



Republic of the Philippines
Professional Regulation Commission
Manila

The Professional Regulatory Board of Architecture (PRBoA)

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Your Ref:

Our Ref : 10dec03_PRBoA-501

03 December 2010

Republic of the Philippines
Province of **Catanduanes**
The Office of the Governor

ATTENTION : The **Hon. JOSEPH C. CUA**
The **Governor** of the Province of **Catanduanes**

The **Hon. LGU Mayors** (Jose U. Alberto II of The Capital Municipality of **Virac**, Odilon T. Pascua of The Municipality of **Bagamanoc**, Chito S. Chi of The Municipality of **Baras**, Eulogio R. Rodriguez of The Municipality of **Bato**, Agnes B. Popa of The Municipality of **Caramoran**, Edgar M. Tayam of The Municipality of **Gigmoto**, Restituto M. De Quiros of The Municipality of **Pandan**, Roberto A. Fernandez of The Municipality of **Panganiban**, Antonio M. Romano of The Municipality of **San Andres**, Edna R. Bernal of The Municipality of **San Miguel** and Abelardo M. Abundo, Sr. of The Municipality of **Viga**)

The Respective **Hon. LGU Vice Mayors** and The **Hon. Members** of the **LGU Sangguniang Panlungsod/ Bayan** (The City/ Municipal Councils);

The Respective **City/ Municipal Administrators, Legal Officers, Treasurers, Planning and Development Officers, Engineers** (in their official capacities as The **Acting Building Officials**) and **Fire Marshals**

SUBJECT : **PRBoA Position on Statements Apparently Made by Catanduanes Province Municipal Engineers During a Recent *Sangguniang Panlalawigan* (SP) Hearing**

References : 1) November and December 2010 official requests by Philippine-registered and licensed Architects (**RLAs**) and Members of the United Architects of the Philippines (**UAP**) for the **PRBoA** to act on the matter of the unfolding developments in Catanduanes Province relative to the preparation, signing and sealing of **architectural** documents; and
2) **PRBoA** Position on Documents Officially Issued by the **DPWH** and by the Davao City LGU Acting City Legal Officer (**ACLO**), and which are Apparently Being Used to Contravene the **Special and Later Law** i.e. **R.A. No. 9266** (The Architecture Act of 2004) Governing the Preparation, Signing and Sealing of **Architectural** Documents

Dear Sirs/ Mesdames,

Warm greetings from the **Professional Regulatory Board of Architecture** (the "**PRBoA**").

In almost all of its official communications with fellow officials in Government, the **PRBoA** continually raises the concern about our collective duty of **upholding the rule of law**, which all national and local government officials have **sworn to**. It is once again the opportune time for Your Province and its **LGUs** (*under Your able and principled guidance, and under the mandates of genuine public service and fairness to all, that are constantly cited by our dear Chief Executive*), to continue to **uphold the rule of law** and to finally and decisively address the nearly seven (7) decades of **continuing injustice** foisted on Philippine Architects, quite possibly by the State itself, particularly through agents of the Department of Public Works and Highways (**DPWH**) and of the Local Government Units (**LGUs**).

The **PRBoA** specifically refers to the apparently continuing and largely unabated **DPWH**-sponsored and **LGU**-promoted practices of allowing civil engineers (**CEs**) to prepare, sign and seal **architectural documents** (and of the official processing and approval by the Government of such improper and potentially illegal documents), despite the very clear and unequivocal dictates of law that specifically **limit** such acts (and professional **privileges**) to **Architects** registered and licensed by the State.

It appears that the **UAP** Catanduanes Chapter (the "**UAP**") has already requested the **Hon. Governor Joseph Cua** to implement and enforce **R.A. No. 9266** (The Architecture Act of 2004) in the Province, and if possible, for the Governor to issue an E.O. to fast-track the implementation of said law. Thereafter, the good Governor wrote the **Sangguniang Panlalawigan (SP)** to take action on the matter. The Secretary of the **SP** informed the **UAP** and the Municipal Engineers (**MEs**) of the 11 municipalities concerned to attend the pertinent Committee hearing. The **UAP** also apparently gave the concerned parties a copies of the generic letter to LGUs downloaded from the **PRBoA** website and the **R.A. No. 9266** handbook.

