),
Respondent.

X ---------- X

VERIFIED COMPLAINT

I, (state Full Name of UAP Chapter President), of legal age, married/single, Filipino, hereby depose and say the following:

The Parties

1. The Complainant is of legal age, married/single, Filipino, with office address at _____, and is filing this case in his/her personal capacity as well as in representation of the United Architects of the Philippines (the "**UAP**") _____ Chapter in this complaint, as shown by the attached Chapter Resolution, dated _____ 2007, marked as ***Annex "A"***;

2. The Respondent is of legal age, Filipino, currently the appointed Building Official of _____ and holding office at the Municipal/ City Engineer's Office, _____, where he/she may be served with the processes of this Office.

Cause of Criminal and Administrative Complaints

.

3. Republic Act (**R.A.**) No. 9266, otherwise known as the "**Architecture Act of 2004**" became law on 17 March 2004 and took effect 10 April 2004 (refer to ***Annex "B"***). R.A. No. 9266 is a **special** law governing the practice of the regulated profession of architecture in the Philippines. The statute contains the following important provisions governing the preparation, signing and sealing of **architectural** plans, designs, drawings, specifications and documents, to wit:

> SEC. 3. *Definition of Terms.* - As used in this Act, the following terms shall be defined as follows:
>
> (1) "Architecture" is the art, science or profession of planning, designing and constructing **<u>buildings</u> in their totality** taking into account their environment, in accordance with the principles of utility, strength and beauty;
>
> (2) "Architect" means a person **<u>professionally and academically qualified, registered and licensed under this Act</u> with a Certificate of Registration and Professional Identification Card issued by the Professional Regulatory Board of Architecture and the Professional Regulation Commission**, and who is responsible for advocating the fair and sustainable development, welfare and cultural expression of society's habitat in terms of space, forms and historical context;
>
> (a) "**Architect-of-record**" means the architect registered and licensed under this Act, who is directly and professionally responsible for the total design of the project for the client and who shall assume the civil liability for the plans, specifications and contract documents he/she has **signed and sealed**;
>
> x x x
>
> SEC. 20. *Seal, Issuance and Use of Seal.* - A duly licensed architect shall affix the seal prescribed by the Board bearing the registrant's name. registration number and title "Architect" on **<u>all</u>** architectural plans, drawings, specifications and **<u>all</u>** other contract documents prepared by or under his/her direct supervision.
>
> x x x
>
> **(2) <u>No officer or employee of this Republic, chartered cities, provinces and municipalities, now or hereafter charged with the enforcement of laws, ordinances or regulations relating to the construction or alteration of buildings, shall accept or approve any architectural plans or specifications which have not been prepared and submitted in full accord with all the provisions of this Act</u>; nor shall any payments be approved by any such officer for any work, the plans and specifications for which have not been so prepared and signed and sealed by the author.**
>
> x x x

(5) **All architectural** plans, designs, specifications, drawings and **architectural** documents relative to the construction of a building shall bear the seal and signature only of an **architect registered and licensed under this Act** together with his/her professional identification card number and the date of its expiration.

SEC. 29. *Prohibition in the Practice of Architecture and Penal Clause*. - Any person who shall practice or offer to practice architecture in the Philippines without being registered/licensed and who are not holders of temporary or special permits in accordance with the provisions of this Act, x x x or any person who shall use in connection with his/her name or otherwise assume, use or advertise any title or description tending to convey the impression that he/she is an architect when he/she is not an architect, or **any person** whether Filipino or foreigner, 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 implementing rules and regulations, the Code of Ethical Conduct and Standards of Professional Practice, or **any** policy of the Board and the Commission, 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 (Pl00,000.00) 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.

x x x

SEC. 32. *Signing of Architectural Plans, Specifications and Other Contract Documents*. – x x x; and it shall be unlawful for **any person**, except the Architect-of-record to sign for any branch of the work, or **any** function or architectural practice, not actually performed by him/her. The Architect-of-record shall be fully responsible for **all architectural** plans, specifications, and other documents issued under his/her seal or authorized signature.

