California Energy Commission
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CALIFORNIA ASSOCIATION OF REALTORS®

July 12, 2013

California Energy Commission
Dockets Office, MS-4
RE: Docket No. 12-EBP-1
1516 9th Street
Sacramento, CA 95814-5512
Email: docket@energy.ca.gov

RE: Comprehensive Energy Efficiency Program for Existing Buildings (AB 758): Draft Action Plan and Staff Workshop

Dear Commissioner McAllister:

Thank you for the opportunity to provide comments on the Comprehensive Energy Efficiency Program for Existing Buildings (AB 758) Draft Action Plan and Staff Workshop. The CALIFORNIA ASSOCIATION OF REALTORS® (C.A.R.) seeks to be a resource to the California Energy Commission and its staff as it develops voluntary/mandatory pathways to improve energy efficiency in the existing building stock.

We favor the indication in the draft that the Commission will not seek to require mandatory upgrades to existing buildings until all voluntary pathways have been exhausted. C.A.R. also supports the Draft Action Plan's strategy of a "glide path" for implementation that will incentivize the voluntary adoption of energy efficiency ratings, audits and upgrades prior to mandating "basic" energy efficiency improvements by a specified date.

We believe that a "date certain" approach will be an effective community-wide comprehensive approach to improving energy efficiency, and will help the Commission reach the State's goals to reduce energy consumption. The Commission should not, as the draft plan suggests, "pick a winner" among implantation strategies at the local level. Local government should be presented a variety of options for model green building/retrofit ordinances, not simply time-of-sale as the sole implementation strategy.

C.A.R. looks forward to collaborating with the Commission, its staff and other key stakeholders to develop a comprehensive statewide program to improve energy efficiency in ***all*** California homes. To that end, we respectfully request to be included as a member of the "AB 758 Working Group". It is our understanding that Working Group will assist the Commission in evaluating the need and feasibility for mandatory disclosures and "basic upgrades" of existing structures. As the statewide representative of organized real estate, the CALIFORNIA ASSOCIATION OF REALTORS® is uniquely qualified to assist the Commission in this endeavor.

Set out below are key concerns and policy development strategies that we believe must be considered when developing the Commission's Final Action Plan.

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1121 L Street, Suite 600, Sacramento, CA 95814 Tel (916) 492-5200 Fax (916) 444-1794 www.car.org

MAKING "DATE-CERTAIN" WORK.

C.A.R. supports the use of statewide "date-certain" requirements when mandating basic energy efficiency improvements and believes the most effective approach would be a phased-in implementation either based on city, county or region. The program should consider regionally specific characteristics, such as a local climate and age of housing, while also conducting a community by community staggered approach to reach all housing throughout the state.

Date-Certain Success Stories

Example 1: The Town of Truckee (Town) adopted an ordinance in 2004 to phase-in a date-certain requirement for wood stove replacement. The Town was divided into 4 "grids" or phases, and assigned a specified date for compliance. The final phase was completed December 1, 2008. In addition to implementing a rolling date-certain for compliance, homeowners were incentivized to remove non-certified wood burning devices prior to the mandated enforcement date by $300-$500 rebates for complying with the requirement.

Example 2: In 2005, the Squaw Valley Fire Department mailed out notices to property owners to inform them of the areas defensible space requirements. Starting July 6 of that year the department began inspecting ALL homes for defensible space compliance and offered opportunities for free yard vegetation waste disposal. Communitywide compliance has been achieved.

REQUIRING AUDITS OR RETROFITS UPON RESALE CREATES COSTLY TRANSACTION DELAYS.

While C.A.R. supports voluntary, systematic and efficient programs to encourage energy efficiency improvements (including audits), we adamantly oppose any proposal that would require the completion of energy audits and/or retrofits as a condition of listing the property or completion of sale. Time-of-sale strategies create burdensome and costly transaction delays and exacerbate housing affordability challenges. A $1,000 increase to the purchase price of a median priced home disqualifies over 18,000 California households. Imposing an additional $600 - $25,000 on every transaction or listing would severely impede the recovery of an already fragile real estate market. In fact, according to C.A.R.'s Research and Economics Department, requiring $5,000 of improvements upon resale would disqualify over 90,000 households from qualifying to purchase a median priced home. Similarly, requiring $25,000 would potentially disqualify over 452,000 households from purchasing the same homes.

USING THE LISTING PROCESS SA A TRIGGER MAKES EVEN LESS SENSE.

With 13.7 million single-family and multifamily residential units in California, the vast majority of existing housing was built before current energy efficiency standards. Waiting for a home/structure to be listed or sold in order to require audits/ratings and retrofits simply does not make sense if the state is to achieve its goal to reduce energy consumption by 2020. This approach couldn't reach the required number of housing units. In addition, C.A.R. would oppose any such mandate, as it would effectively result in "chilling" the real estate market, which is already constricted by a lack of available supply. A time-of-listing mandate would require sellers to make a substantial investment in the property that they may be unable to recoup due to market conditions.

