



Republic of the Philippines
Professional Regulation Commission
Manila

The Professional Regulatory
Board of Architecture
(PRBoA)



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26 March 2007

HON. LEONOR TRIPON-ROSERO

Chairperson

Professional Regulation Commission
Manila

SUBJECT : THE OFFICIAL PRBoA POSITION ON THE PREPARATION, SIGNING AND SEALING OF ARCHITECTURAL DOCUMENTS BY REGISTERED/ LICENSED CIVIL ENGINEERS (CEs)

Dear Madam Chairperson,

Warm greetings!

The **Professional Regulatory Board of Architecture ("PRBoA")** is transmitting herewith its **Position Paper (Parts I and II)** concerning the practice of Civil Engineers ("**CEs**") of preparing, signing and dry-sealing **architectural** documents i.e. **not** limited to **architectural** plans, designs and specifications. Such practices are clear, unequivocal and willful violations of multiple provisions under **Republic Act/ RA 9266** (Architecture Act of 2004), its Implementing Rules and Regulations (IRR) and derivative regulations.

Despite the **full effectivity** of **RA 9266** since 10 April 2004 (almost 3.0 years ago), the CEs continue to prepare, sign and seal **architectural** documents, with the Professional Regulatory Board of Civil Engineering ("**PRBoCE**") and the Accredited Professional Organization ("**APO**") for CEs (the PICE, not yet accredited as an APO for the year 2007) averring that CEs can legally do so by virtue of the following:

- 1) **RA 544** of 1950 (The Civil Engineering law), (as amended by **RA 1582** of 1956, which is the **actual CE law that is in effect**, having superseded RA 544 in June 1956);
- 2) **PD 1096**, otherwise known as the National Building Code of the Philippines (NBCP) signed by then Pres. Ferdinand Marcos in February 1977 and its IRR;
- 3) **Ministry Order No. 57**, supposedly based on PD 1096 and its IRR;

- 4) **Writ of Preliminary Injunction (WPI or "injunction",** reference **Attachment 1**) issued 24 May 2005 by RTC Manila Branch 22 barring the implementation by the DPWH of **Secs. 302.3 and 302.4** of the 2004 Revised IRR of PD 1096 (reference **Attachment 1.1**) and based mainly on the application/s filed/ representations made by the PICE joined by some CEs in their personal capacities, who jointly filed a case against the then DPWH Secretary Hermogenes Ebdane; and
- 5) **Memorandum of the DPWH Secretary** dated 6 September 2005, issued in full compliance with the injunction.

The PRBoA has the following statements anent the foregoing:

- 1) Neither **RA 1582** (nor **RA 544**) appear to allow CEs to prepare, sign or seal **architectural** documents; the fact that **two (2.0) separate sets of statutes** i.e. **RA 544/ 1582** and **RA 545/ 1581** were signed into law in 1950 and subsequently/ consecutively amended in 1956 clearly point to the **exclusivity** of the practice of the two (2.0) professions;
 - while it may be gleaned from Sec. 2 (a) of **RA 1582** that CEs can design and prepare plans, specifications and estimates for "buildings", the same is limited by the fact that the word or term "architectural" is **never** mentioned in RA 1582 as it constitutes part of a separate practice of the profession of architecture as defined under **RA 1581**, a statute passed **before** RA 1582;
 - the term "building" as used in Sec. 2 (a) of **RA 1582** does **not** refer to buildings per se but to buildings forming part of engineering structures or works (please note a comma and not a colon after the word "buildings"; in fact, Sec. 23 of RA 1582 mentions only "any building or structure intended for public gathering or assembly such as theaters, cinematographs, stadia, churches or structures of like nature" i.e. buildings with large structural spans;
 - a key and most important **amendatory** provision of **RA 1582** (again, **not** the superseded **RA 545**) is its **Sec. 24**, which states in part, that "members who are civil engineers shall only render work and services proper for a civil engineer XXX architects shall also render work and services proper for an architect; individual members of such firms XXX shall be responsible for their own respective acts.";
 - the foregoing sections of **RA 1582** (which is the **governing law for CEs** since June 1956 i.e. **not** RA 544) clearly defines the limits of the CEs' practice as **not** extending into the practice of architecture and therefore **barring** CEs from preparing/ signing/ sealing **architectural** documents, particularly in light of the more specific and recent approval of **RA 9266** in 2004, a law with much more teeth than either RA 1581 or RA 545;
 - the **Department of Justice (DoJ)** in its **January 2004 Opinion** based on the comparison of RA 1582/ RA 544 and RA 1581/ RA 545 (at the behest of the PICE members) has already clearly spoken about the definitive distinctions of the 2 professions i.e. **architectural plans and designs are for architects** (reference **Attachment 2**) and

structural plans and designs are for civil engineers ("CEs");