As relayed to the **PRBoA** by the **UAP**, one of the **MEs** present (who also happens to be the PICE Catanduanes Chapter President) raised the following arguments at the hearing:

1. that since there is a pending Petition for Review at the Court of Appeals (CA), the Architects should just wait for the result of said appeal;
2. that there is a Department Order from the DPWH and that the **MEs** (in their capacity as Acting Building Officials) must follow the Order;
3. that the Governor or even the Municipal Mayors cannot force the **MEs** to implement **R.A. No. 9266** because of alleged conflicts with R.A. No. 544 (as amended by R.A. No. 1582);
4. that in the case at Naga City i.e. PICE vs. Architect Aguilar (the Building official replaced by then Mayor Jesse Robredo), the PICE allegedly won and that as a result, Arch. Aguilar is now on floating status; that the same situation applies to Daraga; and
5. that the **UAP** insists that **R.A. No. 9266** should be implemented so that the position of (Acting) Building Official could be given to Architects.

Per representations by the **UAP** and other Region V-based Architects, the **PRBoA** is stating herewith its official position on statements apparently made by Your **MEs** at the said public hearing, to wit:

1. the pending Phil. Inst. of Civil Engrs. (**PICE**) Petition for Review at the Court of Appeals (**CA**) is about Civil Case No. 05-112502 (**PICE vs. DPWH Secretary Ebdane**, with the **UAP** as Intervenor) that concerns Secs. 302.3 and 4 of the 2004 Revised IRR of P.D. No. 1096 (the 1977 National Building Code of the Philippines/ **NBCP**); it is NOT about **R.A. No. 9266**, which is NOT covered by any TRO or injunction or by any pending question pertaining to the constitutionality of any of the provisions of **R.A. No. 9266**, its 2004 IRR and the periodic issuances by the **PRBoA** and by the **PRC** since April 2004; **R.A. No. 9266** (The Architecture Act of 2004) is a **valid and subsisting law** that **must** be implemented and enforced by **all** Government officials nationwide; as such, the Architects cannot just wait for the result of the **PICE** appeal since the **PICE** appeal does NOT and CANNOT stop the implementation and enforcement of a **law** that is in **full effect**; if the **PICE** wanted the implementation and enforcement of any provision of **R.A. No. 9266** stopped, then the **PICE** should have questioned the law in Court and should have secured a TRO or injunction against any provision of **R.A. No. 9266** that it thinks of questioning;
2. the **DPWH** Department Order is a mere **executive issuance** that does NOT and CANNOT amend or supervene a **valid and subsisting law** such as **R.A. No. 9266**; the **DPWH** Department Order is NOT a law; if the **DPWH** Order is being used to contravene a law that is in **full effect**, then the **DPWH** Order becomes unlawful; the **MEs** (in their capacity as Acting Building Officials) must only follow lawful Orders; if the Order is unlawful and the **MEs** implement the same, then the **MEs** become administratively and criminally liable; moreover, the **MEs** are also violating the multiple provisions under **R.A. No. 9266** mandating the **MEs** to implement and enforce the said law; please note that the said **DPWH** Orders prompted the **PRBoA** to sue the **DPWH** Secretary, 2 Undersecretaries and the **PICE** at the Office of the Ombudsman in November 2009; the **PRBoA** Complaint is still under investigation;
3. there is **nothing** in **R.A. No. 544** (as amended by **R.A. No. 1581**) that states that civil engineers (**CEs**) can practice **architecture** or that **CEs** can prepare, sign and seal **architectural** documents; the practices of architecture and civil engineering have long been **separated** by law i.e. since June 1950 (with **R.A. Nos. 544** for the **CEs** and **545** for the Architects), and again in their June 1956 amendments (**R.A. Nos. 1581** for the Architects and **1582** for the **CEs**); Architects plan and design all of the **spaces** inside and outside the building while the **CEs** design the structures that support the building (foundation, beams, columns, floors, walls and roof) and the grounds; the **CEs** are **not competent** to do the Architects' work since they have **not** been trained in architecture nor have they been tested by the State for the **architectural** planning and design of buildings; moreover, **R.A. No. 9266** is a **special and later law** and under the pertinent applicable legal principles, **R.A. No. 9266** is thus the superior law when it comes to the issue of the rightful preparer/ signatory to **architectural** documents; having all sworn to **uphold the rule of law**, the Governor and even the Municipal Mayors can **mandate** the **MEs** to implement and enforce **R.A. No. 9266**, or the **MEs** shall

