

Filing Cases for Administrative and/or Criminal Complaints and Civil Action for Violations of R.A. No. 9266

In response to various queries from various sectors, please be advised that there are three (3) types of actions that may be taken against violators of **R.A. No. 9266 (The Architecture Act of 2004)** and these are **Administrative Complaints** (also in conjunction with the Administrative Code and the Code of Conduct for Government Officials, in the case of public sector officials) and/or **Criminal Complaints** (also in conjunction with the Revised Penal Code) and Civil Action for Damages (also in conjunction with the New Civil Code):

1) in case of **Administrative** Complaints, these may take the form of the following:

- a) an **administrative** case may be filed against a **registered and licensed architect (RLA)** or an examinee who took or has taken (or who will be taking) the Architect's Licensure Examination (ALE), by virtue of Sec. 23 of R.A. No. 9266, which states:

"Any person, firm or association, may prepare (*sic*) charges in accordance with the provisions of this section against any registrant, or the Board may *motu proprio* investigate and/or take cognizance of act and practices constituting sufficient cause for suspension or revocation of the Certificate of Registration by proper resolution or order. Such charges shall be in writing and shall be sworn to by the person making them and shall be filed with the Secretary of the Board." (*emphases supplied*)

- b) an **administrative** case may be filed **against a public official** for violations of R.A. No. 9266 (and of the Administrative Code and of the Code of Conduct for Government Officials) with the appropriate agency.

Note: A lawyer (or if possible, a PRC prosecutor/ legal staff) should be consulted at all times before and after the filing of an administrative complaint. In an **administrative** complaint, the **preponderance of evidence** is needed to secure a favorable decision. While an array of documentary evidence may be sufficient in some cases, it is always best that the complaint be accompanied by **direct testimonies** of witnesses. Please refer to draft complaints in the Latest Publications section of the PRBoA website at www.architectureboard.ph.

2) in case of **Criminal** Complaints, these may take the form of the following:

- a) a **criminal** complaint may be filed against a **registered and licensed architect (RLA) and/or an unregistered person** [a non-RLA which includes **natural persons** such as registered and licensed civil engineers (**RLCEs**), registered and licensed interior designers (**RLIDs**) and other state-regulated or non-regulated professionals or non-professionals, and **juridical persons** such as non-architectural firms (associations, corporations, partnerships, sole proprietorships, and the like), including **foreign** individuals/ entities (**natural and juridical persons**)], deemed **illegally** practicing architecture or against **clients** (who knowingly hire unregistered persons to do works of architecture) and even **media entities** (who repeatedly feature unregistered persons and their "works of architecture", at the **Professional Regulation Commission (PRC and its regional offices**, which are quasi-judicial and quasi-legislative entities under R.A. No. 8981, The PRC Modernization Act of 2000 and its IRR), by virtue of Sec. 44 of R.A. No. 9266, which states:

“Sec. 44. Enforcement of the Act. – It shall be the **primary duty of the Commission and the Board to effectively enforce the provision of this Act**. 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. The **Secretary of Justice or his duly designated representative shall act as legal adviser to the Commission and the Board** and shall render legal assistance as may be necessary in carrying out the provisions of this Act.

Any person may bring before the Commission, Board or the aforementioned officers of the law, cases of illegal practice or violations of this Act committed by any person or party.

The **Board shall assist the Commission, Board (sic) or the aforementioned officers of the law, (sic) cases of illegal practice or violations of this Act committed by any person or party.**

The **Board shall assist the Commission in filing the appropriate charges through the concerned prosecution office in accordance with law and the Rules of Court.” (emphases supplied)**

- b) a **criminal** case may be filed against a **private person** (natural or juridical) or against a **public official** for violations of R.A. No. 9266 (and of the Revised Penal Code) **DIRECTLY with the appropriate agency such as the local fiscal’s office**, by virtue of Sec. 44 of R.A. No. 9266, which states:

“Sec. 44. Enforcement of the Act. – It shall be the primary duty of the Commission and the Board to effectively enforce the provision of this Act. **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. The Secretary of Justice or his duly designated representative shall act as legal adviser to the Commission and the Board and shall render legal assistance as may be necessary in carrying out the provisions of this Act.