- the foregoing should properly address continuing reference/s by the CEs to their supposed "**right/s**" to prepare, sign and seal **architectural** plans, a right that was **never** vested upon the CEs since the approval of both RA 544 and RA 545 in 1950, nor with the amended RA 1582 and RA 1581 which clearly separated the respective practices of the two (2.0) professions;
 - CEs who want to enter the practice architecture must attain the following before doing so: 1) secure a B.S. Architecture degree; 2) complete a minimum two (2.0)-year diversified training period in the planning/ design/ construction of buildings; 3) pass the Architects' Licensure Examination (ALE) and 4) be registered/ licensed as an Architect by the PRC (and take the Architect's Oath and be issued a PRC ID as a Registered Architect); an additional requirement is the IAPOA certificate;
 - Because of the lack of any of these **basic qualifications under law**, CEs **cannot** practice the separate/ distinct profession of architecture, **not now and not ever**;
 - **the CE registration and license does NOT confer upon CEs any right to practice any branch of architecture or to offer and undertake any architectural service specifically defined under Article I Sec. 3 (3) of RA 9266 (or under the applicable sections of its predecessor laws RA 1581 and RA 545);**
 - RA 1582 also does **not** have a recognizable **IRR** that should be promulgated by the PRC and that should be used to implement RA 1582 nationwide;
 - having clearly established that the preparation of **architectural** documents do **not** form part of the practice of CEs, the CEs **cannot** therefore invoke the applicability of Sec. 43 of RA 9266, as it clearly does **not** apply i.e. the preparation, signing and sealing of **architectural** documents do **not** form part of the practice of the legally recognized profession of civil engineering under RA 1582, which amended RA 544;
- 2) There is absolutely **nothing** in **Section 302** of the February 1977 National Building Code of the Philippines/ NBCP (PD 1096) which can be remotely construed as allowing CEs to act as a signatory to **architectural** documents;
- its Sec. 302 (*Application for Permits*) clearly states "To be submitted together with such application are at least five sets of corresponding plans and specifications prepared, signed and sealed by a duly (sic) mechanical engineer in case of mechanical plans, and by a registered electrical engineer in case of electrical plans, except in those cases exempted by the Building official under this Code." (reference **Attachment 3**);
 - the version/s of Sec. 302 of PD 1096 and its IRR invoked by the CEs are therefore **not** consistent with the **authentic/ Malacañang Records Office-certified** version of PD 1096 (reference **Attachments 3 and 3.1**) nor with the IRR printed in the Official Gazette (reference **Attachment 3.2**);
 - PD 1096 and its IRR only cover matters attendant to the planning/ design of buildings/ structures in general and to securing building permits in particular;