x x x

SEC. 44. *Enforcement of the Act*. – x x x **All duly constituted law enforcement agencies and officers of national, provincial, city or municipal government or of any political subdivision thereof**, shall, upon the call or request of the Commission or the Board, **render assistance in enforcing the provisions of this Act** and to prosecute any person violating the provisions of the same. x x x *(emphasis and underscoring supplied)*

Sections 3 (2) (a), 20 (2), 20 (5), 29, 32 & 44, along with the rest of R.A. No. 9266, its IRR and derivative regulations are **all** in effect, valid and subsisting and therefore mandated for implementation and enforcement by **all** Philippine government officials, including LGU executives and the Respondent.

4. R.A. No. 9266 was crafted from 2002 to 2004 with the full participation of the official representatives of all Philippine-registered and licensed civil engineers (the "**CE**s'), for which their support for the new architecture law was secured by registered and licensed architects ("**RLA**s") in **exchange** for the RLAs giving up their right to practice **structural design** (refer to ***Annex "C"***).

5. There is **absolutely nothing** in R.A. No. 1582 of 1956, which amended R.A. No. 544 of 1950, otherwise known as the "Civil Engineering Law", that specifically states, that registered and licensed CEs can legally prepare **architectural** plans, designs,

drawings, specifications and documents. While the generic term “plans, specifications, estimates” appear in Sec. 2 of R.A. 1581/ 544, there is absolutely **no** mention of the term “**architectural** plans, designs, drawings, specifications and documents” anywhere in the said law/s. Moreover, the use of the term “buildings”, being followed by a comma rather than a colon, lends to the interpretation that the term “buildings” as used in the said law refers only to buildings forming part of horizontal developments such as fixed structures for irrigation, flood protection, drainage, water supply and sewerage works i.e. **not** buildings *per se* nor specifically referring to **buildings for human habitation**, which is governed by a separate professional regulatory law i.e. R.A. No. 545 of 1950, R.A. No. 1581 of 1956 (and later by R.A. No. 9266 of 2004), and which is the internationally recognized/ acknowledged professional domain of architects, insofar as the preparation, signing and sealing of **architectural** plans. designs, drawings, specifications and documents is concerned, viz:

> Section 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, port works, 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. x x x.

6. There is absolutely **nothing** in Presidential Decree (**P.D.**) No. 1096, otherwise known as the 1977 “National Building Code of the Philippines” or the “NBCP”, that specifically states, that registered and licensed CEs can legally prepare **architectural** plans, designs, drawings, specifications and documents. **Section 302 of P.D. No. 1096** only states that "xxx **To be submitted together with such application are at least five sets of corresponding plans and specifications prepared, signed and sealed by a duly mechanical engineer in case of mechanical plans, and by a registered electrical engineer in case of electrical plans, except in those cases exempted or not required by the Building Official under this Code.**" *(emphasis and underscoring supplied)*.

   To date, Sec. 302 of P.D. 1096 (refer to ***Annex “D”***) has **not** been amended by any new law or by any repeal/ amendment to any law passed/ approved by the Philippine government (other than the specific provisions of R.A. No. 9266 limiting the preparation, signing and sealing of **architectural** plans, designs, drawings, specifications and documents only to registered and licensed architects (**RLA**s). The real/ official/ signed/ certified/ published version of Sec. 302 of P.D. 1096 is therefore in effect, valid and subsisting and therefore mandated for implementation and enforcement by **all** Philippine government officials, including LGU executives and the Respondent;

7. There is absolutely **nothing** in the Ministry of Public Works, Transportation and Communications (MPWTC) Ministry Order No. 57, promulgated on 01 January 1979, that states that **architectural** plans, designs, drawings, specifications or documents can be prepared, signed and sealed by a duly licensed CE. Even if there were such a provision, the said order is only a mere executive issuance that is **not** vested with the power to amend or repeal any provision of P.D. No. 1096, most specially **not** its Sec. 302 (refer to ***Annex "E"***) nor to amend any provision of R.A. No. 9266 for that matter.

