

#2804

From: Smith, James M.
Sent: Friday, December 04, 2009 3:54 PM
To: IRRC
Subject: FW: PBA Comments--UCC Regulation (DEC. 10 Meeting)
Attachments: Pennsylvania Builders Association Comments--No 2804 Department of Labor Industry # 12-89 _Uniform Construction Code_.pdf

Comment on final #2804

From: Grant Gulibon [mailto:ggulibon@pabuilders.org]
Sent: Friday, December 04, 2009 3:42 PM
To: Smith, James M.
Subject: PBA Comments--UCC Regulation (DEC. 10 Meeting)

Jim-

As we discussed earlier this afternoon, here are PBA's comments on the UCC regulation on the Dec. 10 IRRC agenda. Please contact me if you have any questions or need additional information.

Thanks,
Grant

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Memorandum

TO: Members of the Independent Regulatory Review Commission

FROM: Dan Wise, Chairman
PBA Uniform Construction Code Task Force

Date: December 4, 2009

Subject: Comments on Final-Omitted Regulation—No. 2804
Department of Labor & Industry #12-89: Uniform Construction Code

The Pennsylvania Builders Association (PBA) appreciates the opportunity to offer comments on the final-omitted regulation, "No. 2804 Department of Labor & Industry #12-89: Uniform Construction Code." PBA respectfully requests that the regulation be disapproved for the following reasons:

1. Many of the changes to the 2009 Uniform Construction Code (UCC) will result in costs that will exceed their benefits. It is estimated that the proposed 2009 building code standards will add a minimum of \$10,000 to the cost of a new 2,500 square foot home. This cost is difficult to calculate because of all the variables involved in new home construction, such as the size of the house. However, residential construction experts have concluded that this is a reasonable and conservative dollar estimate.

Even relatively small increases in new home prices have a large economic impact, and a \$10,000 increase will stall the homebuilding recovery. A report from the National Association of Home Builders on the impact of government regulation on housing finds that each \$1,000 increase in the cost of a new median-priced home forces 217,000 prospective buyers out of the marketplace. Using this statistic, a \$10,000 increase will force more than 2 million prospective buyers out of the marketplace. Pennsylvania alone has seen the number of building permits issued fall from 21,097 in 2004 (at the height of the housing boom) to 5,823 as of July 2009. Now is not the time to make new homes more expensive.

Conversely, economic recovery in the housing sector can have a major impact on Pennsylvania's economy, especially when one considers that housing represents 15% of Pennsylvania's gross state product. A regional Pennsylvania study (*Economic Impact of*

Home Building in Suburban Philadelphia – 2005/2006) found that the construction of 100 single-family homes in the Philadelphia region generates \$25.6 million in local income, \$3 million in taxes and fees for local governments and nearly 450 local jobs. Clearly, new home building is vital to the state's economy. Additional state mandates that make new homes less affordable will slow the recovery of the housing industry and in turn, bog down the entire state economy.

At the same time, adoption of the 2009 UCC will impose significant additional costs on municipalities, if for no other reason than the cost of purchasing new code books and materials. For instance, when Act 45 was adopted in 1999, it adopted the 1996 Building Officials and Code Administrators International, Inc. (BOCA) code—a 376-page code book. Since the dissolution of BOCA and the merger which formed the International Codes Council (ICC), the required set of code books now numbers in the thousands of pages. Simply postponing adoption of all the new ICC codes until a better system can be established would save municipalities over \$4 million in the costs of these books alone.

In short, taking into account that Pennsylvania and the nation as a whole are in the worst recession in years, now is not the time to impose unnecessary additional costs on local governments, small businesses and consumers.

2. The process through which the 2009 ICC was adopted has drawn heavy criticism due to obvious irregularities in the voting process. Construction and safety experts meet twice every three years to consider and vote on proposals to change the code. During the day of Saturday, Sept. 20, 2008, the vote counts for code changes being considered varied from 140 to 220 total votes cast.

However, the evening of Sept. 20 saw the arrival of hundreds of fire services representatives at the registration desk, which continued into Sunday morning. By the time RB-64 and RB-66 (mandating fire sprinklers) were heard, the total vote counts were 1,752 and 1,690, respectively. Following a lunch break (and the exodus of the participants representing fire services), the total vote count on changes returned to under 250.

This influx of voters, conveniently bused to the hearings just in time for the fire sprinkler votes, had the sole agenda of mandating fire sprinklers and had no real interest in the methodical, proven process used by experts to consider updates to the code. Most of these additional voters were part of a multi-million dollar sponsorship program funded in large part by one of the largest sprinkler manufacturers in the world. The sprinkler industry expects a \$3 billion jump in annual revenue if this code provision is enacted nationwide. Additionally, the ICC failed to properly verify the eligibility of many of the voters. A review of records from the Pennsylvania Department of State showed that 24 percent of Pennsylvania registered, ICC-member voting representatives were, in fact, ineligible to vote under the ICC bylaws. It appears that this was the case nationwide, and it may have been the difference in the outcome of these votes. In response, the ICC has formed a task force to address the problems and has initially proposed policy and bylaw changes to the process, and PBA believes that the same opportunity is needed in Pennsylvania.

Due to the controversy, the ICC has also decided to re-review and reconsider revisions to several controversial decisions made during the meeting. The net effect of the revisions would be to delete the reference of the mandatory requirement of residential sprinkler systems in one-and-two family dwellings and townhouses, and replace it with language that explains the proper installation design and requirements of such a system when it is provided. This change will provide the homeowner with the continued ability to choose whether or not a residential sprinkler system is appropriate for their situation.

3. There needs to be a “time-out” to review not only the code development process, but also the multitude of problems which have surfaced regarding the UCC. Act 45 of 1999 has been amended 10 times in 10 years, with no less than 15 bills pending in the House and Senate for consideration this year. At the same time, the Pennsylvania UCC Review and Advisory Council (RAC) has identified no less than 15 revisions to the UCC Rules and Regulations that at this point in time do not appear to have been considered.

It is also important to note that to date no states have yet adopted the 2009 ICC codes. Fourteen states are still working with the 2000 or 2003 ICC codes, and will likely either stay where they are or adopt the 2006 codes this year. Also, there have been several states that have already rejected adoption of the 2009 ICC codes or at least eliminated the fire sprinkler provisions from the adoption.

PBA believes that legislation should be enacted that would keep in effect the current 2006 ICC codes, essentially “postponing” the adoption of any new code changes for three years except through the process already established in section 503 of the UCC. PBA further proposes to take the next three years to work with legislators and other stakeholders to look at the problems which have surfaced since the implementation of the UCC, and evaluate how the codes process should best function to produce a reasonable and rational building code in Pennsylvania. Working together, legislators and concerned organizations can ensure that by 2012 we have a revised building code process that not only ensures quality home construction but also affordability for the municipalities, builders and new home consumers affected by the code.

Pennsylvania is ranked among the top-20 states for its homeownership rate. By keeping new homes affordable, our state can continue to be a national leader in this important area, and the development of a reasonable building code is a key component in doing so.

Thank you very much for the opportunity to submit our comments for your consideration. If you have questions or would like additional information, please contact me at dwise@granddesigngroup.us or Grant Gulibon, PBA regulatory specialist, at ggulibon@pabuilders.org.