The Beauty and Madness of Metropolitan Manila: Laws Shaping Its Built Environment

Marlon M. Cariño[★]
Armando N. Allí[★★]

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★ '06, J.D., MBA, De La Salle University-Far Eastern University Consortium. The Author currently serves as a Legal Consultant at the United Architects of the Philippines and for the Urban Development Department, City of Makati. He is also a faculty member at the University of Santo Tomas College of Architecture. The Author is likewise a practicing Architect, Environmental Planner, and Construction Industry Arbitration Commission-Accredited Arbitrator.

★★ '94, M.A. Urban and Planning, University of the Philippines Diliman. The Author previously served as the acting Chairman of the Philippine Architecture Board from 2006 to 2012. Currently, he is a Partner at Tomeldan, Allí & Molina, Planners Co. and is a Consulting Architect & Environmental Planner for several local and international consulting offices. He serves under the DTI-CIAP-CIAC as a Construction Arbitrator (2001-2023) and as a Construction Mediator (2005 & 2009). Mr. Allí has been active in rule-making and legislation for over two decades.

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I. INTRODUCTION

The National Capital Region, also known as Metropolitan Manila, is one of the most progressive metropolises in Asia.[1] The current shape of its built environment is a result of various complex circumstances such as the evolving culture resulting from hundreds of years of colonization, different traditions, politics, economics, geographical location, climate, and building laws, among others.[2] While it is not as ideal as other metropolises in the region,[3] many stakeholders are now seriously working towards its improvement to be at par with its regional counterparts.[4]

This Article provides a general overview on the autonomy given to local government units (LGUs) in preparing their respective comprehensive land use plans (CLUPs) — the primary and dominant bases for the future use of land resources within their jurisdiction — and how the CLUP interacts with the National Building Code of the Philippines (NBCP)[5] and its Implementing Rules and Regulations (NBC IRR),[6] the latest edition of which is its 2004

1. Cesar C. Rufino, *Consumption Pattern of Poor Households in Metro Manila – A Microeconometric Evaluation,* 23 DLSU BUS. & ECON. REV. 10, 10 (2013).

2. *See* FERNANDO N. ZIALCITA, ET AL., ENDANGERED SPLENDOR: MANILA'S CULTURAL HERITAGE 1571-1960, VOLUME I: THE CENTER 1, 2, & 105 (2021).

3. Janet S. Cuenca, Review of the "Build, Build, Build" Program: Implications on the Philippine Development Plan 2017-2022 (Philippine Institute for Development Studies Discussion Paper Series No. 2020-54, Dec. 2020), at 10, *available at* https://pidswebs.pids.gov.ph/CDN/PUBLICATIONS/pidsdps2054.pdf (last accessed Oct. 31, 2022) [https://perma.cc/3ZHK-JMN5]. *See also* Emma Porio, *Climate Change Vulnerability and Adaptation in Metro Manila: Challenging Governance and Human Security Needs of Urban Poor Communities*, ASIAN J. SOC. SCI. 75, 82 (2014).

4. *Id.* at 1.

5. Adopting a National Building Code of the Philippines (NBCP) Thereby Revising Republic Act Numbered Sixty-Five Hundred Forty-One (R.A. No. 6541) [NAT'L BLDG. CODE], Presidential Decree No. 1096 (1977).

6. Department of Public Works and Highways, Implementing Rules and Regulations of the National Building Code of the Philippines, Presidential Decree No. 1096 (2005) (The reference used in the making of this Article is the digital copy of the IRR *available at* https://www.dpwh.gov.ph/dpwh/references/laws_codes_orders/PD1096 [https://perma.cc/BZ6J-GMAR] [hereinafter NAT'L BLDG. CODE IRR]. It must be noted that the page numbers as printed in the document are not sequential. Hence, the pagination referred to in this Article is the page number as indicated in the .pdf file and not the page number as printed in the document).

Revised IRR (NBC RIRR). A discussion on the key provisions of the NBC IRR and the related enforcement issues will be provided, together with recommendations that can mitigate the challenges of a progressing metropolis.

II. METROPOLITAN MANILA: PAST AND PRESENT

Metropolitan Manila is the Philippines' political, economic, and educational center.[7] Despite being the smallest region in the country,[8] it is the most densely populated region.[9] Interestingly, it is the only region in the country without any provinces and is subdivided into 17 LGUs comprising of 16 cities and one municipality.[10]

During 1901, the Philippine Commonwealth was tasked to create the grand plan of Manila in hopes of modifying and reshaping the future of the capital city.[11] The plan included modifications to the parishes of Binondo, Ermita, Intramuros, Malate, Manila, Pandacan, Quiapo, Sampaloc, San Andrés Bukid, San Fernando de Dilao, San Miguel, San Nicolas, Santa Ana de Sapa, Santa Cruz, Santa Mesa, and Tondo.[12] Following the announcement of this plan, acclaimed Architect Daniel H. Burnham took on this role; and in 1905, revealed his master plan to transform Manila from a city ravaged by war,

7. Department of Trade and Industry, The National Capital Region (NCR), *available at* https://www.dti.gov.ph/regions/ncr/profile (last accessed Oct. 31, 2022) [https://perma.cc/CF4L-95AY].

8. *Id.*

9. Department of Trade and Industry, *supra* note 7 & Eric S. Caruncho, Manila – The World's Most Densely Populated-City – Reimagined by Harvard, PHIL. DAILY INQ., Oct. 7, 2018, *available at* https://lifestyle.inquirer.net/308785/manila-worlds-densely-populated-city-reimagined-harvard (last accessed Oct. 31, 2022) [https://perma.cc/538H-MY4H].

10. Department of Trade and Industry, *supra* note 7.

11. PRESIDENTIAL COMMUNICATIONS DEVELOPMENT AND STRATEGIC PLANNING OFFICE (PCDSPO), HEROISM, HERITAGE, AND NATIONHOOD: ESSAYS AND FEATURES FROM THE OFFICIAL GAZETTE 21-23 (Manuel L. Quezon III & Pocholo Goita eds., 2016). *See also* GERARD LICO, ARKITEKTURANG FILIPINO: A HISTORY OF ARCHITECTURE AND URBANISM IN THE PHILIPPINES 202-05 (2008).

12. Department of Environment and Natural Resources & Environmental Management Bureau – National Capital Region, Historical Background, *available at* https://ncr.emb.gov.ph/historicalbackground (last accessed Oct. 31, 2022) [https://perma.cc/44GY-CZH5].

into a modern utopia.[13] His goal was to emulate the lifestyle in the United States and feature the success that was the American colonization of the Philippines.[14]

Following the master plan, more and more ambitious plans to remodel areas in the Philippines emerged; and four decades later, the Frost-Arellano Plan was born.[15] This plan imagined Quezon City as the new capital of the country, envisioning it to be the prime spectacle of the Philippines.[16] Manuel L. Quezon, the President of the Philippine Commonwealth at that time, made certain that the soon-to-be capital would be patterned after the popular Garden City Movement.[17] This plan intended to serve as an oasis for the thousands of struggling Filipinos and to show the grit and spirit that they possessed.[18] The late President Quezon dreamt of having a city which truly reflected the values of its citizens.[19] As time passed, however, it was ultimately decided that despite the charm Quezon City had, Manila would still remain to be in the hearts of most Filipinos.[20] Thus, this plan was transferred back to Manila by order of Presidential Decree No. 940.[21]

Despite the numerous plans that pushed for the beautification of Manila and Quezon City, the outcomes for both cities were not what was envisioned.[22] Any plans that were previously made were met with failure — first with Burnham's ambitious proposal, and then with Quezon's dream for

13. Czarina Saloma & Erik Akpedonu, *Parks, Plans, and Human Needs: Metro Manila's Unrealised Urban Plans and Accidental Public Green Spaces*, 13 INT'L J. URB. SUSTAINABLE DEV. 715, 715 (2021).