- PD 1096 and its IRR, specifically its questioned Sec. 302.3 and 302.4, notwithstanding the injunction on the said sections, are mere listings of documents to be submitted as part of a building permit application and do NOT govern the practice of the regulated technological professions; only the professional regulatory laws such as RA 9266 and RA 1582 (amending RA 544) apply to the practice of architecture and civil engineering respectively;
- 3) Ministry Order (MO) No. 57, a mere **executive** issuance is **not** vested with the power to change **Sec. 302** of the **authentic/ Malacañang Records Office-certified** copy of PD 1096, is being erroneously portrayed by CEs as **supposedly capable** of amending/ superseding specific provisions under both PD 1096 and its IRR (its enabling law) as well as RA 9266 (and its predecessor laws RA 1581/ RA 545), all **special laws** being clearly **superior** to MO No. 57 i.e. the equivalent of a mere Department Order or Department or a Department Administrative Order at the present time;
- the CEs look to MO No. 57 **provision/s** supposedly allowing CEs to sign and seal **architectural** documents as if these were laws to govern the professional practice of CEs and architects, when in fact, said **provision/s** have **no legal basis** i.e. nothing anchored on Sec. 302 of the **authentic/ Malacañang Records Office-certified** copy of PD 1096 (reference **Attachments 3 and 3.1**) nor its Official Gazette-published IRR (reference **Attachment 3.2**);
 - **lacking legal basis, the said provision/s under Ministry Order 57 may be likened to being nothing more than a scrap of paper;**
- 4) The preliminary injunction (reference **Attachment 1**) on the specified sections of a mere **executive** issuance (2004 Revised IRR of PD 1096) **does not address** the following important laws that materially affect the issues raised in the April/ May 2005 PICE applications for TRO/ WPI: 1) RA 9266 (and even its predecessor laws RA 1581/ 545); 2) the original and **authentic/ Malacañang Records Office-certified** copy of PD 1096; and 3) the qualifications restricting the practice of CEs under RA 1582/ RA 544 and even under RA 1581;
- **the WPI on an executive issuance should NOT be used as an excuse to restrain the operation, implementation and enforcement of a national law that is in full effect (RA 9266), particularly if RA 9266 is NOT the subject of the said injunction;**
 - as such, the injunction on a mere **executive** issuance issued by a line agency (DPWH) **cannot** and must **not** be used to circumvent or delay the implementation/ enforcement of the clear provisions and unequivocal intent of a Republic Act. A **superior statute** and **special law** crafted and approved by the **legislative and executive branches of government**, particularly if the injunction does **not** apply to RA 9266 and more particularly since RA 9266, a material law to consider in the case filed by the CEs, was **not** addressed in the injunction;
 - **an unrestrained national law such as RA 9266 has to be accorded its due respect and be made to prevail over inferior regulations/ incorrectly invoked laws forming the backbone of an injunction** (reference also **Attachment 1.2**) **or over superseded and antiquated laws;** and

- 5) The Memorandum of the DPWH Secretary issued 26 September 2005 was but in faithful compliance with the injunction; **as with MO 57, the Memorandum is a mere executive issuance that CANNOT supersede/ take precedence over a national law that is in full effect; the same document also does NOT govern professional practice; only the professional regulatory laws do.**

Aside from the **full** effectivity of RA 9266 since 10 April 2004 and its IRR starting 01 December 2004, the Architects can point to the following laws and regulations attesting to the unequivocal **right** of registered/ licensed architects to **exclusively** prepare, sign and seal **architectural** documents, to wit:

- 1) RA 545 of 1950 (the organic architecture law), as amended by RA 1581 of 1956 (both superseded by **RA 9266** of 2004); these laws were in effect from 1950 through 09 April 2004;
- 2) the **authentic/ Malacañang Records Office-certified** true copy of PD 1096, otherwise known as the National Building Code of the Philippines ("**NBCP**") signed by then Pres. Ferdinand Marcos on 19 February 1977, its 1977 IRR published in the Official Gazette and its 2004 Revised IRR, effective 01 May 2005 (of which only **Secs. 302.3** and **302.4** are the subject of the injunction); and
- 3) the January 2004 Department of Justice (DoJ) Opinion promulgated after comparing RA 544/ 1582 (CE laws) with RA 545/ 1581 (predecessor laws of RA 9266); the DoJ opinion was undertaken at the instance of the PICE members under the DPWH Board of Consultants (BoC), the body responsible for preparing the 2004 Revised IRR of PD 1096 (subject of the injunction issued at the PICE's and CEs' behest).

The PRBoA has the following statements in full support of the foregoing:

- 1) Sections 3 (3), 20, 25, 29, 30, 31, 32 and 34 of **RA 9266** are explicit in their limitation of the right to prepare, sign and seal architectural plans **only to** registered/ licensed architects;
 - The foregoing are but **echoes** of the specific provisions of RA 545 of 1950, RA 1581 of 1956 and even of **Sec. 24** of **RA 1582** (amended CE law of 1956);
 - while **Sec. 43** of **RA 9266** states "This Act shall not be construed to affect or prevent the practice of any other legally recognized profession", the plain language of the law must be viewed in light of what are actually allowed under the other professions i.e. despite the CEs protestations to the contrary, their RA 15812/ RA 544 do **not** vest on the CEs the right to prepare, sign and seal **architectural** documents; the approval and effectivity of RA 9266 and its derivative regulations are all testimony to the **exclusivity** of the architect's practice insofar as the preparation, signing and sealing of **architectural** documents are concerned;
 - whatever the CEs were used to doing before RA 9266 took effect on 10 April 2004 cannot and must not be allowed to continue under RA 9266;
 - **Sec. 46** of RA 9266 also specifically states that "**all other laws, orders (specifically including preliminary injunctions that may be wrongfully founded), rules and regulations or resolutions (specifically those issued by the PRBoCE to possibly contravene RA 9266 or its**

derivative regulations) or parts thereof inconsistent with the provisions of this Act are hereby repealed or modified accordingly.”;

