

February 5, 2024

RE: Viewpoint Submittal in OPPOSITION to 2024 IECC Appeals 23-05, 06, 07, and 08

Dear Appeals Board,

I am submitting this viewpoint submittal in opposition to the multiple appeals that noted a concern with “Consensus Building Approaches”. I am a voting member of the Residential Consensus Committee and emails I sent to encourage working together to achieve consensus have been directly or indirectly referenced in these 4 appeals.

The Appellants of 2024 IECC Appeals 23-05, 06, 07, and 08 have not identified “material and significant irregularity of process or procedure” regarding the ‘Consensus Building Approaches’ I initiated and therefore in accordance with CP#1-03, 6.3.8, their Appeals should not be sustained.

#### Justification for opposition

The development of the 2024 IECC Residential Public Comment Draft #2 was undertaken in accordance with the ICC policies. Neither the ICC Committee Procedures nor the ICC Consensus Procedures explicitly prohibit committee members from having discussions to resolve their concerns outside the Committee Meetings hosted by ICC. In addition, no committee actions occurred during these discussions.

The following provides context that led to my initiation of these ‘forums’. In the summer of 2022, the Residential Consensus Committee had completed action on the 200+ individual code change proposals. The technical merits of all these proposals were debated in open and transparent Sub-Committee and Residential Consensus Committee meetings hosted by ICC. Those proposals that achieved a simple majority were placed on an electronic ballot in June 2022.

Inherent in our balloting was an option to cast a vote of ‘Affirmative’ to all the 100+ code changes that had been previously approved or approved as modified during these open Residential Consensus Committee Meetings, hosted by ICC. This in itself is a procedurally allowable vote for a ‘conglomeration of unrelated proposals from a number of different proponents’, which APGA has noted as a “violation” in their appeal.

However, it was clear after Ballot #1, that that Affirmative vote would fail to reach a super majority without some revisions to about a dozen proposals. I personally felt as a member of the Residential Consensus Committee that allowing those proposals to fail meant we had failed our mission, which was to reach consensus across a broad and diverse group of stakeholders. Based on testimony we heard that year, I recognized that were some changes that would be needed to achieve consensus. I did initiate a series of “Consensus Building Forums” (four in total) in order to identify the specific changes that could earn the Affirmative vote from voting members. The invitation was sent to all voting members, which included 3 of the 4 appellants (the voting member representing AGA, his alternate, and the voting member from Region VI). The invite was allowed to be forwarded to any interested parties. Since it was noted in the Committee Action Report that voting members should state their ‘reason for the negative vote’ and provide ‘text revisions for the committee to consider that would resolve the negative vote’, the purpose of the forums was to identify the specific ‘text revisions’. I did propose to combine a group of proposals that had each already achieved a simple majority vote during open Committee Meetings. I then submitted in my ballot the changes that came



from these discussions. These changes were ones that I personally thought could resolve the most objections and when considered comprehensively, could pass the super majority requirement.

No Committee actions were taken at these forums, so again, by themselves they do not represent any 'irregularity of process or procedure'.

The [agenda](#) for the IECC Residential Consensus Committee meeting on Sept 26-27, 2022 included the consensus proposal. This agenda, like others, was publicly available on the website and distributed to interested parties by ICC Staff. This proposal modified and then combined REPI-33, RECPI-6, RECPI-7, REPI-7, REPI-20, REPI-64, REPI-68, REPI-70, REPI-93, REPI-111, and REPI-115. As documented in the [Sep 26, 2022 meeting minutes](#), in accordance with ICC process and procedures, the proposal was moved as modification 1 to REPI-33 and appropriately seconded. The motion was discussed in an open and transparent process, with interested parties and stakeholders present. It was then approved during the open Committee meeting, by a vote of the present members: 32 Yes, 8 No. The electronic ballot resulted in a final vote of 38 Yes and 9 No. There was no 'irregularity of process or procedure' with respect to this Committee Action.

If an appeal is upheld, it is not clear what the fate is for all these proposals. If all the above listed proposals are excluded from the 2024 IECC as requested by the Appellants, it would completely undermine the work of the Residential Committee which was tasked with achieving Consensus. It would unnecessarily grant the 2 voting members/appellants from AGA & Region VI more power than the 38 voting members, who supported the proposal and represent multiple user categories.

Prior to a decision to support the appeals, the Appeals Board should at least consider whether the Appeal placed before them is actually in 'regard to a committee action', in which case it could instead follow the process of CP#1-03, 4.2.

4.2 If the appeal is in regard to a committee action, the CEO or a designee shall submit the appeal to the appropriate committee within 30 days of receipt of the appeal. No appeal to the Appeals Board shall lie until the committee has reconsidered the matter being appealed. The committee may reconsider substantive and/or procedural matters. The committee shall have full discretion to determine how it conducts the reconsideration, and to determine the information that it deems appropriate for purposes of the reconsideration. The appellant shall have the right to address the committee, under terms and conditions established by the committee, if so requested in writing prior to committee reconsideration.

While the APGA states that they are appealing "staff action", which would be covered by 4.3 rather than by an Appeals Board, staff was not involved in the forums I initiated.

Sincerely,

Gayathri Vijayakumar, Voting Member, Residential Consensus Committee

Principal Mechanical Engineer, Steven Winter Associates, Inc.