Impact of Online Voting / Cost Impact / Voting Guides  
Voter Eligibility / Validation Process

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2021 IECC

2019 GROUP B PROPOSALS

PROTECTING THE CODE DEVELOPMENT PROCESS

https://www.youtube.com/watch?v=hQw4YBNOIs0&feature=youtu.be
While the mission of Leading Builders of America (LBA) is to protect home affordability, it is the material and significant irregularity of process and procedure which occurred during the 2019 Group B Code Development Cycle that LBA seeks to have its appeal sustained.

Key Issues:
1. Proprietary, “for profit” interests unfairly manipulated the process to ensure the final action results favor the use of their products.
2. Other Stakeholders including LBA were denied due process.
The Consequences

The 2021 IECC and IRC will become egregious cost ineffective codes.

Adoption of the 2021 IECC will be negatively impacted.

ICC will lose all creditability as a fair and balanced code development organization.

Code development participation by code officials will further diminish.

Codes will be completely written by proprietary interests in the future.

Other codes will become vulnerable to this manipulation.
Cost Impact

Although cost is not grounds for sustaining an appeal, the negative impact to home affordability and the home-building industry due to the **violation of process** that took place cannot be overstated.

If corrective action is not taken, the 2021 IECC has the ability to **eliminate close to 1.8 million new homebuyers** from the market, while adding exorbitant cost and an unbalanced benefit to remaining homebuyers.
The Foundation

Governmental Consensus

Similar to the development of laws, the ICC code development follows a governmental consensus process that includes open forums of debate and refinement. It is an open, inclusive, and balanced consensus process with built-in safeguards designed to prevent domination by a single vested interest. The system ensures fairness in the process, controls against conflicts of interest, and prevents vested economic interests from determining the outcome of all code change proposals. This system of code development has provided the citizens of the U.S. the highest level of building safety in the world for more than 80 years. The ICC governmental consensus process meets the principles defined by the U.S. Standards Strategy of 2005; the OMB Circular A-119, Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities (1998), codified by Public Law 104-113, National Technology Transfer and Advancement Act of 1995. The key mechanisms that govern the ICC governmental consensus process include:
Due process is a guarantee under these core principles and rules of CP#28.

- It is **open, inclusive** and a **balanced consensus** process
- Has built-in safeguards to prevent **domination by a single vested interest**
- Ensures **fairness**
- Controls against **conflicts of interests** from determining the outcome of code change proposals.
1.2 Objectives: The ICC Code Development Process has the following objectives:

- **1.2.1** The timely evaluation and recognition of technological developments pertaining to construction regulations.

- **1.2.2** The open discussion of code change proposals by all parties desiring to participate.

- **1.2.3** The final determination of Code text by public officials actively engaged in the administration, formulation or enforcement of laws, ordinances, rules or regulations relating to the public health, safety and welfare and by honorary members.

- **1.2.4** The increased participation of all parties desiring to participate through an online submittal and voting process that includes opportunities for online collaboration.
1.4 PROCESS MAINTENANCE:

The review and maintenance of the Code Development Process and these Rules of Procedure shall be by the ICC Board. The manner in which Codes are developed embodies core principles of the organization. One of those principles is that the final content of the Codes is determined by a majority vote of the governmental and honorary members. It is the policy of the ICC Board that there shall be no change to this principle without the affirmation of two-thirds of the governmental and honorary members responding.
MAPC website “Validating Voters Webinar” 8-20-2019 posted to YouTube 8/26/2019
https://www.youtube.com/watch?v=u8yFj87MJuk&feature=youtu.be
123 NEW GMs are validated by March 2019. But not posted to the ICC website until November.

696 new GMVRs entered the process in a 10-day period in September.
Proprietary Interests

Proprietary interests led by the Energy Efficient Code Coalition (EECC) unfairly manipulated the ICC code development process to deny due process to other stakeholders including LBA.
EECC Supporters

**Government**
- National Association of State Energy Officials
- ICLEI
- **Broad-Based Energy Efficiency Groups**
  - The Alliance to Save Energy
  - American Council for an Energy Efficient Economy (ACEEE)
  - United Nations Foundation
  - Institute for Market Transformation
- **Regional Energy Alliances**
  - Midwest Energy Efficiency Alliance (MEEA)
  - Northeast Energy Efficiency Partnerships (NEEP)
  - Northwest Energy Codes Group (NECG)
  - South-central Partnership for Energy Efficiency as a Resource (SPEEDER)
  - Southeast Energy Efficiency Alliance (SEEA)
  - Southwest Energy Efficiency Project (SWEEP)
- **Academia/Think Tanks**
  - American College and University Presidents Climate Commitment
  - Center for Resource Solutions
  - New Buildings Institute

**Affordable Housing Advocates**
- Enterprise Community Partners
- Global Green USA
- Housing Assistance Council
- LIISC – Local Initiatives Support Corporation
- National Housing Institute
- National Low Income Housing Coalition

