



Republic of the Philippines
OFFICE OF THE CITY MAYOR
City of Davao

By the City Mayor

ADMINISTRATIVE ORDER NO. 01
Series of 2008

DIRECTING ALL OFFICES OF THE CITY GOVERNMENT OF DAVAO TO FULLY IMPLEMENT AND ENFORCE THE PROVISIONS OF REPUBLIC ACT NO. 9266, OTHERWISE KNOWN AS THE ARCHITECTURE ACT OF 2004, AND ITS IMPLEMENTING RULES AND REGULATIONS (IRR)

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

WHEREAS, R.A. No. 9266 states that only Registered and Licensed Architects (RLAs) must prepare, sign and seal architectural plans, specifications and documents i.e. the drawing sheets labeled as "A" in building plans, contract documents, building permit applications and the like;

WHEREAS, R.A. No. 9266 is not covered by any temporary restraining order (TRO) nor by any writ of preliminary injunction (WPI) issued by any court, nor is it subject of any constitutional question filed before any court;

WHEREAS, there is a 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 plans, designs, specifications, drawings and architectural documents relative to the construction of a building/habitable structure, only to RLAs;

WHEREAS, in full accord with Sec. 44 (Enforcement of the Act) of R.A. No. 9266, the Professional Regulatory Board of Architecture (PRBOA), through the Professional Regulation Commission (PRC) has called on the assistance of the City of Davao to fully enforce the provisions of R.A. No. 9266 and its IRR within its jurisdiction, and to prosecute any person violating provisions of the same;

WHEREAS, in full accord with Sec. 35 (Positions in Government Requiring the Services of Registered and Licensed Architects) of R.A. No. 9266, and in line with the international/universal definition of Architects/Architecture as the primary professional responsible for the planning and design of buildings/habitable structures and their environs, all positions in the City Government of Davao primarily the expertise of architects must be filled only by RLAs;

NOW, THEREFORE, I, SARA Z. DUTERTE, Acting City Mayor of the City of Davao, by virtue of the powers vested in me by law, do hereby order:

Section 1. Office of the City Engineer (OCE) / Office of the Building Official (OBO). THE OCE/OBO must fully implement and enforce Secs. 20, 20(3), 20(5) and 32 of R.A. No. 9266, which is made an integral part hereof by way of reference, and cause the prosecution of any person violating provisions of the same. In accordance with Sec. 35 of R.A. No. 9266, there should be ample representation by RLAs in the OBO, which deals primarily with buildings. In particular, the architectural section of the OBO, which is in charge of reviewing architectural documents shall be headed only by an RLA:

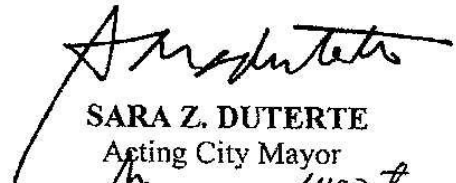

Section 2. Bids and Awards Committee (BAC) Observer for the Procurement of Architectural Infrastructure works and/ or Architectural Consulting Services. In accordance with R.A. No. 9184, otherwise known as the Government GPRA of 2003, a BAC Observer shall be appointed for procurement procedures involving architectural infrastructure works and/or architectural consulting services. The nearest Chapter of the United Architects of the Philippines, the Integrated and Accredited Professional Organization of Architects (IAPOA) recognized under R.A. 9266, shall provide the said BAC Observer.

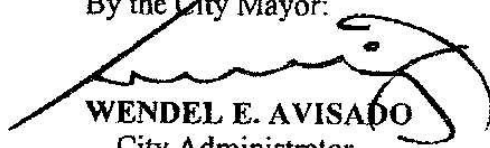
Section 3. Separability Clause. If any part or provision of the Administrative Order is held invalid or constitutional, the other parts or provisions not affected shall remain valid and effective.

Section 4. Effectivity. This Administrative Order shall take effect immediately.

