

DOCKETED

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Comment Received From: Randy J. Walsh

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Client Advisory: Holding California Accountable - Sort of.

Distributed this week to over 3,000 clients across the State of California, including commercial real estate owners, brokers, attorneys, lenders and appraisers.

Additional submitted attachment is included below.

San Diego Energy Desk: Randy J. Walsh (365)
From: San Diego Energy Desk: Randy J. Walsh (3365)
Sent: Wednesday, March 23, 2016 10:44 AM
To: San Diego Energy Desk: Randy J. Walsh (365)
Subject: Energy Use Disclosure Legislation: Holding California Accountable — Sort of.

Good Morning.

One of our key client offerings came to an end this past September when the State Legislature repealed AB 1103 - California's Nonresidential Building Energy Use Disclosure Program — in its entirety. The same piece of legislation — AB 802 — postponed the implementation of any energy use disclosure programming for calendar year 2016 and introduced a replacement disclosure program to begin January 1, 2017. The repeal and the speed by which AB 1103 was repealed was surprising for a number of reasons, but more than surprising were the odd irregularities behind the repeal and the curious support expressed by a number of professional commercial real estate organizations.

It has taken more than 6 months of back and forth with State Assemblymember Das Williams' office, the California Energy Commission, the State Assembly Rules Committee and Governor Brown's office to pull together a pretty detailed and disturbing chronology of events.

From initial implementation in early 2014 and extending to 3rd quarter of 2015, San Diego Energy Desk successfully brought clients around the State of California into compliance with AB 1103 with timely, accurate and cost—effective disclosure documents. At this point in my research, I don't believe the repeal of AB 1103 and language inserted into AB 802 is of value to the industry. So far, I can't identify any significant benefit that we received by giving up our rights to privacy and data. AB 802 does not resolve the data confidentiality issues raised by the Investor-Owned Utilities. The rush to introduce and pass the revised Assembly Bill - in just under 48 hours and outside the normal legislative calendar — left a number of technical, programmatic and legal questions posed by our elected officials unanswered. The law offers no protections from liability for the property owner required to disclose tenant level operating data. The new language legislates penalties on non—compliant owners — but not on uncooperative utility companies. And, it delegates additional and broader discretionary power to the California Energy Commission —which, over the past 8 years, has developed a poor track record in their ability to bring to market a successful energy use disclosure program.

If you'd like to learn more, I've added links on www.sdenergyclesk.com to 3 recent pieces of correspondence that offer greater detail and support our efforts to hold the State of California and especially the California Energy Commission accountable for a bad law and an even worse process:

- Correspondence to California Governor Brown: requesting indefinite postponement of an upcoming CEC Staff Workshop and outlining a series of allegations and concerns that, in total, undermine the validity of AB 802.
- Correspondence to California Energy Commission Chairman Weisenmiller objecting to an expenditure for on-line access to CoStar databases by CEC staff, again requesting the resignation of Commissioner McAllister and outlining a number of recommendations to restore credibility to both the legislative and regulatory process behind State- wide energy use disclosure programming going forward.
- Correspondence to California Governor Brown: listing specific concerns about the process by which AB 1103 was repealed and the language of AB 802 revised to address energy use disclosure programming.

Thanks for your time. Hope this is helpful. Please consider adding your own voice to the conversation. I can help you articulate your concerns, direct your efforts and leverage our combined resources for greater impact.

As always, ready when you are...

Randy J. Walsh CCIM, LEED AP

Chief Efficiency Optimizer, San Diego Energy Desk

San Diego Energy Desk

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