**Architecture**
- American Institute of Architects
- Ed Mazria, Architecture 2030

**Energy Consumers**
- Consumers Federation of America
- Energy Outreach Colorado
- Public Citizen

**Faith-Based Groups**
- American Values Network

**Energy Efficient Construction Organizations**
- New Buildings Institute
- RESNET

**Labor**
- Apolitical Alliance
- Blue Green Alliance

**Business and Insurance**
- American Chemistry Council
- Business Council for Sustainable Energy
- Current Energy
- Environmental Business Council – New England
- Extruded Polystyrene Foam Association (XPFA)
- Fireworks Fund
- Green Chamber of Commerce
- North American Insulation Manufacturers Association (NAIMA)
- Northwest Environmental Business Council
- Polyisocyanurate Insulation Manufacturers Association (PIMA)
- Structural Insulated Panel Association (SIPA)

**Environmental Groups**
- Center for Environment, Commerce & Energy
- Climate Crisis Coalition
- Community Environmental Council
- Environment America
- Environmental Law and Policy Center
- National Wildlife Federation
- Natural Resources Defense Council (NRDC)
- Sierra Club
- 2020 Vision

**Utilities**
- American Public Power Association
- Edison Electric Institute
- National Rural Electric Cooperative Association
Blueprint for Manipulation

- Selectively recruit government members
- Control online vote by distributing voter guide through non-proprietary members
- Keep the names of voters secret from other stakeholders
EECC Supporter Webinars

EECC participated on recruitment/coaching webinars hosted by their governmental members and their surrogate groups to selectively curate new sympathetic voters into the process.

- Coached New Governmental Members on how to register their voters to maximize the vote during the OGCV
- Lobbied GMs on how to vote during the OGCV
Key Non-Proprietary Supporters of EECC

IECC Partners

[Logos of various organizations]
“Just a reminder that we want to be maximizing the number of votes in each department to ensure the most efficient code possible.”
36 minutes in Bill Fay with EECC begins speaking on the webinar.

Fay states that there are potentially more than 100,000 governmental voters out there.
MA Cities and Towns: Finalizing Your IECC Voter Roster

MAPC's Codes for Climate Webinar Series and Zero to 101 Initiative

August 20, 2019

MAPC website “Validating Voters Webinar” 8-20-2019 posted to YouTube 8/26/2019
https://www.youtube.com/watch?v=u8yFjJ87MJuk&feature=youtu.be
Agenda

1. Local Codes Update
2. Registration Results and Next Steps
3. How To: Completing Voter Validation
4. Nationwide Efforts and Expected Code Proposals
5. Q & A

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Results of MAPC Registration Efforts

Target: 400 votes

82 Govt Members

420+ Potential Voters

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https://www.youtube.com/watch?v=u8yFj87MJuk&feature=youtu.be
693 “Last-Minute” New OGCV GMVRs
273 Came From Massachusetts
MAPC website “Validating Voters Webinar” 8-20-2019 posted to YouTube 8/26/2019

https://www.youtube.com/watch?v=u8yFj87MJuk&feature=youtu.be
Voter Validation

To start, go to: http://www.iccsafe.org/ and log in using the email and password you created. If you don’t have this, look for your membership confirmation email from the ICC.

1. Navigate to My ICC in the top right hand corner of the site.

2. Select Voter Validation within the My ICC portal (left hand column). Scroll down and click add representative.

3. Enter a voter’s contact information, and how they meet ICC eligibility (from dropdown menus), and click save. Do this for each voter, up to 4, 8, or 12. Don’t forget to include yourself if you plan to vote!

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The webinar speaker proceeds to explain step by step how to login into ICC website and add GMVRs.

**Question 1:** The ICC Bylaws require that all voters “shall be employees or officials of the Governmental Member or departments of the Governmental Member, provided that each of the designated voting representatives shall be an employee or a public official actively engages 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.” Please choose the description that best describes the voter’s duties.

**Please Select**
- Administers the laws, ordinances, rules or regulations of this Governmental Member.
- Formulates the laws, ordinances, rules or regulations of this Governmental Member.
- Implements the laws, ordinances, rules or regulations of this Governmental Member.
- Enforces the laws, ordinances, rules or regulations of this Governmental Member.

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https://www.youtube.com/watch?v=u8yFj87MJuk&feature=youtu.be
Question 2: This voter is a(n):  
Please Select  
Paid Employee of this Governmental Member.  
Third-Party Contractor of this Governmental Member.  
Elected official of this Governmental Member.  
Other – (Please specify)  

I hereby affirm that the information I have provided is true and accurate in all respects. I understand that ICC membership and voting status is subject at any time to review by ICC. I also understand that choosing the “Save” button is equivalent to my signature and confers on me the responsibility as to the accuracy of all statements herein.
At 34:33 of the video, the speaker says

“Don’t lose sleep over which one of these you’re selecting, we talked about eligibility before and if you have questions over who should qualify to either of these questions, just let us know and we can help walk you through it. But there is no wrong answer between these options.”
Timing of Webinars was Geared to Deny Due Process to Stakeholders

The timing of the recruitment effort was deliberate and purposeful as well.