14. *Id.*

15. *Id.*

16. *Id.*

17. *Id.* at 715-16.

18. *Id.* at 716.

19. *See* Saloma & Akpedonu, *supra* note 13, at 716.

20. Department of Environment and Natural Resources & Environmental Management Bureau – National Capital Region, *supra* note 12 & Establishing Manila as the Capital of the Philippines and as the Permanent Seat of the National Government, Presidential Decree No. 940, whereas cl., para. 1 (1976).

21. Establishing Manila as the Capital of the Philippines and as the Permanent Seat of the National Government, § 1.

22. *See generally* Saloma & Akpedonu, *supra* note 13, at 721 & 724-26.

a Filipino paradise.[23] Not long after, in 1977, while Manila was progressing into becoming a metropolis, the NBC was passed into law.[24] This was a result of the ever-growing economic and physical development in the country that required stringent rules to regulate the construction of buildings and infrastructures.[25] With this new law in place,[26] engineers, architects, and city planners were now given a set of requirements they needed to abide by.[27]

A. Laws Shaping the Built Environment

Consistent with the General Provisions of Article X, Section 2 of the 1987 Philippine Constitution,[28] the Local Government Code (LGC)[29] grants the LGUs the autonomy to determine the road map for the development of its territorial jurisdiction.[30] The LGC, under the General Welfare Clause,[31] has empowered the LGUs to "exercise the powers expressly granted, those necessarily implied therefrom, as well as powers necessary, appropriate, or incidental for its efficient and effective governance, and those which are essential to the promotion of the general welfare" within its jurisdiction.[32]

In *Aquino v. Municipality of Malay, Aklan*,[33] the Court held that in the exercise of police power and the general welfare clause, property rights of individuals may be subjected to restraints and burdens to fulfill the objectives of the government.[34] Otherwise stated, the government may enact legislation

23. *Id.* at 725.

24. *See generally* NAT'L BLDG. CODE.

25. *Id.* whereas cl., para 1.

26. *See id.*

27. *See* Ian Fulgar, National Building Code of the Philippines – Its History, Current State, and Future, *available at* https://www.ianfulgar.com/architecture/national-building-code-of-the-philippines-its-history-current-state-and-future (last accessed Oct. 31, 2022) [https://perma.cc/Y3ZR-CALU].

28. PHIL. CONST. art. X, § 2.

29. An Act Providing for a Local Government Code of 1991 [LOCAL GOV'T CODE], Republic Act No. 7160 (1991).

30. *Id.* § 16.

31. *Id.*

32. *Id.*

33. Aquino v. Municipality of Malay, Aklan, G.R. No. 211356, 737 SCRA 145 (2014).

34. *Id.* at 164 (citing LOCAL GOV'T CODE, § 16).

that may interfere with personal liberty, property, and lawful businesses and occupations to promote the general welfare.[35]

In *United BF Homeowners' Associations, Inc. v. The (Municipal) City Mayor, Parañaque City*,[36] the Court recognized the authority of the LGUs to reclassify lands within its jurisdiction under the LGC as an exercise of its police power.[37]

Section 20 (c) of the LGC states that the CLUPs to be prepared by the LGUs shall be the "primary and dominant bases for the future use of land resources" within its jurisdiction.[38] The preparation of the CLUP is done through a series of consultations and workshops with stakeholders following the guidelines and processes established by the Department of Human Settlements and Urban Development (DHSUD).[39] Once prepared, the CLUP is submitted to the DHSUD and the provincial land use council (PLUC) for review and approval.[40] In the case of the NCR, the MMDA serves as the PLUC equivalent. The enforcement of the CLUP is done through the enactment of a zoning ordinance.[41]

The CLUP is generally updated every 10 years, with a review process in its fifth year of implementation.[42] The updates commonly done to the CLUPs

35. *Aquino*, 737 SCRA at 164-65 (citing Gancayco v. City Government of Quezon, G.R. No. 177807, 658 SCRA 853, 864-65 (2011)).

36. United BF Homeowners' Associations, Inc. v. The (Municipal) City Mayor, Parañaque City, G.R. No. 141010, 515 SCRA 1 (2007).

37. *Id.* at 10 (citing LOCAL GOV'T CODE, § 447 (2) (viii)).

38. LOCAL GOV'T CODE, § 20 (c).

39. *See* HOUSING AND LAND USE REGULATORY BOARD, CLUP GUIDEBOOK: A GUIDE TO COMPREHENSIVE LAND USE PLAN REGISTRATION 21-25 (2013).

40. *See id.* at 182-201 & Department of Human Settlements and Urban Development, Revised Review and Approval Process of Comprehensive Land Use Plans and Zoning Ordinances of Highly Urbanized Cities (HUCs), Independent Component Cities (ICCs), Component Cities and Municipalities (CCMs), and Metro Manila Cities and Municipalities (MMCMs), Memorandum Circular No. 2021-005, Series of 2021 [DHSUD Memo. Circ. 2021-005, s. 2021], at 3 (Aug. 6, 2021).

41. HOUSING AND LAND USE REGULATORY BOARD, *supra* note 39, at 202-203.

42. Department of the Interior and Local Government & Housing and Land Use Regulatory Board, Guidelines on the Harmonization of Comprehensive Land Use Plan (CLUP) and Comprehensive Development Plan (CDP) Preparation, Joint Memorandum Circular No. 1, Series of 2009 [DILG-HLURB Memo. Circ. No. 1, s. 2009], ¶ 5.1 (b) (Oct. 19, 2009); *See also id.* at ¶ 5.1 (d).

are to reclassify the zoning classifications of areas to a higher classification. The general zoning classifications as indicated in the NBC's IRR are:

(1) Residential (R-1) — a low-density residential zone, characterized mainly by single-family, single-detached dwellings.[43]

(2) Residential (R-2) — a medium-density residential use or occupancy, characterized mainly as a low-rise single-attached, duplex, or multi-level building/structure for exclusive use as multiple-family dwellings.[44]

(3) Residential (R-3) — a high-density residential use or occupancy, characterized mainly as a low-rise or medium-rise building/structure for exclusive use as multiple-family dwellings with mixed housing types.[45] R-3 structures may include low-rise or medium-rise residential condominium buildings that are already commercial in nature and scale.[46]

(4) Residential (R-4) — a medium to high-density residential use or occupancy, characterized mainly as a low-rise townhouse building/structure for exclusive use as multiple-family dwellings. The term R-4 specifically refers to the building/structure on an individual lot (a townhouse unit) and generally refers to the series or rows of R-4 buildings/structures within a subdivided lot or property.[47]

(5) Residential (R-5) — a very high-density residential use or occupancy, characterized mainly as a medium-rise or high-rise condominium building/structure for exclusive use as a multiple-family dwelling.[48]

(6) General Institutional (GI) — a community to national level of institutional use or occupancy, characterized mainly as a low-rise, medium-rise, or high-rise building/structure for education,

43. NAT'L BLDG. CODE IRR, at 258.

44. *Id.*

45. *Id.*

46. *Id.*

47. *Id.*

48. *Id.*

medical, government service, administrative, and related activities.[49]

(7) Commercial One or Light Commercial (C-1) — a neighborhood or community level of commercial use or occupancy, characterized mainly as a low-rise building/structure for low-intensity commercial/trade, service, and business activities.[50]

(8) Commercial Two or Medium Commercial (C-2) — a municipal or city level of commercial use or occupancy, characterized mainly as a medium-rise building/structure for medium to high-intensity commercial/ trade, service, and business activities.[51]

(9) Commercial Three or Metropolitan Commercial (C-3) — a metropolitan level commercial use/occupancy, characterized mainly as a medium-rise to high-rise building/structure for high to very high-intensity commercial/trade, service, and business activities.[52]

(10) Industrial One (I-1) — a light industrial use or occupancy, characterized mainly as a low-rise but sprawling building/structure for low-intensity manufacturing or production activities.[53]

(11) Industrial Two (I-2) — a medium industrial use or occupancy, characterized mainly as a low-rise but sprawling building/ structure for medium-intensity manufacturing or production activities.[54]

(12) Utilities, Transportation, and Services (UTS) — a range of utilitarian/functional uses or occupancies, characterized mainly as a low-rise or medium-rise building/structure for low to high-intensity community support functions.[55]

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49. NAT'L BLDG. CODE IRR, at 63-64.