- 2) Although the **authentic** version of PD 1096 of February 1977 also does **not** specifically mention architects as a signatory to architectural documents, the fact that RA 545/1581 (and CE practice **limitations** under RA 544/ RA 1582, specifically Sec. 24) all exist and were all in **full** effect at the time of the signing of PD 1096, are more than sufficient arguments to limit the preparation, signing and sealing of **architectural** documents only to registered/ licensed architects;
 - **Secs. 302.3** and **302.4** of the 2004 Revised IRR of PD 1096/ the NBCP (reference **Attachment 1.1**), which are the subject of the injunction are merely listings of documents to accompany a building permit application i.e. not a prescription for professional practice; and
- 3) The DoJ has clearly spoken on the matter of the exclusivity of the two (2.0) practices based on a comparison of their decades-old laws i.e. the **practice of architecture is only for architects** and not for other professions, particularly civil engineering; future DoJ legal opinions would again most likely **uphold** the architects' exclusive practice in light of a more robust, more stringent and highly restrictive architecture law (in **RA 9266**).

Considering the foregoing, the PRBoA respectfully requests the PRC to:

- 1) **uphold RA 9266** and its IRR on the matter of the preparation, signing and sealing of **architectural** documents inasmuch as RA 9266 and its derivative regulations are **not** covered by any temporary restraining order (“TRO”) nor any writ of preliminary injunction (“WPI”) such as the one promulgated by RTC Manila Branch 22, a document primarily issued to suppress the implementation of **inferior** regulations/ executive issuances such as **Secs. 302.3** and **302.4** of the 2004 Revised IRR of PD 1096 (The 1977 NBCP, which limit the signing of **architectural** documents to registered/ licensed architects only (reference **Attachment 1.1**) and which had been lawfully harmonized by the DPWH with RA 9266); in the hierarchy of laws and regulations, the status of **Secs. 302.3** and **302.4** of the 2004 Revised IRR of PD 1096, which do **not** in any way govern nor regulate professional practice, are decidedly inferior in relation to a **national and special law** such as **RA 9266**;
- 2) **assist the PRBoA in upholding the PRBoA Memo 2005-08** dated 05 July 2005 in line with **RA 9266** in its entirety, particularly with respect to certain contrary pronouncements or disseminated positions of the PRBoCE, which may have been adopted by the APO for CEs (the PICE), the organization of CEs that was amply represented during public hearings on the crafting of RA 9266 from 2002 through 2003;
- 3) uphold the PRC and its status as a **quasi-judicial body** and uphold the PRC's unchallenged right to rule exclusively on matters involving **professional practice**, potentially to the total exclusion of other line agencies such as the DPWH and the DILG, by clearly delineating the limits of practice of registered and licensed architects and civil engineers on

the matter of building plan preparation generally and on the matter of **architectural** documents specifically;

- 4) based on existing laws, **officially bar CEs** from preparing, signing and dry-sealing **architectural** documents due to the following reasons:
 - a. limitations explicitly stated under their law RA 1582 of 1956 (which amended RA 544 of 1950);
 - b. the CEs lack of academic and sub-professional (diversified training) preparation for **architectural** plan and design preparation;
 - c. the fact that CEs were/ are **never** tested by the state (and by the PRC itself) for their architectural plan and design capabilities;
 - d. the CEs' lack of an architect's registration and license as mandated by RA 9266 (and by the predecessor laws on architecture, RA 545, as amended by RA 1581);
 - e. the CEs non-membership in the IAPOA and their lack of an IAPOA certificate, which is an additional requisite to the signing and sealing of architectural documents; and
 - f. the CEs' lack of continuing professional development (CPD) training in architectural plan/ design matters;
- 5) require the CEs to solely refer to their law as **RA 1582** rather than to RA 544 since the former already amended the latter in June 1956, the major amendatory provision being **Section 24** of RA 1582 which clearly distinguishes the professional and civil liabilities of the architect and the CE when working together; the same provision is found in RA 1581, which amended RA 545;
- 6) require the CEs to produce their copy of the IRR of either RA 1582 or RA 544;
- 7) declare that the preparation, signing and sealing of **architectural** documents by registered/ licensed CEs is contrary to law, particularly with respect to **RA 9266** and with respect to the **authentic/ Malacañang Records Office-certified** true copy of PD 1096 itself and of its Official Gazette-published IRR; and
- 8) declare that CEs preparing, signing and sealing architectural documents are in direct violation of **RA 9266**.