Webinars were held just weeks prior to the application deadline to ensure ICC was flooded with a surge of new voters to validate.

New voting members were not posted to the ICC member directory, in many cases until weeks after the Online Governmental Consensus Vote (OGCV) was well underway, effectively making them secret to all other stakeholders.

All the while, EECC had exclusive and unfettered access tolobby these voters and advance its agenda.
EECC’s Voting Guide

EECC developed a voting guide which included 23 proposals related to insulation.

The voting guide also included all of the “double disapproved” proposals.

Using its unique non-proprietary supporters, EECC was able to funnel its voting guide to governmental members to follow during the OGCV.
You will need:

- Your email, password, & PIN to log on
- Voting guide on 2021 IECC

Questions about MA? rebecca@massclimateaction.net
Questions about the national level? mellingson@ase.org

MAPC website “Validating Voters Webinar” 8-20-2019 posted to YouTube 8/26/2019
https://www.youtube.com/watch?v=u8yFj87MJuk&feature=youtu.be
What You Need To Vote

- A computer with internet connection
- 40 to 60 minutes to sit down and vote
- EECC's voter guide
- A username, password and PIN to CDP Access

How to Vote on the 2021 IECC A Codes for Climate Webinar

38 views • Nov 18, 2019

MAPC Metro Boston
117 subscribers
How to Vote on the 2021 IECC A Codes for Climate Webinar

https://www.youtube.com/watch?v=2RQO83ut4YI&feature=youtu.be
OGCV reversals include 20 “Double Disapproved” Proposals:

CE12, CE49, CE56, CE217, CE262, RE21, RE29, RE32, RE33, RE36, RE37, RE126, RE145, RE147, RE151, RE182, RE184, RE192, RE204, RE209
Voting Patterns of the OGCV

• The vote count for Group B proposals ranged between 147-550, except for 108 IECC/IRC-E proposals.

• The vote count range for these 108 IECC/IRC-E proposals was between 626-1,105 votes.

• The EECC Voting Guide included all 108 IECC/IRC-E proposals.

• The OGCV results followed the EECC voting guide with a variation of less than 3% (105 out of 108).

• There was an influx of 696 new GMVRs in a 10-day period in September 2019.

• These "last-minute" GMVRs were material to the reversal of 26 IECC/IRC-E outcomes, (including the 20 double-disapproved proposals) resulting from the OGCV.
Violations of CP#28-05

• EECC recruited new Governmental Members and assisted them in getting their representatives validated just before the deadline for registration so they could participate during the OGCV. Why? To ensure the identity of the voters remained secret to all other stakeholders except EECC. Thereby ensuring EECC had exclusive access to these voters. And all the while, EECC was lobbying these GMs to follow its voting guide.

• While voting guides have been widely used and are not disallowed by CP#28, the almost perfect adherence between the OGCV results and the EECC voting guide provides virtually indisputable proof that EECC curated “last-minute” voters to ensure they had access to them to the exclusion of all other interested parties, including LBA. This enabled EECC to secure the outcomes it desired on the proposals identified in its voting guide during the OGCV.

• YouTube and EECC partner website videos and emails further confirm this fact.

• EECC’s exclusive access to new Governmental Members they recruited, coupled with the fact that these new voters were not posted to the ICC Member Directory for nearly the entire code cycle is a violation of 1.2.2 of CP#28. All parties desiring to participate in the process were not afforded the right to an OPEN discussion of code change proposals because they did not have access to these voters.
Double Disapproved Proposals

Virtually all the over-turned double disapproved proposals never received a substantive debate during the Public Comment Hearing because their disapprovals were never over-turned. Therefore, there was no discussion of Public Comments or full debate on “As Submitted”.

As a result, voters during the OGCV never had the ability to fully vet these proposals. This too was a violation of Council Policy 28 Section 1.2.2 because there was not an open discussion for approval of these code change proposals.
Remedy

The violations of 1.2.2 and 1.4 of CP#28 constitutes a material and significant irregularity of process or procedure as described in 6.3.8 of CP#01-03 - Appeals.

For this reason, LBA’s appeal should be sustained and the Appeals Board should take the following actions:

1. Reverse the actions taken during the OGCV on IECC/IRC-E proposals.
2. Uphold actions taken during the PCH.
Recommendations for Strengthening the Process for the 2021/2022 Cycle and Beyond

1. Strengthen ICC’s bylaws and CP#28 so that the violations that occurred in this cycle, can never happen again

2. ICC’s validation process needs to better ensure online voters truly comply with eligibility criteria.
   - Ask GMs and GMVRs to not just check a box but to describe how their job responsibilities comply with eligibility criteria.

3. Double disapproved proposals should not be permitted to move onto the OGCV

4. Make the FULL disclosure of financial interests a mandatory part of code change proposal submittals.