8. On 10 April 2004, R.A. No. 9266 took effect. The then drafts of **Secs. 302.3 and 302.4** of the Revised Implementing Rules and Regulations (the "**R-IRR**") of P.D. No. 1096 were thereafter **harmonized** to conform to the dictates of R.A. No. 9266 insofar as the preparation, signing and sealing of **architectural** plans, specifications, estimates and documents were concerned (refer to ***Annex "F"***).

9. This act of harmonizing Sec. 302 of P.D. No. 1096 was preceded by the January 2004 promulgation by the Department of Justice (the DoJ") of a legal opinion comparing R.A. Nos. 1582/ 544 with R.A. Nos. 1581/ 545 (refer to ***Annex "G"***), which was sought by the DPWH upon the behest of the CEs themselves, and signed by the then Acting DoJ Secretary (now **Ombudsman**), the Hon. Merceditas N. Gutierrez, the dispositive portion of which states:

> "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**." *(emphasis and underscoring supplied)*

10. In late 2004, the Honorable Secretary of the Department of Public Works and Highways (the "**DPWH**") issued the "2004 R-IRR" of P.D. No. 1096, containing the aforesaid sections which do **not** state that CEs can prepare, sign and submit **architectural** plans, specifications and estimates, in full conformity with **Sec. 302 of P.D. 1096** i.e. the **legal basis of Secs. 302.3 and 302.4 of the 2004 R-IRR** and in full conformity with Secs. 3 (2) (a), 20 (2), 20 (5), 29, 32 and 44 of R.A. No. 9266. The 2004 R-IRR were published thrice on 01, 08 and 15 April 2005, and **took effect** 01 May 2005.

11. On 01 December 2004, the Implementing Rules and Regulations (the "**IRR**") of R.A. No. 9266 took effect, after the requisite approval by the Professional Regulation Commission (the "PRC"). Among its most important provisions are the following:

> "SECTION 3. Definition of Terms.
>
> As used in this "IRR of the Architecture Act of 2004", in R.A. No. 9266 or other laws, the following terms shall be defined as follows:
>
> (21) "**Architectural Plans**" means a two (2)-dimensional representations reflecting a proposed development/redevelopment of an enclosed/ semi-enclosed or open area showing features or elements such as columns, walls, partitions, ceiling, stairs, doors, windows, floors, roof, room designations, door and window call-outs, the **architectural layout** of equipment, furnishings, furniture and the like, specifications callouts, elevation references, drawing references and the like; the **architectural** plan is the representation of a lateral section for a proposed building/ structure (running parallel to the ground) and at a height of from 1.0 – 1.5 meters above the finished floor; the term may also collectively refer to other **architectural** designs such as cross/ longitudinal sections, elevations, roof plan, reflected ceiling plan; detailed sections and elevations showing **architectural** interiors, detailed **architectural** designs, door and window schedules, other **architectural** finishing schedules and the like.
>
> (22) "**Building**" means a structure for the purpose and function of **habitation** and **other uses**.
>
> (26) "**Contract Documents**" are the documents attached to the agreement identified therein as Contract Documents, including all additions, deletions and modifications incorporated therein. These generally include the following documents:
>
> a) Special Provisions or conditions
> b) General Conditions
> **c) Drawings**
> **d) Specifications**
> *e)* **Other Bid Documents**" *(emphasis supplied)*

12. On 28 April 2005 and on 03 May 2005, the CEs filed two (2) similar civil cases at the Quezon City Regional Trial Court (the "**RTC**") and at the Manila RTC Branch 22, both against the Honorable Secretary of the DPWH, questioning among others Secs. 302.3 and 302.4 of the "2004 R-IRR" of the 1977 NBCP/ P.D. No. 1096 and its implementation. One of the supposed bases for the simultaneous filing of the said cases by the CEs was their allegation that Secs. 302.3 and 302.4 of the 2004 R-IRR of P.D. No. 1096 was inconsistent with Sec. 302 of P.D. No. 1096 itself and pertinent portions thereof must first be invalidated by the Court. Both cases conveniently **fail** to mention the existence of R.A. No. 9266 or its IRR nor do said cases mention the **accurate** text of Sec. 302 of P.D. No. 1096.