- become administratively liable, aside from being criminally liable;
4. while the **PRBoA** cannot readily comment officially on the Naga City and Daraga cases, the **PRBoA** can only state that administrative and criminal liabilities have already arisen on the part of the past and incumbent officials of those LGUs involved in the apparent willful and concerted violation/s of **R.A. No. 9266**, and that the concerned LGU officials are already on the list of past and incumbent LGU officials the **PRBoA** shall charge in various venues/ for a, including the Office of the Ombudsman; and
 5. the **UAP** has the inalienable right to insist that **R.A. No. 9266** be implemented and enforced by the LGUs since it is a **valid and subsisting law** that is NOT covered by any TRO, any injunction or any pending constitutional question before any Philippine Court; it is important to remember that the CEs had a active hand in its crafting all the way to the Bi-Cameral Conference Committee hearings of January 2004, at which time the CEs were apparently able to convince Congress to **defer** the effectivity date of **Sec. 35** of **R.A. No. 9266** from 10 July 2004 to 10 April 2007 i.e. a deferment of nearly 3 years; **Sec. 35** of **R.A. No. 9266**, which took effect 3.5 years ago, states that **all positions** in Government (national and local), whether career, temporary or contractual and primarily **requiring** the services of an architect shall be **filled only by** registered and licensed architects (**RLAs**); the position of Acting Building Official (ABO) for an LGU **requires** more than just the knowledge of structural design for buildings; the ABO position requires the knowledge and skillsets of an Architect, which the CEs simply do NOT and CANNOT possess; as the position of ABO was given to the MEs as a matter of exigency 20 years ago under **R.A. No. 7160**/ The Local Government Code (a position supposedly granted the CEs due to an exigency that does **not** anymore exist, particularly in light of the full effectivity of Sec. 35 of R.A. No. 9266 since 10 April 2007, the position of Acting Building Official (ABO) should indeed be given to duly-qualified Architects so that the MEs could then fully concentrate on their basic responsibilities relative to **horizontal** works i.e. roads, bridges, dams, flood control, irrigation, water supply, sanitation and solid waste management, wastewater management, traffic/ transportation and the like.

Many of the required answers and detailed explanations can also be gleaned from a separate **PRBoA** letter dated 22 November 2010 that we are also sending under separate cover. The said letter contains the official **PRBoA** Position on Documents Officially Issued (or Supposedly Approved) by the DPWH, and Which Have Apparently Been in Continued Use by the LGUs to Contravene the Special Law Governing the Preparation, Signing and Sealing of Architectural Documents.

The **PRBoA** is also constrained to advise the LGUs of the municipalities of Catanduanes Province that unless the concerned LGU officials i.e. primarily the MEs in an **acting** capacity as Building Officials, fully reconsider their positions on the lawful implementation and enforcement of **R.A. No. 9266**, a valid and subsisting law that all national and LGU officials have sworn to uphold, the said LGU officials may be included in the list of LGU officials to be **charged** by the **PRBoA** before the Office of the Ombudsman as part of an Omnibus Complaint against scores of LGU officials nationwide who apparently continue to **willfully violate**

the law on the separate State-regulated practice of **architecture** in the Philippines.

Thank You very much for considering this and the foregoing important communications, as it affects all of our collective future.

*Mabuhay ang mga **tamang** batas na dapat pairalin!*

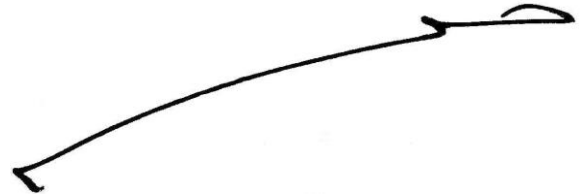
Mabuhay ang mga mamamayang sumusunod sa batas at ang lahat ng mga kawani ng pamahalaang mga tapat sa kanilang sinumpaang tungkulin sa bayan!!

Mabuhay ang mga Arkitektong Pilipino!!!

Mabuhay po ang Catanduanes Province at ang mga Bayan nito!!!

Yours sincerely,

For the **PRBoA**



Armando N. Alli
Acting Chairman

att : **PRBoA** Position on Documents Officially Issued by the DPWH and by the Davao City LGU Acting City Legal Officer, and which are Apparently Being Used to Contravene the Special and Later Law Governing the Preparation, Signing and Sealing of Architectural Documents

cc : The Office of the Ombudsman; and The PRC Legaspi Regional Office (*by electronic mail*)

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