The CE's and probably the PRBoCE's unilateral, liberal and misleading interpretation of their law **RA 1582**, which amended RA 545, have caused extensive, prolonged and undue harm to the architectural profession. Due in part to the extreme patience, altruism and professionalism exhibited by Philippine architects, the CEs have continued to sign and dry-seal **architectural** documents for nearly three (3.0) years, **contrary to law** and despite the very existence and effectivity of **RA 9266** and its derivative regulations.

The PRBoA trusts that the Commission shall find this letter and its accompanying documents in order and possibly call for an urgent meeting with the PRBoCE (minus its APO PICE, which has **not** been accredited as an APO by the PRC for the year 2007) prior to finalization of the official PRC stand on the matter. A PRC resolution shall enable the PRBoA to officially campaign for greater implementation of **RA 9266** in the public sector, particularly with "problem" agencies such as the DPWH, the DILG, the HUDCC, the GPPB, certain GOCCs and the LGUs where CEs, using their positions as **Acting** Building Officials (by virtue of RA 7160), hold sway. It is very important to note again that the acknowledged father of both RA

7160, otherwise known as the Local Government Code and of RA 9266, The Architecture Act of 2004, the good **Senator Aquilino Q. Pimentel, Jr.**, has on many occasions confirmed the **primacy and sole vested right** of registered/ licensed architects insofar as the preparation, signing and sealing of **architectural** documents are concerned.

The PRBoA believes that the APOs, mere **regulatees** and not regulators such as the PRBs, have been instrumental to muddling the issues at bar and therefore need **not** be consulted by the PRC in its requisite **comparison and interpretation** of existing professional laws. As with the resolution of the signatory to "subdivision" plans on the basis of PD 1308 (Environmental Planning law), this PARALLEL matter of designating the sole, legal and rightful signatory to **architectural** documents has to be resolved internally at the PRC on the basis of standing laws and without the intervention of private interest groups such as the **regulatee** APOs.

Summing up, the PRBoA would like to further state that we are a government of laws, not of men nor of biased and wrongfully-founded/ issued court injunctions, which do **not** even remotely apply to **RA 9266**. **An unrestrained national law such as RA 9266 has to be accorded its due respect and be made to prevail over erroneous and/ or unfounded and self-serving interpretations by CEs of inferior/ incorrectly invoked regulations/ laws or of superseded and antiquated laws.** Under Philippine law, the registered/ licensed architects are the **only** regulated professionals vested with the **sole** right to prepare, sign and seal **architectural** plans; as such, other professionals such as the CEs must recognize this fact sooner or later. The supposed "overlaps" in professional practice pertaining to building plan/ design preparation only exist in the conditioned minds of the supposed CE leaders.

The PRBoA must insist that the implementation of the law (**RA 9266**) should **no** longer be delayed, as it has already been in effect since 10 April 2004. For the last fifty six (56) years, our fellow technological professionals, the CEs have continued to reap benefits that were **never theirs** by right nor as prescribed under any law. **RA 9266 only reiterated what was already stated under RA 1581 and RA 545 i.e. that the practice of architecture is vested only on registered/ licensed architects and on no one else. It is now time for the rightful regulated professionals to do the job and to render services to a public that has long been deprived and confused by the CEs' selfish insistence that they are "capable" of doing the architect's work. If CEs want to practice architecture, they must become architects first. The law may be harsh but it is the law.**

The PRBoA looks forward to the Commission's kind attention and prompt/ resolute action of this very, very urgent matter which cries to the heavens for early, definitive and decisive PRC resolution. The Commission's 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 and willful violations of RA 9266 for the nearly three (3.0) years that it has been in full effect.**

Thank You very much.

Yours sincerely,
For the PRBoA

ORIGINAL SIGNED
Armando N. ALLÍ
Chairman

file: 07_BoA-018.1
att : a/s (plus **Part II** of the Position Paper)