50. *Id.* at 64.

51. *Id.* at 66.

52. *Id.* at 69.

53. *Id.* at 70.

54. *Id.*

55. NAT'L BLDG. CODE IRR, at 65.

(13) Special (SPE) — other vertical facilities not mentioned under regular uses/occupancies of buildings/structures such as cemeteries, memorial parks, and the like.[56]

(14) Park Structures, Recreation, and Entertainment (PRE) — a range of recreational uses or occupancies, characterized mainly as a low-rise or medium-rise building/structure for low to medium-intensity recreational or entertainment functions related to educational uses.[57]

(15) Cultural (CUL) — a community to national level of cultural use or occupancy, characterized mainly as a low-rise or medium-rise building/structure for cultural activities.[58]

(16) Agricultural (A) — an agricultural or agriculture-related use or occupancy, characterized mainly as a low-rise or medium-rise building/structure for low to high-intensity agricultural or related activities.[59]

(17) Agro-Industrial (AI) — an agro-industrial or related use or occupancy, characterized mainly as a low-rise building/ structure for low to high-intensity agro-industrial or related activities including offices, educational, training, research, and related facilities for agro-industry.[60]

(18) Planned Unit Development (PUD) — a land development or redevelopment scheme for a new or built-up project site wherein said project site must have a Comprehensive Development Master Plan (CDMP) or its acceptable equivalent.[61]

In more highly progressive LGUs, the aforesaid zoning classifications are further broken down into sub-classifications to provide more flexibility in the development of an area.[62]

56. *Id.* at 67.

57. *Id.* at 74.

58. *Id.*

59. *Id.* at 77.

60. *Id.*

61. NAT'L BLDG. CODE IRR, at 77.

62. *See, e.g.*, *Sangguniang Panlungsod* of the City of Makati, An Ordinance Adopting the New Zoning Regulations for Makati and Providing for the Administration, Enforcement and Amendment Thereof and for the Repeal of All Ordinances in

The zoning classification determines the development controls[63] that will be applied to the property in terms of the type of structure that can be developed and the standards to be applied in the planning and design of the structure.[64] The strictest development control (DC) must prevail, whereby the application of the most stringent DC specifically refers to a solution calling for the least amount of development/redevelopment, construction, or intervention at both the natural and built environments.[65] The development controls may or may not be laws, but they are collectively intended to limit the level of physical development on both private property and on the permitted portions of the public domain encompassing the surfaces, sub-surfaces, and the air above the land and the water.[66]

The development controls applied to the zoning classifications are found in Rule VII (Classification and General Requirements of All Buildings By Use or Occupancy) and Rule VIII (Light and Ventilation) of the NBC IRR.[67] While there are many development control provisions under Rule VII and VIII that should regulate the final planning and design of the structure, this Article will only cover

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Conflict Therewith [New Zoning Ordinance of the City of Makati], Ordinance No. 2012-102, art. IV (Dec. 14, 2012).

63. The Implementing Rules and Regulations (IRR) of the National Building Code defines "Development Controls" in its glossary as —

> A set of inter-acting regulations concerning the physical utilization of a lot and likewise governing the planning/design of spaces and/or the use or occupancy of a building/structure to be introduced (or already existing) on a lot; Development Controls help determine in detail the Development Potential and/or the Carrying Capacity of all lots and/or of proposed developments on lots.

NAT'L BLDG. CODE IRR, at 251.

64. *Id.* at 115-19.

65. *See id.* at 94.

> Taller buildings are allowed for duly approved high-density developments such as Planned Unit Development (PUD) areas. Taller and bulkier buildings are better suited in such areas due to higher end-user targets, more advanced and coordinated planning efforts[,] and the application of more stringent development controls (DC) by the project proponents themselves.

Id.

66. *See, e.g.*, *id.* at 91.

67. *See id.* rules VII & VIII.

issues relating to Floor to Lot Area Ratio (FLAR) or Floor Area Ratio (FAR),[68] Maximum Allowable Construction Area (MACA),[69] Easements,[70] and Sidewalks.[71]

B. A Peek Into Metropolitan Manila's Current Problems

Metropolitan Manila is one of the most highly populated megacities in the world.[72] Like many large urban environments, it has its plethora of issues,

68. The IRR of the National Building Code defines "Floor to Lot Area Ratio" (FLAR) or "Floor Area Ratio" (FAR) as —

> The ratio between the Gross Floor Area (GFA) of a building/structure and the Total Lot Area (TLA) of the lot/property on which it stands. The FLAR is determined by dividing the GFA of a building/structure by the TLA. The GFA of any proposed or existing building/structure should not exceed the prescribed FLAR multiplied by the TLA.

NAT'L BLDG. CODE IRR, at 253.

69. The IRR of the National Building Code defines "Maximum Allowable Construction Area" (MACA) as "[t]he combined total of the Maximum Allowable Percentage of Site Occupancy (PSO) and the Maximum Allowable Impervious Surface Area (ISA) expressed as a percentage (%) of the total Lot area (TLA). The MACA specifically excludes the Unpaved Surface Area (USA)." *Id.* at 255.

70. The IRR of the National Building Code defines "Easement" as —

> A kind of public open space defined under the Water Code and other laws that must be absolutely free of all forms of physical obstructions that can negatively affect natural light and ventilation within such space or that can impede access to or the full recreational use of such space by the general public. It is the area that may lie between the legally usable portions of a public or private property and natural or man-built bodies of water such as seas, rivers, lakes, esteros, canals, waterways, floodways, spillways[,] and the like.

Id. at 252 (emphasis omitted).

71. The IRR of the National Building Code defines "Sidewalk" as "[t]he portion, on each side of the road right-of-way (RROW)[,] reserved for the exclusive use of pedestrians and the disabled who are in transit." *Id.* at 259.

72. *See* Caruncho, *supra* note 9.

concerns, and problems.[73] Some of which include congestion,[74] uncontrolled urban sprawl,[75] pollution of all types,[76] low land use efficiency,[77] potentially ineffective regulatory regimes,[78] and creeping urban decay.[79] But, its key, and perhaps most important resource, is its population.[80] The daily resolve and resilience of the people within the urban center proves to be one of the guiding lights that has kept this metropolis going for so long.

The table below shows the National Capital Region's population growth over the last decade alone.[81] The estimated 13.48 million daytime population

73. *See, e.g.*, Gaea Katreena Cabico, *Rising Seas, Flooding May Put 1.54M People in Manila City at Risk by 2030 — Report*, PHIL. STAR, July 1, 2021, *available at* https://www.philstar.com/headlines/2021/07/01/2109512/rising-seas-flooding-may-put-154m-people-manila-city-risk-2030-report (last accessed Oct. 31, 2022) [https://perma.cc/PEA5-GYAW].

