



## **ETHICS IN ARCHITECTURAL PROFESSIONAL PRACTICE**

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### ■ **PREAMBLE**

We, the Indians, inherit various scriptures that were transcended from generations, from father to son. We have naturally cultivated our lifestyle conducive to the best practices required to keep our body, mind and soul in a fit and fine mode. The philosophy we adopted was in four Universal Brahma Sentences.

In every profession, there are Rules and Regulations which each and every professional is bound to abide by while performing his duties. Architects are not taught, but are made aware of the subject. The idea is that freedom of expression should not be stifled but should be given a free hand. Each and every individual is encouraged to create his own unique design which would really influence culture.

It is said that Doctors' mistakes are buried below the earth and Architects' mistakes are for the world to see. The test of a good Architectural design is that it needs to be functional and aesthetically appealing.

### ■ **WHAT IS ARCHITECTURE?**

As architects, we are expected constantly to dwell upon the creative aspect of design. Since architecture is not mathematics, designs cannot be judged as right or wrong. What matters is the context, concept and shape which then decides whether design is functional or wonderful or awesome.

Architecture is basically the Art and Science of designing spaces and providing services to multifunctional activities for all human beings. This is the only discipline which

encompasses the major fields of human endeavour: Humanity, Science, Art, and Technology.

Architecture is the matrix of human civilisation, an authentic measure of the social status and an evocative expression of ethos of an era. When conserved it is a heritage and when ruined it becomes archeology. Architecture has generated specialisation. City planning, landscape and interior architecture, retro fitting of buildings, architectural conservation, construction management have also lately emerged as specialisation. Each of these compliments and supports each other.

Architectural Design essentially is a product of an individual mind but realised through association of experts from allied fields who contribute in the process of construction with mutual respect and understanding and work, assuring high quality of end product.

### ■ **REGULATION OF THE PROFESSION**

The practice of architectural profession is regulated by the Architects Act, 1972 and Regulations framed there under. The Council of Architecture has prescribed the conditions of engagement and scale of charges under the Architects (Professional Conduct) Regulations, 1989. The documents prescribed, stipulate the parameters within which the architect is required to function. These define the responsibilities, the scope of work and services and also prescribe the mandatory minimum scale of professional charges with a view to make the client fully aware of the architect. The professional services required by the client may not be comprehensive in scope in all cases and



accordingly, clear understanding between the two must be arrived at. The Council of Architecture has prescribed the conditions of engagement based on general practices to all registered architects and such architects who have specialised in areas such as Structural Design, Urban Design, City Planning, Landscape Architecture, Interior Architecture and Architectural Conservation.

### ■ **SCOPE OF SERVICES**

Generally, architects are required to provide following services, and these services are called comprehensive services. However, client can also opt for partial services as per mutual agreement.

- a. Taking Client's instructions and preparation of design in brief.
- b. Site evaluation, analysis and impact of existing/or proposed development on its immediate environs.
- c. Design and site development.
- d. Structural design.
- e. Sanitary, plumbing, drainage, water supply and sewerage design.
- f. Electrical, electronics, communication systems and design.
- g. Heating, ventilation and air conditioning design (HVAC) and other mechanical systems.
- h. Elevators, escalators *etc.*
- i. Fire detection, fire protection and security systems *etc.*
- j. Periodic inspection and evaluation of construction work.

The Architect shall, after taking instructions from the client, render the following services as described below in various stages:

#### **Stage 1: Concept Design**

Take instructions of client to ascertain the requirements and study the environs. Prepare report, conceptual design and submit to the client for approval.

#### **Stage 2: Preliminary Design and Drawings**

Modification of conceptual design.

#### **Stage 3: Drawings for Clients and Obtaining Statutory Approvals**

Prepare drawings for clients and obtaining statutory approvals from Competent Authorities, if required.

#### **Stage 4: Working Drawings and Tender Documents**

Prepare working drawings and tender documents which cover the mode of measurements, method of payments,

quality control procedures on materials and works and other conditions of contract.

#### **Stage 5: Appointment of Contractors**

Invite, receive and analyse tenders. Also advise the client on appointment of contractor.

#### **Stage 6: Construction**

Prepare and issue working drawings and details for proper execution of works during construction.

Approve samples of various elements and components.

Check and approve shop drawings submitted by contractor/vendors.

Visit site periodically at intervals agreed mutually, to inspect and evaluate the construction works. Clarify decisions, interpret drawings/specifications, attend meetings to ensure that the project progresses generally in accordance with the conditions of contract and also to keep the client informed and render advice on actions, if required.

