



ICC NORTHEAST REGIONAL COALITION

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Subject: Formal Written Appeal Regarding the Refusal of Submission of Proposed Code Changes - 2024 IECC and IRC Chapter 11

Dear Mr. Sims,

We, the Region VI Code Development and Review Committee, hereby submit this formal appeal to the International Code Council Appeals Board. With the utmost respect for due process and the pursuit of fair and effective building standards, we wish to address a matter of significant concern: the denial of our proposals to the 2024 IECC Residential Consensus Committee involving the inclusion of sections R404.5, R404.6, and R404.7 into the primary body of the International Energy Conservation Code (IECC) for the year 2024. This also pertains to the corresponding sections N1104.5, N1104.6, and N1104.7 within the International Residential Code (IRC).

The Region VI Code Development and Review Committee comprises dedicated Code officials and Code Officers who undertake the crucial responsibility of evaluating proposed code modifications. Our mandate extends beyond regional interests; it encompasses the broader welfare of the entire ICC community. Our aim is to not only facilitate compliance but also to harmonize the scope and intent of the codes with new ideas and technologies that stand to redefine the industry's standards.

Consistent with the 30 day requirement in CP#1-03, our appeal arises in response to the determination made by the 2024 IECC Project Team and Director of Energy Programs, Kris Stenger received on August 1, 2023. Regrettably, our proposals, which hold substantial implications for the advancement of a fair and responsible energy code, have been refused for consideration. These determinations were made prior to the public comment committee meetings and without proper justification. The reasons given by Mr. Stenger and the Project team from the "Consensus Committee Procedures" document seem to be in direct contradiction with the actions taken. Each section requesting review had public comments submitted in the initial draft as well as in Public Comment session 1. Subcommittee members verbally noted that they would be interested in seeing the specified sections moved to appendices. In our attempt to



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have these changes considered at the next review cycle, they were denied submission in the next public comment session. As substantive changes, which had comments in each of the previous comment sessions, there should be no opposition to the relisting and review to these changes.

While we hold the utmost respect for the expertise of those involved in the decision-making process, we firmly believe that the potential benefits of these proposed amendments warrant thorough consideration.

The essence of our appeal stems from the conviction that a collaborative effort to enhance the sustainability and energy conservation of the built environment should be embraced in a conscientious manner following the guidance documentation set forth in moving the energy codes into a standards development process. Our proposed changes seek to maintain a baseline code which aligns the 2024 IECC and IRC with emerging best practices and technological innovation, while allowing communities to choose their own course through the ability to adopt pathways in the form of non-mandatory appendices. The specified sections should reside in these non-mandatory appendices.

In the spirit of constructive dialogue and the continuous pursuit of excellence in building regulation, we implore the Appeals Board to evaluate excluded proposals and some of the underlying reasons for their exclusion. We are confident that a review of these matters will further our shared objectives of creating buildings that are environmentally responsible, economically viable, and conducive to the well-being of all occupants and owners.

Our appeal pivots on several key points, as outlined below:

1. **Inadequate Consensus Process:** We have observed concerning discrepancies in the code development process, raising doubts about the legitimacy of the consensus approach. Other anomalies in the procedure, it was stated by subcommittee members that they would be interested in seeing the sections of concern moved to an appendix, however when these proposals were submitted, it was then specified by 2024 IECC Project Team and Kris Stenger that those sections were no longer open for comment. It's within the consensus committee's purview to reject based on consensus voting in committee, but neither the consensus committee nor the project team should have the right to refuse a proposal when following the guidance of the Consensus Committee Procedures. Code change and agreements were made outside of public process by the group referenced as the omnibus. These



types of discontinuities undermine the transparency and inclusivity that are integral to a robust code development process.

