

August 19, 2020

2019 Group B Appeals Board  
c/o Mike Pfeiffer, SVP of Technical Services  
International Code Council  
500 New Jersey Avenue, NW 6th Floor  
Washington, DC 20001

*[via email]*

**RE: Appeal Hearing: Scope and Intent; Proposals: RE147-19; CE217-19 Parts 1 and 2**

Members of the Group B Appeals Board:

On behalf of New Buildings Institute (NBI), I submit the following comments for consideration in the Appeal Hearing on Scope and Intent, and request to participate in the hearing on September 3, 2020. NBI was an active participant in the Group B development cycle, through the submission of proposals, attendance and testimony during both hearings, and directly supporting jurisdictions with technical questions and education on proposals, as well as the processes. NBI appreciates the open and transparent process that the International Code Council (ICC) has maintained throughout this Group B Development Cycle.

**Overview**

These comments will address the appeals on proposals RE147-19 and CE217-19 Parts 1 and 2, with appeals from the following parties:

1. American Gas Association (AGA) and American Public Gas Association (APGA)
2. Leading Builders of America
3. National Association of Home Builders

The appellants raise two primary complaints: 1) the proposals do not meet the intent of the energy code, and 2) the ICC staff should have ruled the proposals out of order during the development process. In response, NBI submits the following comments:

**Concerns on Intent of the IECC**

The intent of the IECC is as follows: “This code shall regulate the design and construction of buildings for the effective use and conservation of energy over the useful life of each building. This code is intended

to provide flexibility to permit the use of innovative approaches and techniques to achieve this objective.”

These proposals are clearly within the intent of the IECC and address real market needs, providing design and construction requirements that have a direct impact on the effective use of energy over the useful life of the buildings through proactive design.

ICC specifically updates the codes on a regular cycle, as stated in ICC CP #28-05 Code Development rules, Section 1.2.1, for “the timely evaluation and recognition of technological developments pertaining to construction regulations.” This ensures new buildings are designed and constructed to modern standards. These proposals prepare and future-proof homes and buildings by providing flexibility for innovative approaches to conserving energy in market-ready technologies people use today.

**RE147-19: Requirement to add an electrical outlet near gas-fired appliances.** This simple, low-cost code update gives the homeowner a choice about whether to replace a natural gas-powered appliance with an electric version. This change protects homeowners from potentially high future retrofit costs which could include tearing out drywall and cement to run electrical wiring, and potentially a full electric panel replacement. There has been a clear shift in the way we consider the impact of our energy systems, and there is strong evidence that a gas water heater installed today will not be allowed to be replaced with a gas water heater in 15 years. Forcing the homeowner to pay for an electrical system upgrade that is currently anticipated does not represent effective use and conservation of energy over the useful life of the building. The appellants like to emphasize the “effective use and conservation of energy”, but they ignore the “life of the building” and the policy and market shifts occurring today that indicate these shifts are already underway.

**CE217-19 Parts 1 and 2: Requirement to ensure electric vehicle charging stations can be easily added in the future and provide dedicated parking spaces for charging.** Globally, electric vehicle (EV) sales are expected to account for one-third of all sales by 2025. Where a typical new home may have wiring for few 240-volt outlets in the garage (perhaps enough for a washer and dryer), the proposal would require service panel space, outlets, and conduits capable of charging at least one full-size EV. Homeowners and businesses will still need to install their own EV charging equipment as needed, but the costs will be greatly reduced. The cost of retrofitting buildings for electric powered equipment, and parking lots for electric vehicles would be exponentially more expensive to complete after the building is wired, walls are in place, and parking lot cement is poured.

In addition, our buildings need to prepare for grid-integration. Today, during power outages, EVs can act as on-demand batteries for single-family residential construction to power critical appliances and functions. We will see that same ability in our commercial buildings, where EVs become a critical piece of grid and building infrastructure. This integration will allow for conservation and effective use of energy by helping to flatten peak demand spikes, by storing energy when it is in excess and discharging when supply is short.

### **Concerns on ICC Process**

The appeals (and previous challenges to the same proposals) also do not follow the historic method for handling a proposal claimed to be out of scope. In previous code cycles, these proposals included a

printed public analysis and notification of ICC members that no matter the outcome of their voting, the scoping decision would ultimately be made by the ICC Board. In this case, there was no indication the challenged proposals would be considered as only an “advisory recommendation,” which would have influenced the public comments filed and debate on the proposals.

Review of the ICC hearing videos shows that there was substantial discussion of scope and intent of the code both by the committees and by testifiers in the public comment hearings. Scope and intent were mentioned no less than 26 times. While the method of vetting scope and intent may have changed in this cycle, the governmental members were aware of differences of opinion on these proposals, and overwhelmingly indicated their view that these measures do meet the intent of the energy code.

### **Overturing the Governmental Process**

Not mentioned by the appellants were any concerns of overturning the results of the Group B process, which has now been ongoing for over a year. The governmental consensus process is a cornerstone of the I-Code development. Most importantly, striking down the proposals now would set a dangerous precedent for future code development cycles by creating a path for opponents of a successful proposal to present their side again and again, to ever smaller groups of decision makers after the voting representatives have made clear their intentions.

In conclusion, NBI urges the committee to uphold the results of the online vote. Thank you for your thoughtful consideration of these appeals.



Kimberly Cheslak  
Associate Director of Codes and Policy

cc: Greg Wheeler, CBO President, International Code Council *[via email]*  
Dominic Sims, CEO, International Code Council *[via email]*