

## DOCKETED

<b>Docket Number:</b>	12-HERS-01
<b>Project Title:</b>	Informational Proceeding for the California Home Energy Rating Systems (HERS) Program
<b>TN #:</b>	210409
<b>Document Title:</b>	Response to HERS Rating System and Conflict of Interest
<b>Description:</b>	N/A
<b>Filer:</b>	Patty Paul
<b>Organization:</b>	California Building Officials (CALBO)
<b>Submitter Role:</b>	Public
<b>Submission Date:</b>	2/18/2016 8:49:51 AM
<b>Docketed Date:</b>	2/17/2016



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January 27, 2016

Dave Ashuckian  
Deputy Director  
California Energy Commission  
1516 Ninth Street  
Sacramento CA 95814

RE: HERS RATING SYSTEM AND CONFLICT OF INTEREST

Dear Mr. Ashuckian,

I apologize for not getting back to you sooner regarding your response dated October 23, 2015 to my original letter dated September 4, 2015. As far as the CALBO CEC Advisory Committee is concerned the crux of the matter lies in the requirement for Building Officials to treat HERS Raters as special inspectors. In your response you focused on the second part of the two part requirement found in RA2.1 rather than the first part of the requirement which is what our position is based upon.

*"Raters shall be considered special inspectors by enforcement agencies" and.....*

*.....shall demonstrate competence, to the satisfaction of the building official, for the visual inspections and diagnostic testing that they perform.*

I apologize for not being clearer. For the CALBO CEC Advisory Committee the issue was never about demonstrating competence. The issue was the HERS raters status as a special inspector. As long as the Reference Appendices require the enforcement agency to consider HERS raters as special inspectors then we are compelled to enforce the requirements found in Chapter 17 of the California Building Code.

***"1703.1.1 Independence.*** *An approved agency shall be objective, competent and independent from the contractor responsible for the work being inspected. The agency shall also disclose possible conflicts of interest so that objectivity can be confirmed."*

Dating back to the 1943 Uniform Building Code a special inspector has been required to be employed by the owner or designer and not the contractor to avoid a conflict of interest. In order for a HERS rater to obtain a permit on the contractor's behalf that HERS Rater would have to be an authorized agent of the contractor. As an authorized agent of the contractor, the HERS Rater is

no longer independent. I would not allow a special inspector to obtain a permit for a contractor. As the Building Official for the City of Davis I would not allow a HERS Rater to obtain a permit for a contractor. It is clear to me and to every Building Official I have spoken to about this issue. The CALBO CEC Advisory Committee was unanimous in our decision that this would represent a conflict of interest.

Sincerely,

A handwritten signature in black ink, appearing to read 'G Mahoney', with a stylized, flowing script.

Gregory Mahoney, CBO  
CALBO CEC Advisory Committee, Chair  
1225 8th St #425  
Sacramento, CA 95814  
[gmahoney@cityofdavis.org](mailto:gmahoney@cityofdavis.org)  
530 757-5655

cc: Raj Patel, CALBO President  
CALBO CEC Advisory Committee