

January 11, 2021

International Code Council - Board of Directors
c/o Mike Pfeiffer
Via email only: memberinput@iccsafe.org

RE: **In Support of Adopting Code Council Consensus Procedures for IECC**

Dear ICC Board:

Thank you for this opportunity to provide our thoughts regarding a proposal (“Proposal”) to change the way the commercial and the residential provisions of the International Energy Conservation Code (“IECC”) are developed.¹ Currently, the IECC is developed using ICC’s Governmental Consensus Process (“Governmental Consensus”). If the Proposal is adopted, the IECC will be developed using the ICC’s Code Council Consensus Procedures.

The Proposal to develop the IECC using Code Council Consensus Procedures originated in a recommendation made to the ICC Board by the Appeals Panel (“Appeals Panel”) assembled to hear appeals taken from the 2019 Group B On-Line Governmental Consensus Vote (“2019 OGCV”). In turn, the ICC Board referred that recommendation to its Long-Term Code Development Committee (“LTCDC”). After discussing it in several open meetings, the LTCDC voted to recommend that the ICC Board adopt the Proposal to use Code Council Consensus Procedures to develop the IECC.

In short, we fully agree with the recommendations made by the Appeals Panel and the LTCDC. The process for developing the IECC clearly needs improvement. Application of the Governmental Consensus process has led to unintended surprises and inconsistencies detailed in several appeals taken from the 2019 OGCV. Technical Committee recommendations affirmed by Public Comment Hearing votes were surprisingly overturned by the 2019 OGCV with no publicly reviewable basis. Additionally, some outcomes were inconsistent with others. Considering these and other concerns, we join the LTCDC in concluding that adopting ICC’s Code Council Consensus Procedures to develop the IECC will enable the ICC to put needed

¹ Although we represent several National and Multi-national Clients in development proceedings before the ICC and numerous other code and standard development organizations, we are submitting these comments on our own behalves, not on behalf of a Client.

energy improvements in place more quickly, while allowing a greater in-depth investigation and analysis than time limits imposed by the Governmental Consensus process currently allow.

Even ignoring the 2019 OGCV results, adopting the ICC's Code Council Consensus Procedures will yield a more effective, balanced, and responsive energy code. In fact, ICC's own expertise in using the Code Council Consensus Procedures ensures that result. ICC's expertise is demonstrated by a rich history of establishing Code Council Consensus Committees to develop a dozen standards critical to its mission, covering everything from Accessible and Useable Buildings and Facilities, to Residential Seismic Assessment and Retrofit Standards, to the construction of Storm Shelters. Moreover, in 2018 and 2019, ICC undertook a comprehensive and thorough review of its Code Council Consensus Procedures. That review resulted in changes broadening the interest categories used to ensure that its Code Council Consensus Committees were organized effectively and efficiently while providing greater representation to all those interested in the development process. Additionally, procedures were put in place to ensure the speedy resolution of issues raised by comments and objections, all while ensuring that every participant would have an opportunity to be fully heard.

Certain groups oppose the use of the Code Council Consensus Procedures to develop the IECC, but the precise grounds for that opposition are unclear or make little sense. For example, some argue that adopting the Proposal will result in some sort of disenfranchisement. But, Rule 2.1 of the *Procedures for ICC Consensus Committees* identifies nine (9) different "interest categories" required to balance an ICC Consensus Committee. These interest categories are far ranging and include, literally, every conceivable person or group that might be interested in the work of the Committee. The interest categories range from government regulators, consumers, users, to the public segment, to manufacturers, insurers, utilities, test laboratories, and builders. In addition, Rule 2 mandates that Consensus Committee "membership[s] shall be sufficiently diverse to ensure reasonable balance without dominance or imbalance by a single interest category, individual or organization." Accordingly, the *Procedures for ICC Consensus Committees* do not allow any interest or group to be "disenfranchised."

If, on the other hand, this so-called "disenfranchisement" refers to the perceived ability of some group or entity to "dominate" some of the 2019 OGCV outcomes that were appealed, then that disenfranchisement argues eloquently in favor of developing the IECC using the ICC Code Council Consensus Procedures rather than the Government Consensus Process.

Finally, ICC's Code Council Consensus Process will allow the IECC to be far more nimble, adaptive, and dynamic than is currently possible using the Government Consensus process. Technologies, costs, economic concerns, and the public's diverse appetite for energy conservation are not static and should not be relegated to consideration once every three years. If developed using the Code Council Consensus Process, the IECC will undergo "continuous maintenance" that will ensure its development process will continue continuously, every year, beyond IECC's regular publication. Developing the IECC under "continuous maintenance" will result in an IECC that is agile and able to respond quickly to energy improvements as soon as they exist. Waiting until the next development cycle rolls around will become a thing of the past.

In closing, we urge the ICC Board to adopt the recommendation made by its Appeals Panel and its LTCDC to begin developing the IECC using Code Council Consensus Procedures. The

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Appeals Panel and LTCDC consist of highly respected ICC Members whose conclusions on how to properly move forward developing the IECC are worthy of deference. They heard the interested parties, they weighed opposing viewpoints, and both bodies reached the same, sound and reasonable conclusion.

Adopting the ICC's Code Council Consensus Procedures to develop the IECC will restore confidence to the many important energy conservation issues that confront energy code development in our Country daily. Good and sufficient grounds clearly exist to transition development of the IECC from the Governmental Consensus process to the Code Council's Consensus Procedures in accordance the framework put forward by the Code Council Board.

Very truly yours,

Thomas S. Zaremba

Thomas S. Zaremba

A handwritten signature in black ink, appearing to read 'Nicholas P. Resetar', with a long horizontal flourish extending to the right.

Nicholas P. Resetar

NPR/TSZ