74. CNN Philippines Staff, *Metro Manila Is Most Congested City in Developing Asia, Study Shows*, CNN PHILIPPINES, Sept. 26, 2019, *available at* https://www.cnnphilippines.com/news/2019/9/26/Metro-Manila-most-congested-city-Asia-ADB.html (last accessed Oct. 31, 2022) [https://perma.cc/23L4-5ZLZ].

75. Rebecca Fontonilla Andong & Edsel Sajor, *Urban Sprawl, Public Transport, and Increasing CO2 Emissions: The Case of Metro Manila, Philippines*, 19 ENV'T, DEV., & SUSTAINABILITY, 99, 105 (2017).

76. Bella Cariaso, *Air Pollution Worsen in Metro Manila*, MANILA TIMES, Sept. 17, 2022, *available at* https://www.manilatimes.net/2022/09/17/news/national/air-pollution-worsen-in-metro-manila/1858700 (last accessed Oct. 31, 2022) [https://perma.cc/P3XT-W7S4].

77. *See* Marife Magno-Ballesteros, Land Use Planning in Metro Manila and the Urban Fringe: Implications on the Land and Real Estate Market (Philippine Institute for Development Studies Discussion Paper Series No. 2000-20, June 2000), at 1, *available at* https://www.econstor.eu/bitstream/10419/127726/1/pids-dps2000-20.pdf (last accessed Oct. 31, 2022) [https://perma.cc/M5WR-5ZCR].

78. Porio, *supra* note 3, at 9. *See also* Hans F. Illy, *Regulation and Evasion: Street-Vendors in Manila*, 19 POL'Y SCI. 61, 62 (1986).

79. *See* Saul Pa-a, Metro Cities Must Become 'Smart' to Avert Urban Decay, *available at* https://www.pna.gov.ph/articles/1069949 (last accessed Oct. 31, 2022) [https://perma.cc/H6XT-RGWK].

80. *See* Rufino, *supra* note 1, at 10.

81. *See generally* Philippine Statistics Authority, Highlights of the National Capital Region (NCR) Population 2020 Census of Population and Housing (2020 CPH), at 2-3 & 5-6, *available at* http://rssoncr.psa.gov.ph/sites/default/files/

(which increases by another 2.5 to 3.5 million due to the influx of workers (via overland routes) and businessmen from all over Luzon and the country (via tollways, railways, ports, and airports) is a far cry from its 1970s daytime population of 5.33 million (translating to an approximate 150% increase over the last 45 years).[82]

REGION/ CITY/ MUNICIPALITY	TOTAL POPULATION[83]			POPULATION GROWTH RATE (%)[84]	
	1 May 2010	1 August 2015	1 May 2020	2010–2015	2015–2020
Philippines	92,337,852	100,981,437	109,033,245	1.72%	1.63%
National Capital Region	11,855,975	12,877,253	13,484,462	1.58%	0.97%
Quezon City	2,761,720	2,936,116	2,960,048	1.17%	0.17%
City of Manila	1,652,171	1,780,148	1,846,513	1.43%	0.77%
Caloocan City	1,489,040	1,583,978	1,661,584	1.18%	1.01%
City of Taguig	644,473	804,915	886,722	4.32%	2.06%
City of Pasig	669,773	755,300	803,159	2.31%	1.30%
City of Valenzuela	575,356	620,422	714,978	1.45%	3.03%
City of Parañaque	588,126	665,822	689,992	2.39%	0.75%

Special-Release_2021-_NCR_Highlights-of-2020-Population.pdf (last accessed Oct. 31, 2022) [https://perma.cc/TV8K-9FPZ].

82. *See* Emma Porio, *Vulnerability, Adaptation, and Resilience to Floods and Climate Change-Related Risks Among Marginal, Riverine Communities in Metro Manila*, 39 ASIAN J. SOC. SCI. 425, 430 (2011).

83. Philippine Statistics Authority, *supra* note 81, at 2.

84. *Id.* at 3-4.

City of Makati	529,039	582,602	629,616	1.85%	1.65%
City of Las Piñas	552,573	588,894	606,293	1.22%	0.61%
City of Muntinlupa	459,941	504,509	543,445	1.78%	1.58%
City of Marikina	424,150	450,741	456,059	1.16%	0.25%
City of Pasay	392,869	416,522	440,656	1.12%	1.19%
City of Mandaluyong	328,699	386,276	425,758	3.12%	2.07%
City of Malabon	353,337	365,525	380,522	0.65%	0.85%
City of Navotas	249,131	249,463	247,543	0.03%	-0.16%
City of San Juan	121,430	122,180	126,347	0.12%	0.71%
Municipality of Pateros	64,147	63,840	65,227	-0.09%	0.45%

To cope with the population growth and taking into consideration its goal of attaining progress and development, the LGUs implement zoning reclassifications as provided in the amended CLUP.[85]

C. Zoning Reclassifications in the CLUP

The autonomy given to the LGUs in the preparation of their CLUP[86] is one of the factors that contribute to the current state of Metropolitan Manila's built environment. Ideally, each LGU prepares its own CLUP in consideration of national and regional policies, goals, and strategies[87] for the management of its own territorial jurisdiction,[88] however, they may possibly

85. *See* LOCAL GOV'T CODE, § 20 (c).

86. *Id.*

87. DILG-HLURB Joint Memo. Circ. No. 1, s. 2009, ¶ 2.1.

88. *Id.* ¶¶ 2.2-2.3.

fail to consider their plans' impact to its neighboring city/municipality, and the existence of support infrastructures, such as road network, public transport, and utilities, among others, to complement these upgrades. With the continuing zoning reclassifications that the LGUs implement in their CLUPs, congestion will continue as there is lack of supportive spaces to accommodate the increase in human activities.[89]

Provided below are some of the necessary consequences of a CLUP upgrade:

(1) Greater demand for housing, especially for the economic and socialized category;

(2) Greater demand for an efficient mass transport system;

(3) Greater demand for supportive spaces, such as common car-motorcycle-bicycle parking, open spaces, parks, road rights-of-way (RROWs);

(4) Greater demand for utility and service systems, such as power, water, telecommunications, water management;

(5) Greater demand for publicly provided services, such as health, sanitation, peace and order, education;

(6) Greater levels of pollution; and

(7) Potential for greater damage to property which may result to a loss of life and limb during extreme events.[90]

D. Effects of Overbuilding

Overbuilding is the illegal act of constructing, operating, occupying, and maintaining a building or habitable structure or any of its portions at spaces, areas or zones where such are specifically disallowed by law and denotes the potentially willful violation of valid and subsisting development controls.[91]

89. *See, e.g.*, Daphne Oseña-Paez, *Why We Need More Parks in Metro Manila*, MANILA TIMES, July 20, 2022, *available at* https://www.manilatimes.net/2022/07/20/opinion/columns/why-we-need-more-parks-in-metro-manila/1851563 (last accessed Oct. 31, 2022) [https://perma.cc/BE2K-YGA2].

90. NATIONAL COMMISSION FOR CULTURE AND THE ARTS, ET AL., THE 2016 NBCP: ILLUSTRATED PROJECT FOR VERTICAL INFRASTRUCTURE PROJECTS 322-23 (2d ed. 2019) [hereinafter 2016 NBCP: ILLUSTRATED PROJECT].

91. *Id.* at 321.