In order to ensure that the work at site progresses in accordance with conditions of contract, the day to day supervision will be carried out by a construction manager (clerk of works/site supervisor/or construction management agency in case of large and complex project), who shall work under guidance and direction of the Architect and shall be appointed and paid by Client.

Issue Certificate of Virtual Completion.

#### **Stage 7: Completion**

Prepare and submit completion reports and drawings for the project as required and assist the client in obtaining "Completion/Occupation Certificate" from Statutory authorities, wherever required.

Other aspects include schedule of payment of professional fees based on stage-wise completion of contract, documentation and communication charges and reimbursable expenses.

Architects are supposed to work as per the conditions of engagement, scope of work as well as scale of charges.

### ■ **PROFESSIONAL CONDUCT AND SELF-REGULATION**

Further, Council of Architecture in exercise of the powers conferred by the Architects Act, 1972 (Act No. 20 of 1972),

read with clause (i) of sub section (2) of section 45 with approval of the central government, made the Architects (Professional Conduct) Regulation, 1989 to promote the standard of professional conduct and self – discipline required of an Architect, as detailed below:

(1) Every architect, either in practice or employment, subject to the provisions of the Central Civil Services (Conduct) Rules, 1964 or any other similar rules applicable to an architect shall:

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| <ul style="list-style-type: none"> <li>(i) Ensure that his professional activities do not conflict with his general responsibility to contribute to the quality of the environment and future welfare of society,</li> <li>(ii) Apply his skill to the creative, responsible and economic development of his country,</li> <li>(iii) Provide professional services of a high standard, to the best of his ability,</li> <li>(iv) If in private practice, inform his client of the conditions of engagement and scale of charges and agree that these conditions shall be on the basis of the appointment,</li> <li>(v) Not sub – commission to another architect or architects the work for which he has been commissioned without prior agreement of his client,</li> <li>(vi) Not give or take discount, commissions, gift or other inducements for the introduction of clients or of work,</li> <li>(vii) Act with fairness and impartiality when administering a building contract.</li> <li>(viii) Maintain a high standard of integrity,</li> <li>(ix) Promote the advancement of Architecture, standards of Architectural education, research, training and practice,</li> <li>(x) Conduct himself in a manner which is not derogatory to his professional character, nor likely to lessen the confidence of the public in the profession, nor bring Architects into disrepute,</li> <li>(xi) Compete fairly with other Architects,</li> <li>(xii) Observe and uphold the Council's conditions of engagement and scale of charges,</li> </ul> | <ul style="list-style-type: none"> <li>(xiii) Not supplant or attempt to supplant another Architect,</li> <li>(xiv) Not to prepare designs in competition with other Architects for a client without payment or for reduced fee (except in a competition conducted in accordance with the Architectural competition guidelines approved by the Council),</li> <li>(xv) Not attempt to obtain, offer to undertake or accept a commission for which he knows another Architect has been selected or employed until he has evidence that the selection, employment or agreement has been terminated and he has given the previous Architect written notice that he is so doing, provided that in the preliminary stages of work, the Client may consult, in order to select the architect, as many architects as he wants, provided he makes payment of charges to each of the architects so consulted,</li> <li>(xvi) Comply with Council's guidelines for architectural competitions and inform the Council of his appointment as assessor for an architectural competition,</li> <li>(xvii) When working in other countries, observe the requirements of codes of conduct applicable to the place where he is working,</li> <li>(xviii) Not have or take as partner in his firm any person who is disqualified for registration by reason of the fact that his name has been removed from the Register under section 29 or 30 of the Architects Act 1972,</li> <li>(xix) Provide their employees with suitable working environment, compensate them fairly and facilitate their professional development,</li> <li>(xx) Recognise and respect the professional contribution of his employees,</li> <li>(xxi) Provide their associates with suitable working environment, compensate them fairly and facilitate their professional development,</li> <li>(xxii) Recognise and respect the professional contribution of his associates,</li> <li>(xxiii) Recognise and respect the professional contribution of the consultants,</li> <li>(xxiv) Enter into agreement with them defining their scope</li> </ul> |
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of work, responsibilities, functions, fees and mode of payment,

(xxv) Shall not advertise his professional services nor shall he allow his name to be included in advertisement or to be used for publicity purpose except for certain prescribed situations

(2) In a partnership firm of architects, every partner shall ensure that such partnership firm complies with the provisions of sub-regulation (1).

