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August 17, 2020

2019 Group B Appeals Board
c/o Michael J. Pfeiffer
SVP, Technical Services
International Code Council
Central Regional Office
4051 Flossmoor Road
Country Club Hills, IL 60478

Dear Mr. Pfeiffer,

On behalf of the Institute for Market Transformation, I would like to thank you for the opportunity to submit a response to the appeals raised regarding the 2019 Group B Code Changes as they related to the International Energy Conservation Code. Below you will find our response to the appeals regarding federal preemption; scope and intent; the impact of online voting (CP28), cost impact, and voting guides; and voter eligibility and the validation process.

We do not believe that any of these four IECC appeals presents an appealable issue, nor do any of the four appeals make a case for “material and significant irregularities” of ICC process or procedure. These appeals, have, in fact, already been largely rejected through an independent verification process; therefore, there is no need for the Appeals Board to give weight to any of these appeals.

Specifically, regarding preemption, the appeal asks the Appeals Board to make a judgment as to legal prospects of a code provision’s legal prospects if a jurisdiction adopts it. This legal claim is outside the scope of a CP1 Appeal. Ultimately, the legality of any code provision will be determined by adopting jurisdictions and the courts. The Appeals Board should not dive into this substantive debate on RE126 nor substitute its own legal ruling on this proposal.

On scope and intent, the question of whether RE147 and CE217 (Parts I and II) fit within the “intent” of the IECC was discussed at the Public Comment Hearing, and that issue was presumably resolved when GMVRs approved both RE147 and CE217 (Parts I and II) and voted on several other proposals to modify Section R101.3.

Finally, the two appeals related to online voting and voter eligibility should be rejected because neither appeal identifies a matter that meets the criteria set out in CP1 Sections 6.3.7 and 6.3.8. In addition, the vast majority of issues raised in these appeals have already been addressed in detail in the April 8, 2020 *Report on the Code Development Process, 2019 Group B Cycle* (ICC

Report), which was published by ICC in connection with certification of the final results of Group B voting.

Rather than identifying actual appealable issues of process or procedure, these appeals pass judgement on the ICC consensus process and the qualifications of the voters who participated in it. An unprecedented number of new Governmental Members invested their time and resources in the Code Development Process for the first time and cast their votes in the public interest. The participation of Governmental Members is a core strength of the ICC Code Development Process; overturning results is an extreme remedy and should be reserved for only significant procedural deficiencies.

Based on the points discussed, the Appeals Board should conclude that there are no legitimate appealable issues presented by the appellants and dismiss the four appeals referenced.

Thank you very much for your consideration of our response in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Amy L. Boyce', with a long horizontal flourish extending to the right.

Amy L. Boyce
Associate Director of Codes and Technical Strategy
Institute for Market Transformation
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