13. In their suits, the CEs also alleged that under Section 43 of R.A. No. 9266, the supposed right of CEs to prepare and sign **architectural** plans, designs, drawings, specifications, and documents, had been "recognized", thus "Sec. 43. *Act Not Affecting*

Other Professionals. - This Act shall not be construed to affect or prevent the practice of any other legally recognized profession." The provision does **not** apply in the case of the CEs since their profession and their regulatory law (R.A. No. 1582, which amended R.A. 544) does **not** embrace the preparation, signing and sealing of **architectural** plans, designs, drawings, specifications and documents, which are specifically governed by the regulatory law on the practice of architecture (R.A. Nos. 545, 1581 and 9266).

14. The civil case the CEs filed on 28 April 2005 before the Quezon City RTC, docketed as Civil Case No. Q05-55273, was eventually dismissed.

15. In the civil case before the Manila RTC Branch 22, docketed as Civil Case No. 05-112502, the Court issued on 24 May 2005 an Order granting the Petitioner Philippine Institute of Civil Engineers (the "**PICE**")'s application for preliminary injunction (refer to ***Annex "H"***). The Manila RTC Branch 22, in granting two (2) temporary restraining orders ("**TRO**s") and the writ of preliminary injunction (the "injunction") against **Secs. 302.3 and 302.4** of the 2004 R-IRR of P.D. No. 1096, had apparently relied entirely on the **spurious and intercalated** version of Sec. 302 of P.D. No. 1096 presented by the CEs, supposedly containing a clause allowing CEs to prepare, sign and seal **architectural** plans, designs, drawings, specifications, and documents. Both the Petition and the injunction do **not** refer to R.A. No. 9266 or its IRR, nor to any of their provisions.

16. To bring to the attention of the RTC Manila Branch 22 that its injunction on **Secs. 302.3 and 302.4** of the 2004 R-IRR of P.D. No. 1096 was based largely on the deliberate **misrepresentations** made by the CEs in their petition filed 03 May 2005, the UAP, as the integrated and accredited professional organization of architects (the "**IAPOA**") under R.A. No. 9266, intervened in Civil Case No. 05-112502, and subsequently filed a motion to lift the injunction in December 2005. The Court has **not** acted on this motion for nearly two (2) years to date.

17. With the 24 May 2005 injunction, the Honorable DPWH Secretary Hermogenes E. Ebdane, Jr., then issued a Memorandum dated 26 September 2005, addressed to all building officials, and **city**/ **district engineers** nationwide, directing the latter to fully comply with the Order of the Court, and to refrain from implementing **Secs. 302.3 and 302.4** of the 2004 R-IRR of P.D. No. 1096 in the interim (refer to ***Annex "I"***).

18. By early February 2006, the case was submitted for resolution, with the decision supposedly due by March 2006. It has been almost two (2) years to date but **no** decision has been promulgated. Any decision would have been welcomed by registered and licensed architects (the "**RLA**s") since the decision could be immediately elevated to the Supreme Court on a question of law.

19. Starting March 2007, the Professional Regulatory Board of Architecture (the "**PRBoA**"), the entity primarily tasked with the implementation of R.A. No. 9266, started disseminating PRC-reviewed information to selected local government units (the "**LGU**s") to help clarify the status of R.A. No. 9266 with respect to the injunction (refer to ***Annex "J"***).

20. On 16 April 2007, DPWH OIC Secretary Manuel M. Bonoan issued another Memorandum directing all building officials to process and issue the necessary permits and certificates notwithstanding whether the **design** plans and/or other pertinent documents submitted were prepared, signed, and/or sealed by either a registered architect and/or a civil engineer (refer to ***Annex "K"***). While the DPWH order only mentions **design** plans and/or other pertinent documents, it did **not** specifically state that **architectural** plans, designs, drawings, specifications and documents signed and sealed by CEs shall be processed and issued the necessary permits. Otherwise, the said order shall run contrary to law, specifically against Sections 3 (2) (a), 20 (2), 20 (5), 29 and 32 of R.A. No. 9266 and specifically against Section 302 of P.D. No. 1096 itself.