In view of above, we are supposed to adopt best practices in architecture, based on guidelines prepared by the Council of Architecture.

### ■ **ETHICAL VALUES IN OUR PROFESSION**

In my practice of the profession, I have faced some ethical and moral challenges on a number of occasions. I am narrating some of those situations

1) I was working with one of the leading Architectural Consulting firm during my tenure of service from 1993 to 2002. During the service, I was elevated from Assistant Architect to a very responsible post and was responsible for each & every aspect of decision-making with respect to approvals to occupation certificates.

I was handling almost 30 projects at a time. Of course that was peak time for us in real estate during 1995 – 1999.

It had so happened that in one of our projects some documents were missing, rather, with regard to certain assertions, there was a misrepresentation by the client himself. We were shocked to know that the client had made a blunder. My employer was about to tender his resignation as architect. I was of the opinion that we should not tender our resignation at this stage, and I insisted that the client disclose the correct facts. Not doing so would be shirking our social responsibility. He agreed with my views. We pursued the matter with our client and got him to place on record the valid correct document which was necessary and then proceeded with further work.

If we had ignored the misrepresentation, it would have benefitted the client. If we had taken the decision of resigning from the project, we would have lost trust of the officers of the corporation. We chose the ethical path.

2) In one of the projects, I was appointed as an architect. Due to large size of land parcel, a layout was required to be approved. However, it was pointed out by the client that the same had already been submitted by another architect in the past. The client also provided the so called Xerox copy of his letter, which I did not believe to be a proper copy and therefore I did not certify the same.

The case came up for hearing in front of municipal officers and I was shocked to know that the previous Architect had not even given his resignation. On knowing that, despite the fact that my effort would go unrewarded I did not continue the project as an architect and was also saved because I had not certified that purported letter of resignation of the previous architect.

### ■ **ARCHITECT'S PROFESSIONAL LIABILITY**

Professionals are required to discharge their obligations and commitments diligently and befitting with quality and standards of service. The Council of Architecture being the regulator of Architectural Education and Profession throughout the country formulates guidelines on architect's liability.

“Architects Professional Liability” has been approved by Council of Architecture at its 40th meeting.

### ■ **PROFESSIONAL DUTIES OF ARCHITECT**

#### **1. Service:**

The relationship between the architect and the client is that of a service provider and recipient. The professional services rendered by the architect are pursuant to the conditions of engagement and scale of charges entered into between the architect and the client.

- ◆ **Competence:** An architect being a professional shall possess the required knowledge and skill, proficiency and competence for discharging his professional duties and functions.
- ◆ **Duty of Care:** It means duty to exercise utmost skill and care.
- ◆ **Duties:** The duties that are required to be performed by an architect for various types of projects have been prescribed by Council of Architecture under the Conditions of Engagement and Scale of Charges for respective areas in the field of architecture.

## 2. Professional Conduct:

An architect shall comply with the standards of professional conduct and etiquette and a Code of Ethics set out in clauses (i) to (xxv), read with exceptions covered by sub-clauses (a) to (h) of sub-regulation (1) of Regulation 2 of the Architects (Professional Conduct) Regulations, 1989. Violation of any of the provisions of sub-regulation (1) shall constitute a Professional misconduct.

## 3. Duties and responsibilities of clients/ owners and occupants:

The client/owner shall discharge all his obligations connected with the project and engagement of the architect in accordance with the Conditions of Agreement as agreed upon. Further, the client (s)/owner (s) and Occupant(s), upon completion of the building shall maintain it properly to safeguard and preserve the longevity of the building.

## 4. Professional negligence:

4.1 Negligence: "Negligence" of an architect means failure to take reasonable degree of care in the course of his engagement for rendering professional services.

4.2 Deficient service:

4.2.1 "Deficiency", as defined under section 2(1)(g) of the Consumer Protection Act, 1986 means any fault, imperfection, shortcoming or inadequacy in the quality, nature of performance which is required to be maintained by or under any law for the time being in force or has been undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service.

4.2.2 An Architect is required to observe and uphold the Council's Conditions of Engagement and Scale of Charges while rendering architectural service/ services that is/are necessary for discharge of his duties and functions for the project for which he has been engaged, amount to deficient service.

- a) Use of Building for the purpose other than for which it has been designed.
- b) Any changes/modifications to the building carried out by the owner(s)/occupant (s) without the consent or approval of the Architect who designed and/or supervised the construction of the building.

