

Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

097.13 DPWH
09-17-2009

SEP 16 2009

NBCDO MEMORANDUM
CIRCULAR NO. 02
NBCA 09-17-09

SUBJECT :

PROCESSING AND ISSUANCE
OF PERMITS AND CERTIFICATES
PURSUANT TO SEC. 302[4] OF
THE REVISED IRR OF PD 1096
AND ENJOINING THE USE OF
NBC FORM NO. A-01 AND NBC
FORM NO. A-02

SERIES OF 2009

In the case filed by the Philippine Institute of Civil Engineers, Inc. (hereinafter referred to as "PICE") and Leo Cleto Gamolo against the undersigned to enjoin the implementation of Sections 302(3) and (4) of the Revised Rules and Regulations of Presidential Decree No. 1096 otherwise known as the National Building Code of the Philippines entitled "PICE et al. v. Hon. Secretary Hermogenes Ebdane, Jr." and docketed as Civil Case No. 05-112502, the Regional Trial Court (hereinafter referred to as the "RTC") dismissed the same and likewise denied the plaintiff's motion for reconsideration and affirmed its previous ruling.

However, considering the pendency of the appeal therefrom coupled with the injunction issued in Civil Case No. 05-112479 entitled "PSSE v. the DPWH Secretary" enjoining the use of the application forms, design plans and/or pertinent documents for the issuance of building permits under the Revised Implementing Rules and Regulations of PD 1096 (hereinafter referred to as the "Revised IRR") and so as not to prejudice the final disposition by the Court of Appeals or the Supreme Court of the above-cited cases, all Building Officials are hereby directed, consistent with the Memorandum of this Office dated 26 September 2005, as well as, its Memorandum dated 16 April 2007, as follows:

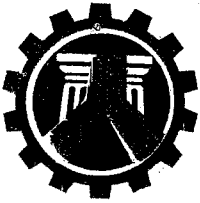
1. All Building Officials are directed to process and issue the necessary permits and certificates to all applicants/owners notwithstanding whether the design plans and/or other pertinent documents that are submitted, particularly those enumerated in Section 302(4) of the Revised IRR, are prepared, signed and/or sealed by either a registered architect and/or civil engineer" until there is a final and executory decision rendered in the abovementioned cases.
2. All building officials are directed to desist from using the new forms including NBC Form No. A-01 and NBC Form No. A-02 under the Revised IRR and in lieu thereof process the application for building permits using the application forms, design plans and other forms under the old IRR until a final and executory decision to the contrary is issued by the Courts.

For your strict and immediate compliance.

HERMOGENES E. EBDANE, JR.
Secretary
(National Building Official)



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Republic of the Philippines
DEPARTMENT OF PUBLIC WORKS AND HIGHWAYS
OFFICE OF THE SECRETARY
Manila

097-7 DPWH
17 Apr 2007

APR 16 2007

MEMORANDUM

TO ALL : Acting Building Officials
Officers-in-Charge, Office of the Building Official
City/Municipal Engineers
Other Concerned Officials

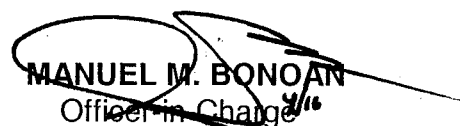
SUBJECT : **PROCESSING AND ISSUANCE OF PERMITS/CERTIFICATES
TAKING INTO CONSIDERATION THE PROVISIONS OF
SECTIONS 302 (3) AND (4) OF THE IMPLEMENTING RULES
AND REGULATIONS (IRR) OF THE NATIONAL BUILDING
CODE (NBC) OF THE PHILIPPINES (PD 1096)**

This is to reiterate the September 26, 2005 Memorandum of then Acting Secretary Hermogenes E. Ebdane, Jr. to all Building Officials, City/District Engineers, and all others concerned, advising them "to discontinue implementing and carrying out the questioned provisions of the IRR of the NBC on October 29, 2004 until further Order is issued."

Inasmuch as the case is still pending with the Court and no further Order has been issued regarding Sections 302 (3) and (4) of the IRR of the National Building Code of the Philippines (PD 1096), you are hereby directed to continue observing the writ of preliminary injunction issued by the Court on May 24, 2005.

As such, you are to process and issue the necessary permits and certificates to all applicants/owners notwithstanding whether the design plans and/or other pertinent documents submitted were prepared, signed and/or sealed by either a registered architect and/or a civil engineer.

For the information and compliance of all concerned.


MANUEL M. BONOAN
Officer-in-Charge



WIN7R00220



SEP 26 2005

MEMORANDUM TO:

All Building Officials
City/District Engineers
All concerned

A verified petition was filed by the Philippine Institute of Civil Engineers Inc. and **Leo Cleto Gamolo** against the Secretary of the Department of Public Works and Highways (DPWH) in Civil Case No. 05-112502 and pending before the Regional Trial Court, National Capital Judicial Region, Branch 22, Manila, praying that a writ of preliminary injunction be issued, enjoining the enforcement of the Implementing Rules and Regulations (IRR) of the National Building Code of the Philippines (P.D. 1096) insofar as it bars civil engineers, from exercising the right to prepare, sign and seal plans and specifications (Section 302 (3) and (4) and to declare the said prohibitory provision null and void for being contrary to existing laws (P.D. 1096 and R.A. 544) and the Constitution.

After reception of evidence presented by the petitioners and hearing the respondent's argument, the Court issued an Order dated May 24, 2005, the dispositive portion is hereunder quoted as follows:

“WHEREFORE, the application is granted, and let a writ of preliminary injunction issue, upon the posting by plaintiff of an injunction bond in the amount of P100,000.00 and approval thereof by the Court, enjoining the herein defendant, his agents, representatives, and/or assigns from implementing and carrying out the questioned provisions of the subject October 29, 2004 Rules and Regulations issued by the defendant affecting the herein plaintiffs.”

It is further advised that, in its Greetings to the Honorable Secretary dated June 1, 2005, the Court ordered defendant, his agents, representatives and/or assigns to discontinue implementing and carrying out the questioned provisions of the IRR on October 29, 2004 until further Order is issued.

For information/compliance of those concerned.

Heriberto
HERMOGENES E. VERDANE, JR.
Acting Secretary



WIN5R00029