21. In mid-2007, the **PRBoA** officially requested the DPWH to state the legal bases for its orders dated 26 September 2005 and 16 April 2007 (refer to ***Annex "L"*** and ***Annex "M"***). To date, there has been **no** reply from the DPWH.

22. To date, there is **no TRO and no injunction issued by any Court on any provision of R.A. No. 9266, its IRR and its derivative regulations.** More importantly, there is **<u>no question on the constitutionality</u> on any provision of R.A. No. 9266, its IRR and its derivative regulations** as promulgated by the **PRBoA** and subsequently approved by the PRC from the 1970s to date. As such, all officials of the national and local governments must implement and enforce the entire R.A. No. 9266, in accordance with Secs. 20 and 44, viz:

> SEC. 20. *Seal, Issuance and Use of Seal*. - A duly licensed architect shall affix the seal prescribed by the Board bearing the registrant's name. registration number and title "Architect" on **<u>all</u>** architectural plans, drawings, specifications and **<u>all</u>** other contract documents prepared by or under his/her direct supervision.
>
> x x x
>
> **(2) <u>No officer or employee of this Republic, chartered cities, provinces and municipalities, now or hereafter charged with the enforcement of laws, ordinances or regulations relating to the construction or alteration of buildings, shall accept or approve any architectural plans or specifications which have not been prepared and submitted in full accord with all the provisions of this Act</u>; nor shall any payments be approved by any such officer for any work, the plans and specifications for which have not been so prepared and signed and sealed by the author.**

x x x

(5) **All architectural** plans, designs, specifications, drawings and **architectural** documents relative to the construction of a building shall bear the seal and signature only of an **architect registered and licensed under this Act** together with his/her professional identification card number and the date of its expiration.

SEC. 44. *Enforcement of the Act.* – x x x **All duly constituted law enforcement agencies and officers of national, provincial, city or municipal government or of any political subdivision thereof**, shall, upon the call or request of the Commission or the Board, **render assistance in enforcing the provisions of this Act** and to prosecute any person violating the provisions of the same. x x x *(emphasis and underscoring supplied)*

23. Being a government official under specific instruction from a valid and subsisting national law, the Respondent is thus mandated to **fully** implement R.A. No. 9266 and its IRR, specifically Secs. 3 (2) (a), 20 (2), 20 (5), 29, 32 of R.A. No. 9266, which all **limit** the preparation, signing and sealing of **architectural** plans, designs, drawings, specifications and documents only to registered and licensed architects ("**RLA**s").

24. Respondent has been furnished a copy of the generic PRBoA letter to LGUs by the Complainant on _____ 2007 (refer to ***Annex "N"***, the transmittal letter of ***Annex "J"***).

25. Despite the validity of R.A. No. 9266 and its IRR and the absence of any injunction on any of its provisions, Respondent has continued to officially receive and approve **architectural** plans, designs, drawings, specifications and documents that have been prepared, signed, sealed and submitted by CEs in _____.

26. This continuing act of Respondent is clearly **ILLEGAL** as he/ she directly violates R.A. No. 9266 and its IRR, P.D. No. 1096, the civil code and the revised penal code, among others, and his/ her act is most **PREJUDICIAL** not only to the interests of registered and licensed architects ("**RLA**s"), represented by the Complainant and the UAP-IAPOA, but also the greater interests of the general public.

27. Be it noted well that the Respondent is a registered and licensed CE, and has unduly favored his/ her fellow CEs in his/ her discharge of official functions.