- c) Any changes / alterations / modifications carried out by consulting another architect without the knowledge and consent of erstwhile architect or without obtaining No Objection Certificate of the building.
- d) Illegal / unauthorised changes / alterations / renovations / modifications carried out by the owner (s) / occupant (s).
- e) Any compromise with the safety norms by the owner(s)/occupants(s).
- f) Distress due to leakage from terrace, toilet, water logging within the vicinity of the building and that would affect the strength /stability of the structure or general wellbeing.
- g) Lack of periodical maintenance or inadequate maintenance by owner(s)/occupant(s).
- h) Damages caused due to any reasons arising out of specialised consultant's deficient services with regard to design and supervision of the work entrusted to them, who were appointed /engaged in consultation with the client.
- i) Damages caused to the building for the reasons beyond the control of the architects.

## 5. Professional Negligence and Deficiency in Services -Professional Misconduct

If any person is aggrieved by the professional negligence and/or deficiency in services provided by the architect, the matter shall be referred to the Council of Architecture under Rule 35 of the Council of Architecture Rules, 1973 to adjudicate whether the architect is guilty of professional misconduct or not.

## 6. Professional Liabilities

6.1 Indemnity Insurance: The architect is required to indemnify the client against losses and damages incurred by the client through the acts of the Architect and shall take out and maintain a Professional Indemnity Insurance Policy, as may be mutually agreed between the architect and the client, with a Nationalized Insurance Company or any other recognized Insurance Company by paying the requisite premium.



- 6.2 Maintenance of record: The architect is required to maintain all records related to the project for a minimum period of 4 years after the issuance of Certificate of Virtual Completion.
- 6.3 Duration: - The architect's liability shall be limited to a maximum period of three years after the building is handed over to / occupied by the owner, whichever is earlier.

**7. Nature of Liability:**

An architect is liable for the negligent act which he committed in the performance of his duties. The action against an architect can be initiated by the client on satisfying the following conditions:

- (a) There must exist a duty to take care, which is owed by an architect to his clients.
- (b) There must be failure on the part of an architect to attain that standard of care prescribed by law, thereby committed breach of such duty.
- (c) The client must have suffered damage due to such breach of duty.

**■ DISCIPLINARY ACTION UNDER THE ARCHITECT ACT, 1972:**

If an architect is found guilty of professional misconduct, he is liable for disciplinary action by the Council of Architecture under section 30 of the Architects Act, 1972, Civil and Criminal action in the Courts of Law.

The disciplinary action taken by the Council of Architect against the architect who has been found guilty of professional misconduct does not absolve him of his liabilities under the Code of Civil Procedure, 1908 and the Code of Criminal Procedure, 1973, if any.

Some of the relevant laws include The Law of Torts, The Consumer Protection Act, 1986 and The Indian Penal Code, 1860 etc.

**■ CASE STUDIES**

Prof. Madhav Deobhakta in his book "Architectural Practice in India" illustrated some cases:

**1) Not taking action on their own about area of plot:**

There were 13 complaints lodged by civic authorities against

Architects in Mumbai. These related to certifying larger area of Land than the actual area. The disciplinary committee after investigations reported that 4 out of 13 be called before the Council. These 4 Architects admitted that they had not surveyed the lands in question; but relied upon the area certificates obtained by their clients. When questioned, they admitted that the area shown in the certificates was much more than the actual area. Further, these four Architects admitted that they did not take any steps to re-survey the plots from City Survey Office.

Council reprimanded these four architects for failure to take action on their own while discharging their professional duties.

**2) Wrong certification of condition of Building:**

The Architect was requested by one of the tenants to give a report on the condition of the building for a court matter. He reported that the condition of the building was sound. At the time of joint inspection under Court's order, he admitted that the condition of the building was not sound. When questioned at the time of the appearance before the Bar of the Council, he said when he inspected the building at time of making report it was in sound condition; but the owner was responsible for its sudden deterioration.

Council after considering all facts came to the conclusion that the architect did not act in a responsible manner and decided to reprimand him for professional misconduct.

**■ CONCLUSION:**

The main purpose of the Architects Act, 1972 is to protect the general public from unqualified persons working as architects and to ensure the professional conduct of the practicing Architects.

There are cases of action taken against and for Architects. By and large, professional ethics are generally observed by Architects who work with integrity, responsibility and trust as they consider their profession as the first priority in life.

While regulations are indeed necessary, one has to be ethical in spirit and not only in letter. In life one has to set the ethical bar high enough. It is only then that one can lead life with the head held high! ■