To aid in fully understanding the consequences of overbuilding, some scenarios from the perspective of extreme events[92] are provided below:

(1) The purpose of yards around a building or dwelling is to allow direct access to public spaces such as streets or open areas that serve as areas of refuge in times of emergency.[93] If the yards are occupied or blocked by a structure, this escape route is no longer available. This forces all inhabitants to search for different routes resulting in panic, stampede, or being trapped in an unsafe space.[94]

(2) During an earthquake, structures behave and vibrate differently.[95] With illegally-constructed firewalls, these structures could pound or lean against each other resulting in damage to property, or worse the structure will collapse causing injury or death to its inhabitants.[96]

(3) Excavations along the property lines to give way for more construction will expose the foundation of an existing and adjoining building.[97] This will weaken or severely compromise the entire structure making it severely unsafe especially if the soil is loose, soft, or water-logged.[98]

Through these examples, it is evident that properties and lives may be damaged or lost through carelessness in one's official performance of public duties.[99] The private sector may be equally at fault since building designers

92. Extreme events are catastrophes caused by earthquakes, superstorms, tsunamis, storm surge, fire, explosions, war/conflict, public disorder, heinous crimes, among others. Extreme events are force majeure events, unless there was a clear negligence in the design, construction and maintenance of the structure. *Id.* at 325-26. Others define an "extreme event" as a "high-impact, unanticipated natural events, like floods, tsunamis, earthquakes, and volcanic eruptions." Matthew Stewart, et al., *Extreme Events in Biological, Societal, and Earth Sciences: A Systematic Review of the Literature*, FRONT. EARTH SCI., Aug. 24, 2022, at 1.

93. 2016 NBCP: ILLUSTRATED PROJECT, *supra* note 90, at 325.

94. *Id.*

95. *Id.*

96. *Id.*

97. *Id.*

98. *Id.*

99. 2016 NBCP: ILLUSTRATED PROJECT, *supra* note 90, at 325.

and constructors commissioned by the owner are already all too aware of these repercussions.[100]

The development controls[101] are the tools setting the carrying capacity[102] and likewise limiting the development potential for each lot, development, street, area, zone, or district. In the application of the development controls based on the zoning classification, the general rule is that a higher-density structure must not be erected on a property with a low-density zoning classification to avoid exceeding the carrying capacity of the property.[103] It is the liberal and often unlawful interpretation and infidelity to the correct implementation and enforcement of the development controls by the stakeholders that defeat the purpose of upholding the public interests over private and selfish interests for which the development controls were set.[104]

The FLAR is one of the development controls which determines the maximum floor area that is allowed for a building development.[105] The higher the FLAR, the taller and bulkier the structure that can be erected.[106]

Both the LGU zoning ordinances (ZOs) and the NBC IRR have FLAR designations. Comparing the two, it can be observed that the LGU ZOs are obligated to provide the more stringent/lower FLAR rights assignments than those under the 2004 NBC IRR.[107] This is an often-contentious issue between the regulator and the property owner. The general rule is that the

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100. *Id.*

101. Some of the development controls are as follows: Legal easements along waterways and shorelines, rights-of-way, declared parks and open spaces or refuge areas, easements and setback areas along property lines, air rights, permitted yards and wells, vertical and horizontal no-build zones, declared buffer zones, protected areas (marine or forest), slopes exceeding 18%, approaches to airports, proclaimed port zones, and public property, among others. *Id.* at 321.

102. Carrying capacity is "the optimized extent of physical development that may be introduced into a property without causing undue damage, effects[,] or hardship on the end-users or on neighboring occupants, entities, properties, lands, developments[,] or the environment (whether man-made or natural)," having the support structures properly in place. *Id.* at 322.

103. *Id. See also* Biao Ma, *Literature Review on Land Carrying Capacity of the Coordinated Development of Population, Resources, Environment and Economy*, AIP CONFERENCE PROCEEDINGS, Oct. 2017, at 1.

104. 2016 NBCP: ILLUSTRATED PROJECT, *supra* note 90, at 323.

105. *See id.*

106. *See id.*

107. *See* NAT'L BLDG. CODE IRR, at 94.

more stringent rule or lower FLAR rights assignment should be enforced. Most building officials, however, have not implemented the FLAR designations provided in the NBC IRR. Instead, they have heavily relied on the locational clearances issued by the LGU indicating the often relaxed/higher FLAR rights assignments in the ZO. This is beneficial to the owners who want to maximize the development and potential of their property but detrimental to the public interests.

To illustrate, one may look at the case of a commercial zoning reclassification where the LGU upgrades the C-1 classification to a C-2 or C-3 classification. The upgrade from a neighborhood or community level of commercial use or occupancy (C-1)[108] to a municipal or city level of commercial use or occupancy (C-2)[109] or to a metropolitan level of commercial use or occupancy (C-3)[110] would require a proper area study to assess if there are existing support infrastructures to accommodate the additional influx of human activities within the area. Such reclassification would affect its neighboring city/municipality since the road network is shared. Coordination with neighboring LGUs is thus imperative.

E. Effects of Overpaving

Over the years, the continuing development in Metropolitan Manila has made it into a concrete jungle.[111] In the pursuit of maximizing economic return, the majority of recent developments are covered with concrete instead of providing areas for landscape or green spaces.[112] As such, many areas not previously affected by flooding during the rainy season are now being flooded.[113] This is attributable to the massive developments where soils,

108. *See* NAT'L BLDG. CODE IRR, § 701.

109. *Id.*

110. *Id.*

111. Din M. Villafuerte, *Nature-Inspired Living in the Concrete Jungle*, PHIL. DAILY INQ., Apr. 6, 2019, *available at* https://business.inquirer.net/268187/nature-inspired-living-in-the-concrete-jungle (last accessed Oct. 31, 2022) [https://perma.cc/Y374-QRCU].

112. *See, e.g.*, Kelvin S. Rodolfo, *[ANALYSIS] 'Concrete Cancer': A Warning About Reclamations in Manila Bay*, RAPPLER, June 29, 2021, *available at* https://www.rappler.com/voices/thought-leaders/analysis-concrete-cancer-warning-reclamations-manila-bay (last accessed Oct. 31, 2022) [https://perma.cc/2N22-6VGW].

113. *Id.*

nature's sponge for rainwater, are excessively covered with impervious materials.[114]

Overpaving is the illegal act of constructing and maintaining a paved area disallowed by law, such as paving over an area that is designated as an unpaved surface area, or over an area that is designated as a park or recreational open space.[115] Another type of overpaving is the use of paving materials that inhibits surface water retention and percolation by the soil also resulting to non-absorption of excess amounts of light and heat.[116]

The Maximum Allowable Construction Area (MACA) is one of the development controls which determines the total area within a property that can be built on and be covered by impervious materials.[117] The difference between the total area of the property and the MACA would be the required unpaved surface area of the property.[118]

During rainy seasons with prolonged downpour, the presence of impervious surface areas coupled with non-functioning catch basins and clogged drainage systems, or the lack of rain collectors or onsite water impounding areas will certainly result in inundation, especially at low-lying areas.[119] If the MACA is properly enforced, unpaved surface areas and green spaces would be a common site and will mitigate the flooding problem in Metropolitan Manila.

F. Easements, Road Right of Way, and Sidewalks

The Philippines, in terms of area size is not a small country as some may think. With a total area of 300,000 km², the country is bigger than the United Kingdom, Ireland, and shockingly, North and South Korea combined.[120] With a country this large, one would expect there to be various roads,

114. *See* 2016 NBCP: ILLUSTRATED PROJECT, *supra* note 90, at 330.

115. *Id.* at 321 & 329.

116 *Id.* at 329-30.

117. *See* NAT'L BLDG. CODE IRR, at 255 & 2016 NBCP: ILLUSTRATED PROJECT, *supra* note 90, at 680.

118. *See* NAT'L BLDG. CODE IRR, at 255.

119. 2016 NBCP: ILLUSTRATED PROJECT, *supra* note 90, at 330.