28. The foregoing clearly illustrates the Respondent's malice. He/ she is using and taking advantage of his/ her public position to unduly favor entities with which he/ she shares a common interest, prejudicing the interests of herein Complainant and other RLAs, the LGU of _____, the national government and the general public, thereby violating the established rule of conduct for public officials provided for under R.A. No. 6713, the clear provisions of R.A. No. 3019, Section 3 (e), and the pertinent civil service laws, rules and regulations.

a. Complainant and UAP-IAPOA _____ Chapter fully believe that the Respondent took advantage of his position and **gravely abused his/ her power/s**. In unduly prejudicing the rights, interests and reputation of the Complainant and UAP-IAPOA, Complainant and his/her RLA peers could **not** fully exercise their profession, and suffered financially as a result of the actions taken against them by Respondent. Respondent is therefore liable under R.A. No. 3019, Section 3 (e), which provides in part as follows:

> *"Causing any undue injury to any party xxx in the discharge of his official **administrative** or judicial functions **through manifest partiality, evident bad faith or gross inexcusable negligence**."*

b. The malicious acts of Respondent also fit into a violation of the provisions of R.A. No. 6713, Section 4 (a) and (c), which state that:

> *"Every public official and employee shall observe the following as standards of personal conduct in the discharge and execution of official duties:*
>
> *"(A) Commitment to public interest. – Public officials and employees shall always uphold the public interest over and above personal interest. All government resources and powers of their respective offices must be employed and used efficiently, effectively, honestly and economically, particularly to avoid wastage in public finds and revenues."*
>
> *(b) xxx xxx*
>
> *(c) Justness and sincerity.- Public officials and xxx xxx must act with justness and sincerity and shall not discriminate against anyone xxx xxx. They shall at all times respect the rights of others, and shall remain from doing acts contrary to law, good morals, good customs, public policy, public order, public safety and public interest. xxx xxx. "*

29. The evidence against Respondent's willful violation of several valid and subsisting national laws is very strong and the charges against him/her involve gross misconduct as he/she completely violates such valid and subsisting national laws, specifically R.A. No. 9266, on which **no** TRO and **no** injunction has been issued, and his/ her continued

stay in office during the course of investigation by the Honorable Ombudsman would be very prejudicial to the Complainant, the LGU of _____, the national government and the general public, whose interests are compromised by Respondent's fellow CEs who are **not** qualified under law to legally perform the work or services of RLAs. The charge of violation of R.A. No. 6713 also carries with it the penalty of removal or dismissal from the service (see Sections 11 [b], R.A. No. 6713). The Rules of Procedure of the Office of the Ombudsman (Administrative Order No. 07) provides:

> *"Section 9. Preventive Suspension. - Pending investigation, the respondent may be preventively suspended without pay if, in the judgment of the Ombudsman or his proper deputy,* ***the evidence of guilt is strong*** *and (a) the charge against such officer or employee involves dishonesty, oppression or* ***gross misconduct****, or gross neglect in the performance of duty; or (b) the charge would warrant removal from the service; or (c) the respondent's continued stay in office may prejudice the just, fair and independent disposition of the case filed against him.*
>
> *The* ***preventive suspension shall continue until the case is terminated****; however, the total period of preventive suspension should not exceed six months. Nevertheless, when the delay in the disposition of the case is due to the fault, negligence or any cause attributable to the respondent, the period of such delay shall not be counted in computing the period of suspension herein provided."*

30. During his 15 September 2007 speech before RLAs assembled in Makati City (refer to ***Annex "O"***), Sen. Aquilino Pimentel, Jr., the sponsor of the Senate version of R.A. No. 9266, and the acknowledged father of R.A. No. 7160, otherwise known as the "Local Government Code of the Philippines", unequivocably stated the following:

> **"<u>Legal action needed</u>**
>
> I tried to be restrained in my statements regarding the problem of implementing the law and to counsel patience and negotiations between the engineers and the architects. It looks like such an advice is not moving the situation at all.
>
> I therefore suggest either of two things:
>
> 1. To **sue before the Sandigan Bayan the persons responsible for blocking the implementation of the law and the local government officials who are abetting them for anti-graft and corrupt practices**, or
> 2. To **compel whoever is responsible for blocking the implementation of the law by filing a proper case with the Regional Trial Court or possibly with the Supreme Court**, itself."