Any person may bring before the Commission, Board or the aforementioned officers of the law, cases of illegal practice or violations of this Act committed by any person or party.

The **Board shall assist the Commission, Board or the aforementioned officers of the law, cases of illegal practice or violations of this Act committed by any person or party.**

The Board shall assist the Commission in filing the appropriate charges through the concerned prosecution office in accordance with law and the Rules of Court.

- c) a **criminal** case may be filed against a **public** official e.g. a national/ regional or local government official such as a Department Secretary/ Undersecretary/ Asst. Secretary, Bureau Chiefs, Division heads, heads of agency, governor, mayor, vice mayor, *sangguniang bayan/ panlungsod* members, the city/ municipal engineer (most likely a **RLCE**) and the building official and his staff (most likely **RLCEs**) for violations of both R.A. No. 9266 (and of the Anti-Graft and Corrupt Practices Act) **DIRECTLY with the Office of the Ombudsman (Manila or its regional offices)**.

Note: A lawyer (or if possible, even a fiscal or a judge) should be consulted at all times before and after the filing of a criminal complaint. In a **criminal** complaint, **evidence to establish the Respondent's guilt beyond reasonable doubt** is needed to secure a favorable decision. To do this, the array of documentary evidence must be supported by the **direct testimony of a witness** in the form of an affidavit (narrative)/ judicial affidavit (question and answer) or direct testimony (in open court) detailing the witness' **direct and personal knowledge** of the violations committed by the Respondent. In the case of **public official**-respondents charged with violations of R.A. No. 9266 or related **criminal** acts, the assistance of the Office of the Solicitor General (OSG) may **not** be availed of by such public officials. Please refer to *pro-forma* complaint against a Building Official-Civil Engineer (CE) in the Latest Publications section of the PRBoA website at www.architectureboard.ph.

- 3) in case of **Civil Action** for various forms of damages arising from violations of R.A. No. 9266, these may take the form of the following:
- a) a **civil action** may be **filed DIRECTLY in Court** (usually a Regional Trial Court) against a **registered and licensed architect (RLA) and/or an unregistered person** [a non-RLA which includes **natural persons** such as registered and licensed civil engineers (**RLCEs**), registered and licensed interior designers (**RLIDs**) and other state-regulated or non-regulated professionals or non-professionals, and **juridical persons** such as non-architectural firms (associations, corporations, partnerships, sole proprietorships, and the like), including **foreign** individuals/ entities (**natural and juridical persons**) **or against a public official**] or against **clients** (who knowingly hire unregistered persons to do works of architecture) and even **media entities** (who repeatedly feature unregistered persons and their "works of architecture", for violations of R.A. No. 9266 that give rise to various forms of damages, by virtue of the applicable provisions under the New Civil Code.

Note: A lawyer should be consulted at all times before and after the filing of a civil action. In a **civil action**, **substantive evidence** may be all that is needed to secure a favorable decision. While an array of documentary evidence may be sufficient in some cases, it is always best that these be accompanied by **direct testimonies** of witnesses. In a **civil action** against a public official, the OSG may assist the respondent, if a Memorandum of Agreement (MoA) exists between the OSG and the agency represented by the **public official-respondent** i.e. the **public respondent**.

Important Note: In all cases, various modes of alternative dispute resolution (ADR) may be employed by the Courts e.g. court-annexed mediation (CAM) for cases files at the Regional Trial Courts (RTC) and appellate court mediation (ACM).

Very Important Note: *Comments, observations (especially corrections) to this initial PRBoA Statement concerning the filing of cases for violations of R.A. No. 9266 are most welcome. Please email the same to prboa.ph@gmail.com or to boa_chair@yahoo.com so that the necessary corrections can be made soonest.*