120. USAID Land and Resource Governance Division (Land Links), Philippines, *available at* https://www.land-links.org/country-profile/philippines (last accessed Oct. 31, 2022) [https://perma.cc/Z9MS-C8V7].

highways, and sidewalks to accommodate its population of 109 million individuals, however, this is not the case.[121]

Many have lamented the fact that the Philippines is not a "walkable" country.[122] Rather, most city builders, designers, and even government officials prioritize the construction of roads, skyways, highways, and even road widening projects.[123] With no reliable public transportation, this necessitates the public to purchase their own cars or spend additional money for public transportation.[124] The lack of sidewalks in our country limits the overall opportunities for its inhabitants and breeds an "anti-poor" agenda that makes travel severely inaccessible.[125]

In developed countries, open spaces have been developed beside the waterways for the enjoyment of the public including the use of waterways for navigation and leisure activities.[126] Although there are LGUs that have started improving open spaces beside the waterways in their jurisdiction, majority are still being occupied by informal settlers.[127] Somehow, the LGUs and its

121. *See generally* Louella Desiderio, *Government Urged to Resolve Road, Port Congestion*, PHIL. STAR, May 11, 2022, *available at* https://www.philstar.com/business/2022/05/11/2180132/government-urged-resolve-road-port-congestion (last accessed Oct. 31, 2022) [https://perma.cc/FFH8-3Z7K].

122. Yuji Vincent Gonzales, *PH Cities Lack 'Visual Harmony,' Walkable Streets, Says Expert*, PHIL. DAILY INQ., Nov. 6, 2015, *available at* https://newsinfo.inquirer.net/737498/ph-cities-lack-visual-harmony-walkable-streets-says-expert (last accessed Oct. 31, 2022) [https://perma.cc/KXK6-WLWZ].

123. *See id*.

124. *See* Kurt Dela Peña, *Suffering Commuters, Higher Fare, Fewer Trips: PH Transport Woes Pile Up*, PHIL. DAILY INQ., June 15, 2022, *available at* https://newsinfo.inquirer.net/1611391/suffering-commuters-higher-fare-fewer-trips-ph-transport-woes-pile-up (last accessed Oct. 31, 2022) [https://perma.cc/X8DJ-Q8JE].

125. Andrei Yuvallos, OPINION: The Country Needs Walkable Cities, ASAP, *available at* https://nolisoli.ph/102280/opinion-walkable-cities-public-transportation (last accessed Oct. 31, 2022) [https://perma.cc/E4HP-ES9U].

126. Chrysa Triantafyllidou, Benefiting from Integrating Water into Public Spaces, *available at* https://iwa-network.org/benefiting-from-integrating-water-into-public-spaces (last accessed Oct. 31, 2022) [https://perma.cc/ALY2-85GM].

127. Catherine Tevez, Manila Bay Rehab Targets Informal Settlers' Early Relocation, *available at* https://www.pna.gov.ph/articles/1059552 (last accessed Oct. 31, 2022) [https://perma.cc/EW3Y-F5ZL].

building officials have not enforced the provisions on easements of the Water Code of the Philippines[128] as embodied in the NBC IRR.[129] If properly enforced, open spaces would be available for public use. This will also contribute to mitigating flooding challenges experienced in Metropolitan Manila.

The Road Right of Way (RROW),[130] as a development control, can be considered as the physical veins that connect all human activities in the built environment. It is composed of the carriageway (roadway) used for motor vehicles and the sidewalk used by pedestrians.[131] Many developed countries invest in the development and maintenance of the RROWs for the safety of its users ensuring that the RROWs are well-maintained, lighted, and unobstructed.[132]

Focusing on the sidewalks, its design must also comply with the Accessibility Law.[133] Generally, the law covers the minimum width, allowable slope, the type of materials, and protection needed by differently-abled persons as they traverse the sidewalk.[134] Sadly, compliance with the standards for sidewalks is far from being acceptable even for an abled person.[135] The LGUs

128. A Decree Instituting a Water Code, Thereby Revising and Consolidating the Laws Governing the Ownership, Appropriation, Utilization, Exploitation, Development, Conservation and Protection of Water Resources [WATER CODE], Presidential Decree No. 1067, art. 51 (1976).

129. *See* NAT'L BLDG. CODE IRR, at 138-141.

130. NAT'L BLDG. CODE IRR, at 259.

131. 2016 NBCP: ILLUSTRATED PROJECT, *supra* note 90, at 312.

132. *See, e.g.*, Andrew Bernard & Márcio G. P. Garcia, Public and Private Provision of Infrastructure and Economic Development, at 8-9, *available at* https://www.econstor.eu/bitstream/10419/186620/1/td375.pdf (last accessed Oct. 31, 2022) [https://perma.cc/W7CC-UME2].

133. An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments, and Public Utilities to Install Facilities and Other Devices, Batas Pambansa Blg. 344 (1982) & National Council on Disability Affairs, Rules and Regulations Implementing An Act to Enhance the Mobility of Disabled Persons by Requiring Certain Buildings, Institutions, Establishments, and Public Utilities to Install Facilities and Other Devices, Batas Pambansa Blg. 344 (1982).

134. Rules and Regulations Implementing Batas Pambansa Blg. 344, rule 1 (1).

135. *See* Rappler, *[Right of Way] Where the Sidewalk Ends: The Woes of Being a Pedestrian in Metro Manila*, RAPPLER, Oct. 4, 2018, *available at* https://r3.rappler.com/move-ph/issues/road-safety/213494-right-of-way-

and its building officials have failed to enforce the design standards and properly maintain its usability.[136] Despite the danger, the public opt to use the roadway instead of the sidewalk because of the latter's poor maintenance and the presence of obstructions.[137]

In 2016, an article written by Iderlina Mateo-Babiano discussed the lack of priority for creating safe and accessible sidewalks in developing Asian countries.[138] This can be clearly observed in the lack of proper pedestrian facilities such as footpaths, sidewalks, and tactile paving.[139] It was concluded that the inability to create such sidewalks will increase the risk of unsafe spaces, worsening pollution, and congested public transportation.[140]

At present, it seems that the go-to solutions are to constantly keep building more roads and to host road widening projects, which do not solve the root problem.[141] With larger roads and little to no sidewalks, more public vehicles need to be supplied, and more cars need to be purchased.[142] And with more public vehicles and cars on the road, heavier traffic can be seen to occur — and so the cycle continues.[143] Not to mention the imminent problem of

pedestrian-woes-metro-manila (last accessed Oct. 31, 2022) [https://perma.cc/C7AJ-L4VJ].

136. *See id.*

137. *See, e.g.*, CNN Philippines Staff, *House Bill Seeks to Penalize Use of Sidewalks for Vending, Personal Use*, CNN PHILIPPINES, Aug. 3, 2022, *available at* https://www.cnnphilippines.com/news/2022/8/3/house-bill-sidewalks-vending-personal-use.html (last accessed Oct. 31, 2022) [https://perma.cc/76LT-52ZH].

138. *See* Iderlina Mateo-Babiano, *Pedestrian's Needs Matter: Examining Manila's Walking Environment*, 45 TRANSPORT POL'Y 107 (2016).

139. *Id.* at 108.

140. *See id.* at 113-15.

141. *See* Jose Atienza, *Analysis: Why Build, Build, Build Won't Fix Manila's Traffic*, RAPPLER, Aug. 11, 2021, *available at* https://www.rappler.com/newsbreak/explainers/analysis-why-build-build-build-will-not-fix-metro-manila-traffic (last accessed Oct. 31, 2022) [https://perma.cc/X345-UAWE].

142. *See id.*

143. *Id.*

air pollution one could expect from these many vehicles on the road.[144] The current go-to solution is therefore unsustainable in the long run.