A far better option for providing information related to a building's energy performance within the transaction would be to disclose utility bills, or a 3rd party "no touch" evaluation, in conjunction with the sale. This approach would be consistent with the draft action plan's to exhaust all voluntary measures before pursuing mandatory measures, or the more effective "date-certain" requirements.

UTILITY RECORDS PROVIDE MOST EFFICIENT AND COST EFFECTIVE DISCLOSURE.
While utility bills are variable based on an individual's behavior, they would provide purchasers with a baseline understanding of the home's energy history. Utility bills could serve two purposes: 1.) Provide energy usage information during a transaction, and; 2.) Begin to prepare new homeowners to consider efficiency improvements based on a previous occupant's utility usage. [REALTORS® take disclosure responsibilities seriously and they have a good track record of performance, if they have a user-friendly way to discharge their responsibility.]

Requiring sellers to provide buyers with a copy of their most recent utility bill during a property transaction would facilitate an easily obtained, cost effective alternative for transmitting energy related information to purchasers and would not increase seller liability regarding the energy efficiency of their home.

REALTORS® PROVIDE VALUABLE INFORMATION TO PURCHASERS OF REAL PROPERTY.
REALTORS® provide buyers and sellers with a great deal of information related to the buy/sell transaction. They are not, however, experts on energy efficiency rebates and financing. REALTORS® currently provide a HERS booklet in every real estate transaction in an effort to assist with consumer education. Should the Commission desire to have additional educational information provided to buyers/sellers of real property, there will need to be a single universal source available for REALTORS® that directs consumers to a source for all relevant information on energy efficiency financing and rebate options. C.A.R. is aware that the California Public Utilities Commission is working with the California Energy Commission to make Energy Upgrade California such a resource, and while it is still in its early development, this portal could prove to be a vitally important resource for consumers seeking energy efficiency upgrades in the years to come.

VIABLE FINANCING OPTIONS.
Financing for both voluntary and mandatory efficiency audits and improvements is one of the most difficult hurdles for homeowners to overcome and the biggest barrier to market acceptance. However, simply amortizing the costs of an energy efficiency upgrade over the life of a mortgage, without consideration for the energy efficiency product's useful life, is not a sound finance strategy. For example, amortizing light bulbs and most appliances would result in properties being over-encumbered by debt obligations exceeding the improvement in a property's current market value, and burden the property long after the improvement is gone. C.A.R. strongly opposes any attempt to encourage energy efficiency improvement financing that exceeds the useful life of the product, and Federal lending underwriting regulations do not support it either. Energy Efficient Mortgages and 203k loans offered by Government Sponsored Enterprises (such as Fannie Mae, Freddie MAC and FHA) require that total costs of energy efficiency improvements, including maintenance costs, be less than the total present value of the energy saved over the useful life of the improvement. Assuring that improvements create reliable combined cost savings for both energy use and loan repayment to property owners is simply good policy that will encourage participation in retrofitting properties, utilization of energy efficiency financing mechanisms.

DEFINITION OF "COST EFFECTIVE" MUST NOT INCLUDE UNQUANTIFIABLE NON-ENERGY BENEFITS.
Any mandate requiring energy audits and "basic upgrades" on existing housing to be cost effective must not include subjective, non-energy benefits (NEBs) in its "cost-effectiveness" calculation. Programs that do not result in a net savings, or try to utilize NEBs in their calculations to justify imposition, will not motivate property owners to action and only lead to consumer dissatisfaction, resistance and evasion.

NEB's should only be utilized as marketing tools, especially if the Commission is to realize its goal of incorporating energy efficient features in property appraisals and valuations. It is imperative that property owners and purchasers are not misled when evaluating energy efficiency improvements and financing mechanisms. We must avoid the potential overleveraging of properties in either financing or assessed/appraised values. Encouraging, or requiring, loans that exceed the value of the property would invariably impede a very fragile housing market from eventually realizing a full recovery.

MULTIPLE LISTING SERVICES: NOT EQUIPPED TO PROVIDE DISCLOSURES.

Multiple Listing Services (MLSs), are private proprietary systems owned and governed by the National, State and Local Associations of REALTORS®. MLSs are NOT publicly owned databases, but are a proprietary business tool, owned and operated by local REALTOR® associations. C.A.R. would oppose any attempt to take over control of MLS information or to impose requirements that would put our members at an increased risk of liability. We also caution against asking sellers and REALTORS® to provide technical energy details in the MLS. If the fields are misunderstood and answered incorrectly, either by sellers, our members, or by third party verification, it could potentially subject sellers and our members to litigation if the equipment does not perform as advertised in the MLS.

The CALIFORNIA ASSOCIATION OF REALTORS® looks forward to an ongoing collaboration with the California Energy Commission, its staff and all interested parties in the development of meaningful policy that will create cost effective strategies for improving energy efficiency in ALL California homes.

Sincerely,

Jennifer C. Svec
Legislative Advocate
California Association of REALTORS®