Prayer

WHEREFORE, it is respectfully prayed that Respondent be held CRIMINALLY liable for violations of Secs. 3 (2) (a), 20 (2), 20 (5), 29, 32 and 44 of R.A. No. 9266, Sec. 302 of P.D. No. 1096, R.A. No. 3019 and of R.A. No. 6713, and be held administratively liable for grave misconduct.

Other just and equitable relief/s are also prayed for.

_____ for _____, Philippines
_____2007

Full Name of Complainant
Complainant
Address: _____

VERIFICATION & CERTIFICATION OF NON-FORUM SHOPPING

I, **Full Name of UAP Chapter President**, of legal age, married/ single, Filipino, and with office address at _____, after having been duly sworn in accordance with law, hereby depose and say that:

1. I am the President of the UAP _____ Chapter, and the Complainant in this case;
2. I have caused the preparation of the foregoing Complaint, have read and understood the same, and that the facts stated therein are of my direct and personal knowledge;
3. I certify that I have not heretofore commenced any action or claim involving the same issues in any court, tribunal or quasi-judicial agency, except for those mentioned in the Complaint, and that to the best of my knowledge, no such other action or claim with the same issues are pending in such other courts, tribunals, or quasi-judicial agencies, and that should I hereafter learn of such filing or pendency, I undertake to inform the Honorable Ombudsman of such fact within five (5) days from notice of the pendency or of the filing of such similar action or claim with another court, tribunal or quasi-judicial agency.

IN WITNESS WHEREOF, I have hereunto affixed my signature this _____ day of November 2007 at _____, Philippines.

Full Name of Chapter President
Affiant

SUBSCRIBED AND SWORN to before me this ____ day of November 2007 at _____, Philippines. Affiant is personally known to me and to me known, having shown to me his valid ID with recent photograph, and I hereby certify that he understood the contents of the foregoing verification and certification of non-forum shopping and signed it in my presence.

NOTARY PUBLIC

Doc. No. _____;
Page No. _____;
Book No. _____;
Series of 200__.

United Architects of the Philippines (UAP)
Integrated and Accredited Professional Organization of Architects (**IAPOA**)
_____ Chapter
_____ St., _____City 0000
Telefax: # (000) 000.0000; and Mobile Phone # (0000) 000.0000

EXCERPTS FROM THE MINUTES OP THE SPECIAL BOARD MEETING OF THE UAP _____CHAPTER HELD ON 00 _____, 2007, 0.00 PM AT _____, _____ST., _____CITY.

Present were:

Full Name	-	Chapter President
Full Name	-	Chapter Secretary
Full Name	-	Chapter Treasurer
Full Name	-	Chapter Auditor
Full Name	-	Chapter PRO
Full Name	-	Member, Board of Directors (BoD)
Full Name	-	Member, BoD
Full Name	-	Member, BoD
Full Name	-	Member, BoD
Full Name	-	Member, BoD
Full Name	-	Member, BoD
Full Name	-	Member, BoD
Full Name	-	Member, BoD

Absent were:

Full Name	-	Chapter Vice President
Full Name	-	Member, BoD
Full Name	-	Member, BoD
Full Name	-	Member, BoD
Full name	-	Immediate Past President (IPP), *ex oficio*
Full name	-	Assistant Secretary

Resolution No. 000

Series of 2007

RESOLUTION CONFIRMING THE FILING OF THE APPROPRIATE CHARGES AGAINST THE ____ BUILDING OFFICIAL, *FULL NAME OF RESPONDENT*, A REGISTERED AND LICENSED CIVIL ENGINEER (CE)

WHEREAS, Republic Act (R.A.) No. 9266 and its Implementing Rules and Regulations (IRR) have been in effect since 10 April 2004 and 01 December 2004, respectively;

WHEREAS, there is **no temporary restraining order ("TRO") and no writ of preliminary injunction ("injunction") issued by any Court on any provision of R.A. No. 9266, its IRR and its derivative regulations;**