G. Non-Enforcement of Building Laws

The primary building law that governs the design and construction of all structures in the country is the NBC and NBC IRR.[145] At the national level, the Secretary of the Department of Public Works and Highways ("DPWH Secretary") is mandated to administer and enforce the provisions of the NBC and NBC IRR.[146] At the local level, it is the Building Official who is responsible for carrying out and implementing the orders and decisions of the DPWH Secretary related to the enforcement of NBC and NBC IRR.[147]

Sections 203 and 205 of the NBC state that all building officials are under the direct authority of the DPWH Secretary, and not the local chief executive.[148] It is not within the authority of the mayor to appoint the local building official but, instead, it is within the authority of the DPWH Secretary.[149] In Section 477 of the LGC, however, the duties and responsibilities of the building official were included as part of the powers and duties of the Municipal/City Engineer.[150]

The inclusion of the building official's duties and responsibilities to that of the municipal/city engineers created confusion on who should appoint the building official — the DPWH Secretary as provided in the NBC, or the mayor as provided in the LGC.[151] Moreover, Section 477 created a situation

144. Jhesset O. Enano, *After 6 Years, Duterte Leaves Philippine Environment, Its Defenders in Crisis*, RAPPLER, June 18, 2022, *available at* https://www.rappler.com/environment/duterte-leaves-philippines-environment-defenders-crisis-2022 (last accessed Oct. 31, 2022) [https://perma.cc/5EMF-DW5U].

145. *See generally* NAT'L BLDG. CODE & NAT'L BLDG. CODE IRR.

146. NAT'L BLDG. CODE, § 201.

147. *Id.* § 205.

148. *Id.* §§ 203 & 205.

149. *See id.*

150. LOCAL GOV'T CODE, § 477.

151. Leo Bernardez, Jr. v. The City Government of Baguio, et al., G.R. No. 197559, 7-8, Mar. 21, 2022, *available at* https://sc.judiciary.gov.ph/wp-content/uploads/2022/11/197559.pdf (last accessed Oct. 31, 2022) (citing Tapay v. Cruz, G.R. No. 84701, 186 SCRA 474, 478 (1990)).

where the municipal/city engineer will serve two masters, one at the national level and the other at the local level.[152]

In *Leo Bernardez, Jr. v. City Government of Baguio*,[153] the Court discussed Section 477 of the LGC in relation to Section 203 and 207 of the NBC and NBC IRR.[154] The Court mentioned the importance of separating the office of the Building Official from the Office of the Municipal/City Engineer.[155] The Court held that a separate appointment of a Building Official from a City Engineer is practicable in light of the fact that their functions are delineated under the NBC IRR, and LGC, respectively[156] —

> [T]he [L]ocal Building Official, on one hand, is responsible for the enforcement of the provisions of the NBC. As such, he is responsible for issuing building permits and ensuring compliance with the requirements of the NBC. Moreover, the Building Official is subject to the supervision and control of the national authority, in this case, the Secretary of DPWH. On the other hand, the City Engineer is responsible for the infrastructure, public works, and engineering matters within a local government unit. Clearly, these are two separate positions, which can be independently exercised by different local officials or offices, more so under circumstances when there is a need to address the operational demands of the City Government in matters concerning construction and infrastructure, such as in this case.[157]

While the decision of the Court illustrated the importance of separating the Office of the Building Official from the Office of the Municipal/City Engineer, it did not completely resolve the issue.[158] The separation of the two offices would still be dependent on the creation of the Office of the Building Official.[159] In the absence thereof, the municipal/city engineer will continue to function as the building official and serve two masters. Consequently, effective enforcement of the NBC provisions will continue to be compromised.

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152. *Leo Bernardez, Jr.*, G.R. No. 197559, at 14 (citing *Tapay,* 186 SCRA at 478).

153. Leo Bernardez, Jr. v. The City Government of Baguio, et al., G.R. No. 197559, Mar. 21, 2022, *available at* https://sc.judiciary.gov.ph/wpcontent/uploads/2022/n/i97559.pdf (last accessed Oct. 31, 2022).

154. *Id.* at 12-13.

155. *Id.* at 13-14.

156. *Id.* at 14.

157. *Id.* (citing *Tapay*, 186 SCRA at 478).

158. *Leo Bernardez, Jr.*, G.R. No. 197559, at 15.

159. *Id.*

Yet, since the promulgation of the NBCP in the late 70s, out of the current 17 LGUs in Metropolitan Manila, only six have created the Office of the Building Official namely: Quezon City,[160] San Juan City,[161] Navotas City,[162] Parañaque City,[163] Valenzuela City,[164] and Pasig City.[165] Many LGUs still do not recognize the positive impact it may bring to the city/municipality if the Office of the Building Official is created and separated from the Office of the Municipal/City Engineer.

Recognizing this problem, during the 18th Congress, Congresswoman Josephine Y. Ramirez Sato filed House Bill No. 849.[166] Regrettably, the bill was not passed into law. With the current situation of numerous violations of the NBC, the task of enforcing the NBC is in itself, gigantic; thus, a law

160. Quezon City, Department of the Building Official (2020) (1st edition), *available at* https://quezoncity.gov.ph/wp-content/uploads/2020/09/DBO-Citizens-Charter-2020.pdf (last accessed Oct. 31, 2022) [https://perma.cc/8ND7-ZS2Z].

161. San Juan City, Civil or Structural Regulations, *available at* https://www.sanjuancity.gov.ph/SanJuanCity/department_files/CED/Civil%20or%20Structural%20Regulations.pdf (last accessed Oct. 31, 2022) [https://perma.cc/M2WB-RK92].

162. Navotas City, Office of the Building Official (2022) *available at* https://www.navotas.gov.ph/OurGovernment/CitizensCharter (last accessed Oct. 31, 2022) [https://perma.cc/4PQF-MYK2].

163. *See* Department of Interior and Local Government, Paranaque City Building Official, *available at* https://safetyseal.dilg.gov.ph/establishments/1969 (last accessed Oct. 1, 2022) [https://perma.cc/VVK2-ZYUE] & Office of the Building Official, Paranaque City, Page, FACEBOOK, *available at* https://www.facebook.com/obopque (last accessed Oct. 31, 2022) [https://perma.cc/25HW-AMD7].

164. Valenzuela City, Citizen's Charter, Office of the Building Official (2022) *available at* https://www.valenzuela.gov.ph/files/citizens_charter.pdf (last accessed Oct. 31, 2022) [https://perma.cc/X57Q-Q4QN].

165. Pasig City, Directory, City Building Official's Office (CBOO), *available at* https://www.pasigcity.gov.ph/about-pasig-city (last accessed Oct. 31, 2022) [https://perma.cc/QL8R-XGMD].

166. An Act Mandating the Appointment of Licensed and Registered Architects or Civil Engineers Other Than City/Municipal Engineers (CME) as Local Building Officials in the Philippines, Amending for the Purpose Section 477 of Republic Act No. 7160 Otherwise Known as the "Local Government Code Of 1991," Appropriating Funds Therefor and for Other Purposes, H.B. No. 849, 18th Congress, 1st Reg. Sess. (2019).

should be passed by Congress mandating the creation of the Office of the Building Official.

Aside from the creation of the Office of the Building Official, it is imperative that the said office must be allocated with additional staff and capacitate them to proactively identify NBC violations not only as reflected in the plans submitted to their office, but more importantly during the existence of the structure.

H. Non-Compliance with Building Laws

After the issuance of a Certificate of Occupancy, many property owners alter and modify the plan and design of their structure, most commonly involving extending the building footprint and building line or adding another floor level to what was approved, which are violations of the NBC.[167]

Design professionals play a vital role in nation-building.[168] They carry with them the responsibility of planning and designing spaces and structures that enhance human experiences for various activities.[169]

Compliance with the various building laws is one of the important aspects of their services offered to the public. In planning and designing structures, the design professionals should ensure compliance with building laws in fulfilling their client's requirements.[170] It is their duty to educate their clients on the importance and value of the provisions of building laws.