- a) Omnibus agreements are completely contrary to the objective of having public comment and should not be allowed as each submission should be reviewed publicly on its own merit by all stakeholders.
- b) ICC Consensus Procedures ambiguity sets the stage to allow rules to be misconstrued and applied inconsistent with those procedures
- c) Committee Conduct on a number of occasions didn't follow the regulations put forth council policies and consensus procedures and also should not be a representation on the ideals of ICC as a diverse and inclusive national entity
- d) Committee makeup should be reevaluated to ensure that the code enforcement community has a balanced presence separate from other governmental sectors.

2. Proposed Changes meeting Scope and Intent of guidance

documentation: The provisions of the Energy Code along with other guidance documents pertaining specifically to the energy code “standards development process” emphasize the importance of aligning code changes with their scope and intent. Our concern with that is that the proposed sections exceed the stated code intent boundaries in the accompanying instructional literature. Such deviations have significant implications for the harmonious evolution of energy efficiency standards.

- a. As electrification has nothing to do with energy efficiency, but an energy source, it is out of intent.
- b. Any references to zero energy and greenhouse gas reduction are referenced as “optional supplemental” and “non-mandatory” and do not belong in the main body of the code according to the intent.
- c. Disproportionally fiscally benefits one industry at the detriment of all others, and to the detriment of owners and builders, and occupants.

3. Economic Feasibility and Cost Analysis: The economical aspect of our proposals is closely aligned with the intent of the Residential Energy Provisions to consider economic feasibility, costs, and savings for consumers and building owners. We would like to highlight concerns about unsubstantiated cost information and the necessity of cost efficiency analysis. These concerns resonate with our plea to ensure that code modifications remain practical and attainable for stakeholders, while



still moving our nation forward into a more sustainable construction climate.

- a) The 30 year cost analysis used for justification is only relevant to a new home built and occupied for 30 years, which is not the case for most homeownership situations. This also does not take into account upgrades required in remodeling (which we do more permits for than new homes) which may be “out of pocket” and not over a 30 year timeline.
- b) A number of unjustified relative cost claims were made during committee. Provide harder metrics on what is considered “cost efficient” in order to stabilize this discussion and substantiate claims.

4. **Flexibility and Long-Term Viability:** Our proposals were crafted to foster innovation, flexibility, and practicality. The concerns about overly burdensome expenses and outdated systems align with our apprehension that certain mandates could impose undue strain on developers, homeowners, landlords, and renters. Striking a balance between energy efficiency and long-term viability is pivotal to the code's effectiveness.

a. Entities writing code language not familiar with the enforcement and administration of the code may lead to unintended consequences such as the IECC being disregarded by communities as unrealistic, unfair and unenforceable.

b. As electrification has nothing to do with energy efficiency when much of the nation's electricity comes from fuel burning sources. The scope of leading the way calls for flexibility within the code and choosing a single source of energy will diminish competition and innovation in the advancement of the industry.

In conclusion, throughout this new IECC standards development process, it has been made apparent that some of the procedures and documentation are incomplete or unclear. We urge the Appeals Board to give thoughtful consideration to our appeal as well as all other appeals that were dismissed without due process or deliberation, incorporating the points raised above. At the time our appeal hearing is granted, we will provide our full complement of supporting exhibits to the Board.

Our commitment to advancing energy efficiency is imperative while our dedication to code and our communities is unwavering. We are confident that your impartial evaluation will serve the best interests of both our region and the broader International Code Council community.



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In accordance with CP#1-03 section 3.3.3.3 as organizations affected by this may be exceedingly numerous, we would name the residential consensus committee. As we do not have a mailing address, we recognize the 2024 IECC Residential Consensus Committee as an entity of ICC and any other individuals or organizations participating in the "IECC Interested Party Update" email notification to have their email address substitute for their mailing address.

Thank you for your time, consideration, and dedication to maintaining the integrity of our building codes.

Sincerely,

William Mckinney, Chairman
ICC Region VI

Greg Gilbert, Secretary
ICC Region VI: Code Development and Review Committee