WHEREAS, there is **no question on the constitutionality on any provision of R.A. No. 9266, its IRR and its derivative regulations** as promulgated by the **PRBoA** and subsequently approved by the PRC, and are all therefore in effect, valid and subsisting and therefore mandated for implementation and enforcement by **all** officials of the Philippine Government;

WHEREAS, the official/ signed/ certified/ published versions of Sec. 302 of the 1977 National Building Code of the Philippines (NBCP), otherwise known as P.D. No. 1096, does **not** state that CEs can prepare, sign nor seal **architectural** plans, designs, drawings, specifications and documents;

WHEREAS, Sec. 302 of P.D. No. 1096 has not been amended by any statutory or legislative act of the Philippine Government to date, nor is it the subject of any temporary restraining order, nor writ of preliminary injunction nor constitutionality question, is in effect, valid and subsisting, and therefore mandated for implementation and enforcement by **all** officials of the Philippine Government;

WHEREAS, there is absolutely **nothing** in the Ministry of Public Works, Transportation and Communications (MPWTC) Ministry Order No. 57, promulgated on 01 January 1979, that states that **architectural** plans, designs, drawings, specifications or documents can be prepared, signed and sealed by a duly licensed CE, and even if there was such a provision, Ministry Order no. 57 is a mere executive issuances that does **not** have the power to amend Sec. 302 of P.D. No. 1096 nor to amend any provision of R.A. No. 9266;

WHEREAS, as with the 1979 MPWTC Ministry Order No. 57, the DPWH Orders dated 26 September 2006 and 16 April 2007, are all mere executive issuances that do **not** have the power to amend Sec. 302 of P.D. No. 1096 nor to amend any provision of R.A. No. 9266;

WHEREAS, while Secs. 302.3 and 302.4 of the 2004 Revised Implementing Rules and Regulations (R-IRR) of the 1977 NBCP/ P.D. No. 1096 are the subjects of a 24 May 2005 injunction issued by a Court (that entirely relied on the representations of the CEs per their petition filed 03 May 2005), the said Secs. 302.3 and 302.4 are nonetheless consistent with law, particularly with Sec. 302 of P.D. No. 1096 and with the multiple provisions of R.A. No. 9266 and its IRR that limit the preparation, signing and sealing of **architectural** plans, designs, drawings, specifications and documents only to RLAs;

WHEREAS, despite Respondent's official receipt of clarificatory information furnished by Complainant as regards the applicability of the injunction to R.A. No. 9266, preferential attention is still being given by Respondent and/or his/her duly designated staff as to the processing of building permit applications, particularly those prepared, signed

and sealed by registered and licensed CEs, a culpable violation of both P.D. No. 1096 and R.A. No. 9266;

WHEREAS, Respondent's actions of accepting and approving **architectural** plans, designs, drawings, specifications and documents prepared, signed and sealed by registered and licensed CEs have compromised public interest in that the public is made to believe that the work of a registered and licensed CE is equivalent to that of a registered and licensed architect (RLA) ;

WHEREAS, said actions of the Respondent Building Official of continuously setting aside and ignoring at least two (2) valid and subsisting national laws constitutes the willful violation of the law, for which severe penalties are prescribed; and

WHEREAS, a Senator of the Philippines has already issued a call to make public officials accountable for their refusal or failure to fully implement and enforce R.A. No. 9266, a valid and subsisting law.

NOW THEREFORE, on the collective and unanimous decision of all those present:

BE IT RESOLVED AS IT IS HEREBY RESOLVED to formally file before the Ombudsman the necessary and appropriate charges against the _____ Building Official, Mr._____, a registered and licensed CE, for his/her willful and continuous actions that are contrary and in defiance to what the law mandates.

I HEREBY CERTIFY to the correctness and authenticity of the above-quoted resolution.

Certified Correct:

Full Name of Chapter Sec
Chapter Secretary

NOTED:

Full Name of Chapter President
Chapter President