In *Pabalan v. The Executive Secretary*,[171] the Court held —

> As correctly ratiocinated, demolition is not at all times the appropriate sanction for illegal construction, grounded on lack of the required building permit. The National Building Code, being a curative law, allows the builder

167. NAT'L BLDG. CODE, § 213.

168. *See* Ryan Macasero, *Nation Building Through Tourism, Design and New Media*, RAPPLER, Oct. 4, 2014, *available at* https://r3.rappler.com/move-ph/issues/poverty/71045-nation-building-tourism-design-social-media (last accessed Oct. 31, 2022) [https://perma.cc/KXL2-S2M3].

169. *See id*.

170. *See, e.g.*, NAT'L BLDG. CODE IRR, § 304.

171. Pabalan v. The Executive Secretary, G.R. No. 165445, Dec. 15, 2004, *available at* https://elibrary.judiciary.gov.ph/assets/dtSearch/dtSearch_system_files/dtisapi6.dll?cmd=getdoc&DocId=16812&Index=%2a2f4646da3cb9898edbb0ef3e25d6e5e2&HitCount=8&hits=13+3e+56+96+224+238+25e+2f1+&SearchForm=C%3a%5celibrev2%5csearch%5csearch%5fform (last accessed Oct. 31, 2022).

> of an illegally constructed building to legitimize his construction even belatedly as long as he could present title to the property, submit as built plans of his building and the construction meets the minimum requirements and standard of the Code and its implementing Rules and Regulations.[172]

Based on the above ruling, the Office of the Building Official and the LGU should work together and issue notices of violations to property owners whose structures are non-compliant with building laws and be given sufficient period to rectify their structures to ensure compliance.[173]

While the development of a property is subject to regulatory approval from various government agencies, it is the property owner and the person tasked to design and implement on the development who will ultimately decide such development.[174] Sadly, in recent years, many property owners have settled on engaging non-professionals or unlicensed design professionals and contractors to design and develop their property. It must be emphasized that every development has an impact on the community's built environment. Thus, engaging design professionals according to their competencies is crucial in improving the built environment.

III. To a Better Built Environment

Metropolitan Manila is blessed to be located in a tropical country with a naturally beautiful environment. Its landscape is surrounded by the charming Manila bay, the lovely Laguna Lake, the mighty Sierra Madre mountains, and the calm plains of Central Luzon.[175]

The current state of the built environment of Metropolitan Manila includes various factors and complexities which must be considered. There exists no one straight path that will lead to success — it is but a complex web of cause and effect. The topics which have been discussed, and proposals mentioned, all but scratch the surface on seeing the true potential of Metropolitan Manila.

Despite having extensive laws which seek to mitigate the complex problems in the built environment of Metropolitan Manila, being able to enforce these laws remains paramount. No matter how many regulations and

172. *Id.*

173. *Id.*

174. *Id.*

175. *See* Department of Environment and Natural Resources, Regional Profile: Manila Geography, *available at* https://ncr.emb.gov.ph/regionalprofile (last accessed Oct. 31, 2022) [https://perma.cc/7WGQ-65H8].

rules are set in place, these will be for naught if there are no enforcement systems in place.

Though arguably legally challenging, the planning of Metropolitan Manila must be taken as a whole.[176] The LGUs' preparation of their respective CLUPs must ensure coherence with the CLUPs of their adjacent cities and municipalities to align priority projects that will address and mitigate the challenges of a fast-growing metropolis. This may be done through a more proactive process of the DHSUD and the MMDA.

To ensure the effective enforcement of the NBC and other building laws, the Office of the Building Official must be created in every LGU and separated from the Office of the City, Municipal Engineer, and Architect.[177] Over the years, government buildings have been designed to be too utilitarian. It has come to a point that such buildings no longer contribute to the community landscape. The creation of the Office of the City/Municipal Architect can change this and uplift the design of public buildings based on the identity of the place and enhance the experience of the users and the people in the locality.

Recently, there has been a shift as several architectural design competitions for the design of national government buildings (Philippine Senate, Bangko Sentral ng Pilipinas – Clark, and the Supreme Court) were completed.[178] This is a clear indication that government agencies now recognize the value of a well-designed government building to the public. Such recognition can be trickled down to the LGUs not by architectural design competition but by creating the Office of the City/Municipal Architect which can transform the design of public buildings into a structure that the

176. *See* Katrina Hallare, Why Metro Manila Is an Urban Planning 'Mess' According to an Expert, *available at* https://www.onenews.ph/articles/why-metro-manila-is-an-urban-planning-mess-according-to-an-expert (last accessed Oct. 31, 2022) [https://perma.cc/MZ92-STLY].

177. *See* An Act Mandating the Creation of ann Office of Architectural Planning and Design in Municipalities, Cities, and Provinces, Amending for the Purpose Sections 38, 185, 227, 302, 443 (A) and (B), 454 (A) and (B), And 463 (A) and (B), 477, and 485 of Republic Act No. 7160, as Amended by Republic Act No. 9640, Otherwise Known as the "Local Government Code of 1991," H.B. 2679, 19th Congress, 1st Reg. Sess. (2022).

178. *See, e.g.*, Design Competition for the New Home of the Philippine Senate, *available at* https://competitions.archi/competition/design-competition-for-the-new-home-of-the-philippine-senate (last accessed Oct. 31, 2022) [https://perma.cc/6Y62-UQPK].

community can identify with and be proud of. According to a statement of the Office of the Victorian Government Architect[179] —

> Good design comes in many forms and is defined by more than how it looks. Good design is defined by how it works, the benefits and value it brings and its ability to affect how people feel and behave. ... [I]t adds value to create inspiring places, cultural symbols[,] and a shared identity.[180]

The Office of the Building Official must be provided with sufficient staff capacity to proactively identify building law violations as reflected in the plans submitted to their office and to monitor compliance of existing structures often altered or modified by their owners after issuance of the Certificate of Occupancy. Additionally, there is a need to modernize the Office of the Building Official by the introduction of management software to streamline its processes in evaluating, monitoring, and enforcing the NBC provisions.

The LGU and the Office of the Building Official must also work hand in hand to enforce the provisions of building laws within its jurisdiction. Notices of violations should be issued to property owners and design professionals who are involved in such violations. Being a curative law,[181] it is possible to grant a reasonable period for violators to comply with building laws. A stakeholder's consultation system that involves proactive private sector participation must be institutionalized.

Building laws have been established to control and mitigate the impact of developments to be introduced in the natural environment. Compliance with these laws is the responsibility of the design professionals, property owners, and all stakeholders. Moreover, correct enforcement of building laws is the primary task of building officials and the LGUs. An effective process of ensuring compliance and enforcement of building laws would gradually improve the current built environment of Metropolitan Manila. This will

179. Emily Hobbs & Andrew McDougall, Design Still Matters: Government Architects and Economic Stimulus, *available at* https://www.sgsep.com.au/publications/insights/design-still-matters-government-architects-and-economic-stimulus (last accessed Oct. 31, 2022) [https://perma.cc/4UHD-MGXS] (citing Office of the Victorian Government Architect, Government as 'Smart Client' Chapter 1 - Introduction, at 12, *available at* https://www.ovga.vic.gov.au/sites/default/files/202108/OVGA_GovermentAsSmartClient_Edition2_2021.pdf (last accessed Oct. 31, 2022) [https://perma.cc/XSC4-XGJ3]).

180. *Id.*

181. *Pabalan*, G.R. No. 165445.

result in a much livable urban environment for the benefit of the people. It can be done.