"Continuing Challenges to RA 9266 :

Issues and Updates on the Implementation of RA 9266 and the 2004 Revised IRR of the NBC (PD 1096 OF 1977)"

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Since **RA 9266** took effect on 10 April 2004 and since its IRR took effect on 01 December 2004, they have been **harmonized** with other important Philippine laws that affect the practice of architects by at least four (4) architectural organizations working separately or together i.e. UAP, Phil. Institute of Architects (PIA), Architecture Advocacy International Foundation (AAIF), Council of Consulting Architects and Planners of the Phils. (CCAPP), etc. Their concerted intent was to give **RA 9266** more teeth and to further empower Philippine architects, particularly in the areas of the implementation and enforcement of **RA 9266** and its IRR.

Among the laws (or portions of laws) that have already been **harmonized** with **RA 9266** are the 2004 Revised Implementing Rules and Regulations (R-IRR, which took effect 02 May 2005) of the National Building Code of the Philippines (NBCP, otherwise known as PD 1096 of 1977), the IRR and Guidelines of Executive Order (**EO) 278** of 2004 which cover foreign-assisted projects, the IRR-A of **RA 9184** (the Procurement Reform Act of 2003), etc.

Over the past 4 years however, other regulated professionals view the steady progress made by the architects with much suspicion, oftentimes attended by malice and sometimes even by open prejudice. Of particular importance is an apparent all-out effort by some Civil Engineers (CEs) and their organizations to spread disinformation (particularly in the south) about **RA 9266** and its IRR and against the R-IRR of the NBCP, resulting in the calibrated agitation of certain sub-sectors generally comprised of other building professionals, contractors and developers.

The persistent efforts of some CEs have resulted in two (2) landmark cases that were filed in 2005 in a Manila and a Quezon City court (both RTCs). While the civil cases filed by the CEs are not directly against **RA 9266** and its IRR, the same are insidious attempts to indirectly weaken **RA 9266** and its IRR. If the CEs are successful in these initial legal maneuvers, they may later consider directly assailing **RA 9266** itself to have parts of it declared by the Supreme Court as invalid or unconstitutional.

It is providential that "gentlemen CEs" were involved in the QC RTC case for their plain admission that there was indeed a difference in the professional practice of the architects and CEs was contributory to the judge's decision to uphold the architects' interest. It was a completely different story in the Manila RTC case for the CEs' contention that there was no difference in the practice of the architects and the CEs (and the denial of the existence of RA

9266 and its IRR) were the ones that were directly contributory to the judge's issuance of the TRO and the subsequent Writ of Preliminary Injunction (WPI).

Another current challenge, also involving CEs is defining the role of architects in the preparation of physical plans in general and of residential subdivision plans in particular. Does **RA 9266** really allow architects to sign and dry seal subdivision plans or does **RA 9266** basically allow architects to only prepare residential subdivision plans (with an Environmental Planner or En.P. as signatory). Should architects undergo a qualification and certification process to enable them to prepare, sign and dry seal subdivision plans? Are CEs allowed by their law (RA 1582, amending RA 544) to prepare, sign and dry seal subdivision plans?

The CEs, particularly the Professional Regulatory Board of Civil Engineering (PRBoCE) are of the firm belief that since subdivisions are horizontal projects and since they far outnumber architects and environmental planners (En.P.s) combined, then they too should be allowed not only to sign/ dry seal residential subdivision plans but more importantly, to also act as the "Prime Professional" (Project Manager and Owner's Representative all rolled into one) for all residential subdivision projects. As the "Prime Professional", the CEs will then choose the architects and environmental planners for the subdivision project (if the CEs so deem that these professionals are still needed).

It would be worth mentioning at this juncture that the archived CE bills which collaborating architectural organizations defeated in Congress on 19 January 2005 both carried the term "Prime Professional" as supposedly befitting the CEs' professional status in the construction industry (for both horizontal and vertical projects). There was apparently a clear attempt to try to resurrect the virtually dead CE bills partly through executive action i.e. via the Office of the Vice Prsident Noli "Kabayan" de Castro through a re-writing of EO 45 of 2001, through the Housing and Urban Development Coordinating Council (HUDDC) and through the Housing and Land Use Regulatory Board (HLURB).

A particularly important challenge is that posed by non-registered and non-licensed architects [such as a certain Mr. Ed Calma, with real name Eduardo Gungon Calma (not the same person as the reported Archt. Ed Calma of the UAP Maharlika Chapter) and others like him] who continue to ply their illegal practice of architecture with utmost contempt for the law. Some of these illegal practitioners and the licensed architects who readily aid/ abet and quite possibly profit from their illegal practice of architecture openly advertise themselves in glossy magazines that feature their works, with the publications serving as their solicitation medium.

With its resource and membership base and in accordance with the PRC/ PRBoA Resolution recognizing the UAP as the IAPOA, it is the UAP which must go after such illegal practitioners who compromise public interest and who prejudice the real architect-members of the UAP by their illegal or aided/ abetted practice. If cases for the violation of RA9266 have to filed with the regular courts (in the case of unlicensed individuals) or with the PRBoA [in case of architects aiding or abetting the practice of unlicensed persons in

violation of Sec. 23 (d) of RA 9266], the UAP must stand as the complainant, not its individual UAP members. The standing of the UAP as complainant gives the case a truly national character and importance.

