

Dominic Sims,  
Chief Executive Officer  
ICC Board of Directors  
ICC Appeals Board  
International Code Council  
500 New Jersey Avenue, N.W.  
6<sup>th</sup> Floor  
Washington, D.C. 20001

February 5, 2024

Re: Appeal of 2024 International Energy Conservation Code

Mr. Sims, ICC Board President Stuart, ICC Board of Directors, and ICC Appeals Board:

The American Gas Association (AGA) filed a timely appeal to the 2024 International Energy Conservation Code on January 2, 2024. Following the appeal, the ICC gave notice that the ICC Appeals Board decided to consider the several appellants appeals in four groups as noted below.

- Scope and Intent
- Consensus Building Approaches
- Procedural Specific Issues
- Subject Specific Issues

ICC Pulse, *2024 IECC Notice of Appeals Hearings*.<sup>1</sup>

Subsequently, the Appeals Board gave notice of how it identified each appeal to a specific group:

- Scope and Intent (AGA, APGA, NMHC,/BOMA, Region VI)
- Consensus Building Approaches (AGA, APGA, Region VI)
- Procedural Specific Issues (AHRI, APGA, Region VI)

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<sup>1</sup> ICC Pulse, 2024 IECC Notice of Appeals Hearings, (available at: [2024 IECC Notice of Appeals Hearings - ICC \(iccsafe.org\)](https://www.iccsafe.org/2024-IECC-Notice-of-Appeals-Hearings)).

- Subject Specific Issues (AHRI, NMHC,/BOMA, Region VI)

The Appeals Board failed to include AGA in the “Procedural Specific Issues” group though AGA’s January 2<sup>nd</sup> appeal is replete with claims of procedural deficiencies or violations. As stated in AGA’s appeal, the provisions it appeals:

are inconsistent with the *scope and intent of the IECC*, and were not promulgated consistent with the *ICC’s established policies and procedures*, and are in *violation of due process* principles and procedures and procedures to which the ICC has committed.

American Gas Association, *Appeal of 2024 IECC* (Jan. 2, 2024) p. 2 (emphasis added)

These bases were reiterated at the close of the introductory section of the appeal as being:

[I]n direct conflicts with the *scope and intent* of the IECC. . . . [in conflict] with *ICC’s stated processes and procedures* for issuing guidance and its *due process principles*.

American Gas Association, *Appeal of 2024 IECC* (Jan. 2, 2024) p.3 (emphasis added)

Throughout the appeal, AGA referenced “procedural irregularities”, including:

- The February 15, 2021, *ICC Memorandum Re: Discount Rates and Code Conduct*,<sup>2</sup> which violated ICC processes and procedures including those laid out in *Leading the Way to Energy Efficiency: A Path Forward on Sustainability to Confront a Changing Climate*, the *ICC Consensus Procedures*, and the *ICC Code Development Principles*.<sup>3</sup>

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<sup>2</sup> Mike Pfeiffer, *ICC Memorandum Re” Discount Rates and Code Conduct*, (Feb. 15, 2022)

<sup>3</sup> International Code Council, *Leading the Way to Energy Efficiency: A Path Forward on Sustainability to Confront a Changing Climate*, p. 3 (2021). ([https://www.iccsafe.org/wp-content/uploads/ICC\\_Leading\\_Way\\_to\\_Energy\\_Efficiency.pdf](https://www.iccsafe.org/wp-content/uploads/ICC_Leading_Way_to_Energy_Efficiency.pdf)). The ICC’s *ICC Consensus*

- The workings of the “Consensus Building Forum” referenced in AGA’s appeal which was developed, deliberated, and proposed amendments which were voted on in violation of ICC policies and procedures including those laid out in the ICC’s *Leading the Way to Energy Efficiency: A Path Forward on Sustainability to Confront a Changing Climate* and the *ICC Consensus Procedures*.

In addition, the Appeals Board failed to identify the group under which AGA’s appeal of the failure of the IECC to follow the due process procedural safeguards to which the ICC has committed. This failure led to the creation of the extra-procedural Consensus Building Forum also referenced as the Omnibus Working Group. The Consensus Building Forum was not part of the IECC process, but rather was an extra-procedural collaboration amongst a limited group of members and stakeholders to pursue specific market interests. The Consensus Building Forum was not established by the ICC or the IECC Committees (residential and commercial) and was not open to all those stakeholders with a vested interest in the code. Yet, the agreement that came out of the Omnibus Working Group collaboration was approved by the IECC Committees without public review or comment.

## Conclusion

AGA requests the Appeals Board identify the appealed issues that each group it has identified will review, that, in addition to the groups in which it is already present, AGA be included in the “Procedural Specific Issues” group, and that the Appeals Board identify which group will address the due process procedural issues identified in its appeal.

Further, AGA reiterates its request that the IECC 2024 development process be stayed until this appeal is resolved and that the appealed provisions not be included in the 2024 edition of the IECC because ICC staff improperly processed

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*Procedures* were ANSI approved on August 2, 2023. ([https://www.iccsafe.org/wp-content/uploads/Revision-of-ICC-Consensus-Procedures\\_2-of-2\\_revised-12.6.18B.pdf](https://www.iccsafe.org/wp-content/uploads/Revision-of-ICC-Consensus-Procedures_2-of-2_revised-12.6.18B.pdf)). *ICC Code Development Principles*: <https://www.iccsafe.org/products-and-services/i-codes/code-development/code-development-procedures/>).

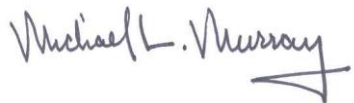
**Michael L. Murray** *General Counsel*

these proposals which were both outside the scope and intent of the IECC, in violation of established policies and procedures, and developed through unauthorized, extra-procedural processes.

AGA is ready to present additional support for this appeal and requests for remedial action to the ICC Appeals Board.

Dated: February 5, 2024, at Washington, District of Columbia.

Respectfully submitted,

A handwritten signature in black ink that reads "Michael L. Murray". The signature is written in a cursive style with a prominent loop at the end of the last name.

Michael Murray  
General Counsel  
American Gas Association