

From: Lee Schwartz
Sent: Thursday, March 12, 2020 1:32 PM
To: Dominic Sims
Cc: Greg Wheeler; Mike Pfeiffer
Subject: ICC's Dilemma

Dominic Sims
Chief Executive Officer
International Code Council

Dear Dominic,

As you know, the Home Builders Association of Michigan (HBAM) and I have been enthusiastic supporters of the International Code Council since the beginning. I have been a member of the ICC since 1999. HBAM believes in the mission of the ICC.

We were the motivating force behind and the main supporters of Michigan's 1999 Stille-DeRossett-Hale Single State Construction Code Act which established the I-Codes as the model for Michigan's codes. Beginning with the St. Louis hearings in 1999, last year's Public Comment Hearings in Las Vegas marked the 20th ICC code hearing in which the association and I have participated. I considered it an honor to serve on our organization's 2021 Residential Energy Code review committee.

Over the last two code cycles (2018 & 2021) HBAM undertook vigorous and successful efforts to increase the participation of Michigan's building officials, inspectors and plan reviewers in our organization's cdpACCESS program.

HBAM's efforts included numerous mailings to all of the state's building departments, building officials, inspectors and plan reviewers urging them to become ICC members and to participate in the cdpACCESS program. These mailings were supplemented by in person discussions with building departments and building official associations in every part of the state. (I averaged 800 miles a week during the summer of 2016 meeting with building departments across both of Michigan's peninsulas.) We saw cdpACCESS as a way to broaden the knowledge base and permit voters who could not be present at the hearings a necessary voice in the code promulgation process.

A significant number of the association's members, along with a handful of Michigan legislators, questioned our strong support and advocacy for the ICC and the I-codes, including the fact only governmental members were allowed to cast votes on the final version of the code. We felt they were wrong, believing in the integrity of our organization's code development process.

Although we may not have always agreed with the ultimate decisions reached by governmental members, we felt comfortable by virtue of their knowledge, experience and lack of vested and financial interests the governmental members would produce the best product possible; one that, as a minimum code, would assure the construction of safe, affordable homes and apartments though an enforceable code.

This comfort level was bolstered by the strong understanding and belief our organization would stringently adhere to our requirements that verified governmental voters would "*be an employee or a*

public official actively engaged either full or part time, in the administration, formulation, implementation or enforcement of laws, ordinances, rules or regulations relating to the public health, safety and welfare.”

I am not qualified to question the decisions made regarding verified governmental voters from other states. However, as an ICC member, if the same criteria were used to verify governmental voters in other states that were used by our organization to verify voters from Michigan’s Department of Natural Resources (DNR) I firmly believe we have both a credibility and a voter integrity problem.

About the Michigan DNR

- **We are committed** to the conservation, protection, management, use and enjoyment of the state's natural and cultural resources for current and future generations. We strive to protect natural and cultural resources, ensure sustainable recreation use and enjoyment, enable strong natural resource-based economies, improve and build strong relationships and partnerships, and foster effective business practices and good governance.

<https://www.michigan.gov/dnr/0,4570,7-350-79137---,00.html>

The above description of the department was taken from its own website. I have been fully involved in Michigan’s construction codes since 1993, including serving on three state code review panels. In that entire time I have never seen any involvement by employees of the DNR at any level of the code promulgation process or the enforcement of construction codes once they have been promulgated. This includes meetings of the State Construction Code Commission as well as legislative hearings dealing with bills related to the codes.

ICC verified 12 voters from the DNR. Their positions as listed below were taken from the DNR website. They were:

[Names removed by the International Code Council]

With the possible exception of [name removed by the International Code Council] , none of these individuals seem to meet the criteria to be verified voters.

Although I am wearing two hats throughout this letter (one as a long-time member of ICC as well as a long-time participant in our code promulgation process and one as EVP for Government Relations for the Home Builders Association of Michigan) I am of one mind.

Acceptance of the I-codes and the process used to develop those codes depends on the credibility of our organization and its procedures. That credibility is now in jeopardy.

This is not an issue of the results of the on-line process. The results are the results. If a proposal legitimately received a two-thirds vote that result should be respected. This is an issue of the validity of votes from governmental members or voters who may not have met the criteria for casting those votes.

Dominic, you and I know there is no fast and easy solution to this problem. However it is resolved will leave many parties dissatisfied. But I believe it must be resolved and in a way that is fair to all parties.

My suggestion is our organization reexamine the disputed members and verified voters on an individual basis to assure they fully met the requirements ICC had set forth. No one is advantaged or disadvantaged by this approach; it simply insures the validity of the results, a key to having the 2021 I-codes fully accepted.

There's no doubt this approach will be cumbersome and time consuming. But, in my opinion both as a member and as an advocate for the home builders, getting it right is more important than getting it fast. It also offers the benefit of allowing other issues, such as if the qualifications for verified voters should be adjusted, to be postponed to a future time.

Thanks for your consideration.

Lee Schwartz
ICC member

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