Private architects may not be readily able to do this as immense resources shall be required to finance such cases. The UAP as the IAPOA can readily exert serious effort to pursue such cases generally for upholding public interest, protection and welfare and specifically to protect the practice and its member-practitioners. After all, architects become IAPOA members partly in consideration of the IAPOA's designated role to help protect the practice.

To better serve and protect the general public against illegal practitioners or architects with invalid or revoked licenses, the UAP may need to consider publishing (in hard and soft forms) the list of the approx. 22,000 registered architects (specifically identifying those who are alive and are still practicing in the Philippines) and also identifying the approx. 7,000 architects who have secured their IAPOA certificates to date.

Another challenge is gross ignorance or sometimes even contempt by UAP members themselves for the Code of Ethical Conduct (UAP Document 200) and the Standards of Professional Practice (UAP Documents 201 through 208, later supplemented by UAP Documents 209 through 211), which are all valid regulations until their repeal i.e. having been promulgated in 1979 by the PRC as part of the IRR of **RA 545**, as amended by **RA 1581**. These regulations are intended to help keep the level of practice at a certain level of respectability.

In the recent past, some supposedly world-renowned Philippine architect/s openly made patently misleading claims about their capabilities and professional standing e.g. resort to the repeated use of a supposed world ranking [that was allegedly based on the simple act of filling up on-line a 10-page internet magazine survey form which requires that the architectural firm to be considered for the said magazine's ranking must first have a minimum annual reported fee income of P112.0 M (U$ 2.0M)]. The BIR will surely have a field day when they get wind of the claimed annual incomes of the said Philippine architect/s for the said magazine survey.

The said entities consistently use both print and electronic media as their platforms for launching campaigns to entice and win over clients. The same entities may also have claimed architectural work that may not actually be entirely theirs (from conceptualization through contract documentation and periodic construction supervision) i.e. they may have mainly signed/ dry sealed the contract drawings for building permit purposes.

If such architects are UAP members, the UAP should take immediate steps to censure them for publishing their misleading claims, and should they persist in their practice, the UAP must perforce file cases against them with the PRBoA for violation of the Code of Ethical Conduct, as re-promulgated by the PRC. Again, private architects may not be readily able to file and pursue such a case as huge resources shall be required. Again, the UAP as the IAPOA was duly deputized by the PRBoA and the PRC to pursue such cases in the interest of fairness to all practitioners.

Over the past 12 years, the World Trade Organization (WTO) General Agreement on Trade in Services (GATTS), a key component of the 1947

General Agreement on Trade and Tariff (GATT) has been a constant challenge as it shall institutionalize the local practice of foreign architects. It is hoped that with the recent launching of the APEC Architects Registry i.e. 19 September 2005, more Filipino architects may have equitable and reciprocal professional opportunities in other lands i.e. the Pacific Rim.

The last important challenge is how the UAP and all of its approx. 15,000 listed members can best assist the Professional Regulatory Board of Architecture (PRBoA) in doing its work of implementing the law and monitoring compliance with the law. While the 3-man PRBoA is an important entity in the effort to operationalize, implement and enforce **RA 9266**, it however needs all the help that UAP and its members can muster.

The IRR of RA 9266 which took effect on 01 December 2004 cannot be a mere recitation of what is already stated under RA 9266. Three (3) years after **RA 9266**'s effectivity, the work on the IRR is not yet fully done and the PRBoA, hand in hand with the UAP, must exert all efforts to collaborate in finishing the job, among which are:

1) operationalization of the CPE/ CPD program to tie these in with specialization programs or even future graduate academic programs for all availing architects (to comply with Secs. 7 (i) and 28 of RA 9266);
2) completion of the registration requirements for architectural firms [to comply with Sec. 37 (d) of RA 9266]; monitoring of SEC registrations for architectural firms;
3) operationalization of the liability insurance provision for foreign architects (to comply with Sec. 39 of RA 9266);
4) listing of all identifiable architectural documents that will require the signature and dry seal of an architect (to comply with Sec. 32 of RA 9266); and
5) prompt resolution of the claims of CEs that they too can practice branches of architecture through the Professional Technological Council (PTC), the Philippine Federation of Professional Associations (PFPA), the Phili. Assn of Professional Regulatory Boards (PAPRB) and the Professional Regulation Commission (PRC) itself e.g. pertaining to the CE claim that they are allowed by their law to engage in the architectural planning and design of buildings leading to the preparation, signing and dry-sealing of architectural documents, in the preparation of site development and physical plans such as residential subdivision plans, etc.

Also equally important are the amendments to the Standards of Professional Practice (UAP Documents 201 through 208, later supplemented by UAP Documents 209 through 211) which are parts of the IRR of the predecessor architecture laws. To update and improve on the 1979 originals, the UAP must remember that the documents still have to written in a reglamentary or regulatory style to conform with the original intent of the documents, with the prescriptions under RA 9266 and with the prevailing PRC review standards.

It may also be of some help if the old UAP Documents 300 series (contracts/ agreements) or even the UAP standard forms for practice could be updated and re-disseminated by the UAP and be made part of the Standards of Professional Practice in compliance with RA 9266. Architectural contracts must now carry the provision concerning alternative dispute resolution or ADR in compliance with RA 9285 and with EO 1008 e.g. negotiation, conciliation, mediation and arbitration to help architects avoid costly court cases. Lastly, standard service proposals for the various kinds/ aspects of architectural practice should also be prepared for mandatory reference. *Nothing follows.*