OCT 22 2008

Done in the City of Davao this ____ day of October 2008.


SARA Z. DUTERTE
Acting City Mayor


By the City Mayor:

WENDEL E. AVISADO
City Administrator

Republic of the Philippines
City of Davao
OFFICE OF THE CITY LEGAL OFFICER
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REPORT & RECOMMENDATION
IN RE: IMPLEMENTATION OF THE ARCHITECTURE ACT
OF 2004 AND REVISED IMPLEMENTING RULES AND
REGULATIONS OF P.D. NO. 1096

After going over the provisions of the Architecture Act of 2004 and the Implementing Rules and Regulations, of P.D. 1096 (National Building Code) it is the opinion of this office that there exists no legal impediment to its full implementation.

While it is true that a petition has been filed in the Regional Trial Court of Manila, Branch 22 and an injunction was issued enjoining the enforcement of the Revised Implementing Rules and Regulations, under which Civil Engineers are no longer allowed to sign architectural documents specified in Section 302 (3 and 4) thereof, the said petition has already been dismissed and the writ of injunction lifted and/or dissolved.

The dispositive portion of the decision of Branch 22 of the Regional Trial Court, reads:

"On the basis of the foregoing, the court finds that the questioned provisions, specifically paragraphs 3 and 4 of Section 302 of the Revised Implementing Rules and Regulations (IRR) of Presidential Decree No. 1096 (The National Building Code of the Philippines) are neither invalid nor unconstitutional.

WHEREFORE, the instant petition is hereby DISMISSED and the Writ of Preliminary Injunction issued is hereby lifted or dissolved."

The rule in this jurisdiction is that an order dissolving or lifting a Writ of Injunction is IMMEDIATELY EXECUTORY.

"Since the Department of Interior and Local Government considered the November 9, 2004 status quo ante order immediately executory, it stands to reason and logical too for the said department to treat and consider the RECALL order of the Supreme Court incorporated in its March 31, 2005 decision as immediately executory.

This must be so because a status quo order is akin to a writ of Preliminary injunction which is immediately executory and the RECALL of the status quo ante order is likened to the dissolution of a writ injunction which is also immediately executory.

Our jurisprudence on the matter is emphatically clear and well-settled.

*The lifting by the Court of Appeals of its writ of preliminary injunction in CA-G.R. SP No. 17435 cleared the way for the implementation by the SEC's en banc resolution in SEC EB Case No. 191. **The SEC need not wait for the Court of Appeals to resolve the petitioner's motion for reconsideration for a judgment decreeing the dissolution of a preliminary injunction is immediately executory.** 'It shall not be stayed after its rendition and before an appeal is taken or during the pendency of an appeal.' (Sec. 4, Rule 39, Rules of Court, *Marcelo Steel Corp. vs Court of Appeals*/54 SCRA 89 (1973); *Aguilar vs Tan*, 31, SCRA 205 (920); *Sitio Taco vs Ventura*, 1 Phil 497 (1962); *Watson & Co. Ltd. Vs M. Enriquez*, 1 Phil 480 (1902); *Crisostomo vs SEC*, 179 SCRA 147, (Emphasis Supplied)*

*Moreover, judgments in actions for injunction are not stayed by the pendency of an appeal taken therefrom. **This rule has been held to extend to judgments decreeing the dissolution of a writ preliminary injunction, which are immediately executory.** (341 SCRA 109)"*

For all the foregoing, it is our opinion that there is no more obstacle to the implementation of the Revised Implementing Rules and Regulations, hence it and the provisions of the Architecture Act of 2004, may now be enforced by the City through the City Engineer's Office and the Office of the Building Official.

It is recommended that a Memorandum directing the CEO and the Office of the Building Official to enforce the Revised Implementing Rules and Regulations of P.D. 1096 and the Architecture Act of 2004 be issued.

Davao City, Philippines, September 25, 2008.


J. MELCHOR V. QUITAIN
City Legal Officer