

January 11, 2021

Board of Directors
International Code Council
500 New Jersey Avenue, NW 6th Floor
Washington, DC 2001

[via email]

RE: Consideration of Replacement of the Energy Code with a Standard

Members of the ICC Board of Directors:

On behalf of New Buildings Institute (NBI), I submit the following comments for consideration in the Code Council Board Meeting on January 21, 2021 on the update of the International Energy Conservation Code (IECC) and Chapter 11 of the International Residential Code (IRC) from a code to a standard. NBI has been an active participant in the development of the IECC as a code for over two decades, through the submission of proposals, attendance and testimony at hearings, and directly supporting jurisdictions with technical questions and education on proposals. As a longstanding participant, NBI appreciates the open and transparent processes that the International Code Council (ICC) has sought to maintain in its code development over those cycles.

The comments herein address two main areas that I hope will be thoughtfully and carefully considered by the Board:

1. Concerns on the change from a code to a standard; and
2. Suggestions for a potential standards process.

I recognize these two areas may seem in conflict, but without knowing the conclusion the Board will draw from the upcoming discussion, we thought it prudent to provide comments that would be productive to the conversation no matter what the outcome. NBI's goal in providing these comments is to advocate for a useful tool for jurisdictions to advance the goals of energy conservation, carbon reduction and climate resilience in the building stock. I believe ICC as an organization and you as its Board of Directors share in these goals.

Concerns on the Change from a Code to a Standard

First and foremost, we do not support the IECC being changed from a code to a standard, and believe this change would diminish the usefulness of the IECC to the jurisdictions that adopt and implement it. The potential change raises several concerns, including the following: the I-Codes have historically been in the hands of governmental members that you serve to provide the final unbiased voice on what is best for national implementation; and this process has happened very quickly, without the daylight and due process that it fully deserves.

As a previous governmental voting member of the ICC, I can personally attest to the importance of the voting process on the IECC for cities that are looking to the model codes as a foundation to achieving the

energy and climate goals before them. In my current roll directly supporting many cities in achieving these goals, I see even more broadly the value of the public process that the I-Codes use in development to inform and engage with the ICC governmental members. With several rounds of cdpAccess behind us, it is clear that ICC's membership is ready to fully engage with the code development process when it has a direct impact on their goals and work. There is no reason to remove the ICC membership from a process that was created serve them and the jurisdictions they represent, amended to involve them, and to which they have shown up to be involved. The lack of a national model energy code will ultimately be a disservice to the ICC membership.

Whether or not this change is in the best interest of the evolving need to address energy and climate, this proposal for a change has been brought before you with relative speed. Compare the development of code change proposals, which typically spans from January to November (not taking into consideration the length of time that members have spent on appeals, which were concluded in October, adding an additional eleven months to the process), or approximately ten to eleven months, to what has been put before the membership for consideration of this change. By contrast, this significant proposal to change the way the governmental members engage with and have ownership over the code advancement has proceeded rapidly, with an initial mention in the Board's report on the Group B Appeals in September the idea sat in relative silence until November, and a call for comments in December. An open conversation about the approach has only been in place for about two-three months, or a third of the time given to consider code changes.

Suggestions for a Standards Process

If the change is made, we realize that there are many more decisions to be made in the coming weeks and months to allow for a full transition of the process. I would offer the following suggestions to ensure that this change is made on a strong foundation and not hurried through, as follows:

- Allow the 2024 development cycle that is already underway to go unchanged for the IECC and IRC Chapter 11;
- Establish a clear and transparent standards process by which participation can still be accessible to jurisdictional members, including a committee structure that adequately weights ICC's governmental members; and
- Establish a clear and binding position and goal for the new standard to reach a goal of net-zero efficiency levels by 2030.

Making a rapid shift in the development of the 2024 IECC will result in hasty decisions made to compete against the clock for a process that has already begun. Creation of a committee will necessitate the need to consider what types of representatives should be appointed to the standards committee, what their terms should be, release of a call for committee, a reconsideration of how proposals would be submitted and reviewed through cdpAccess, education to membership on how they may still interact with the standards process, and the list goes on. All of which would need to be completed in a relatively short timeframe to develop a 2024 IECC Standard that meaningfully addresses the concern of maintaining a code "that keep[s] up with rapid changes and advancements in technology related to energy conservation". NBI urges the Board to consider using the 2024 code cycle to fully develop and begin a standards committee that would work on the 2027 IECC. This would allow for adequate time for

each step required in the formation of a committee and process. The release of the 2024 IECC would be well established to enter directly into the continuous maintenance process of a standard.

This additional cycle to initiate standards development would also be beneficial to allow time for closer coordination with key partners like ASHRAE who have an existing standards process and a relationship with ICC. A clear answer to the question of whether the needs of the industry are best served to have competing standards, or if a coordinated effort like the previous consolidation of the International Green Construction Code and ASHRAE Standard 189.1, would create a better outcome for the needs of ICC's members and the building industry at large.

NBI additionally offers the following comment on a potential committee construction: provide a favorable weighting of seats to governmental members. Industry and advocates have a continued roll to play in the development of what might be an ICC energy standard, but the end-users, and ICC members, should be well represented on the committee(s). These things, taken together, can hopefully help establish a process that continues to hear from and engage with the ICC membership, as well as meets the needs of a standards process.

Finally, the ICC members showed up to vote to combat climate change. To remain on track to serve the membership with a code or a standard, NBI recommends the development and publication of a binding target for IECC development that achieves net-zero levels of efficiency by 2030. This is fundamentally what the voters who turned out for the 2021 IECC process and jurisdictions across the nation are asking the ICC to develop within this timeframe. Anything short of this goal, in a code or a standard, is not meeting the needs of the jurisdictions, residents, and building industry served by the I-Codes.

In conclusion, it is NBI's view that the change from a code to a standard will not produce a less controversial process, only a less transparent and representative one. NBI urges the Board to maintain the IECC as a code. In the event the Board moves ahead with the change, we would urge the Board to fully consider how the change meets the long-term goals and objectives of jurisdictions and establish a standards processes to ensure continued value to the users and implementers of the current IECC. Thank you for your thoughtful consideration of these comments and recommendations.

Sincerely,

A handwritten signature in blue ink, appearing to read 'K. Cheslak', with a long horizontal flourish extending to the right.

Kimberly Cheslak
Director of Codes