

## DOCKETED

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<b>Project Title:</b>	Building Energy Use Disclosure and Public Benchmarking Program Mandated under Assembly Bill 802
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*Comment Received From: Justin Mandelbaum*

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**Postpone or Repeal AB 802 California Energy Use Disclosure Regulations**

*Additional submitted attachment is included below.*

M I R A I N V E S T M E N T S

July 15, 2016

The Honorable  
Jerry Brown  
Governor of California  
c/o State Capitol, Suite 1173  
Sacramento, California 95814

Via Facsimile: 916.558.3160

Re: Request to Postpone and Repeal AB 802: California's Energy Use Benchmarking and Public Disclosure Program

Dear Governor Brown:

MIRA Investments invests, manages and develops industrial and residential property in San Diego—primarily in the Miramar (Marine Corps Air Station) submarket. We have been doing so since 1982. We are heavily committed to reducing our carbon footprint and to working with other property owners in Miramar to establish a Maintenance Assessment District. We feel AB 802 will only hamper our efforts to do so.

We support your ongoing efforts and applaud your leadership in reducing dangerous greenhouse gas emissions in the State of California and stands as a strong partner in this important and critical endeavor. We write to you today to ask for your immediate intercession in a flawed and troublesome law that we believe works against the collaborative spirit of this partnership.

MIRA has stayed informed about State -wide energy use disclosure requirements and has continually updated our staff and clients of their many-changing obligations. However, since learning of the State's consideration of this type of program a number of years ago, we have found the compliance process to be convoluted and confusing and without benefit. And as the State considers another version of said disclosure programming, we think it both valuable and

important that we share some insights with you and the California Energy Commission from the trenches of commercial real estate.

First, the commercial real estate industry is a significant contributor to the fiscal health of the State of California. As such, we wish to categorically dispute and refute the current and growing notion, idea or perception that commercial real estate owners are not concerned about conserving energy and reducing emissions. Our business is very competitive. To meet investment requirements income must be generated; to generate that income we must keep occupancy costs low and meet the changing needs of our tenant. Including the recent focus on more sustainable buildings. By adhering to California's stricter and stricter building codes to guide us in building energy efficient spaces; by maintaining our mechanical equipment to ensure efficient operations; by relying on informed contractors and service technicians to bring us new energy efficiency technologies; and by tracking and comparing operating costs to national benchmarking metrics published by reputable industry-specific facilities management organizations but also groups like BOMA, IREM, IASC, NAIOP, etc.

Next, the ultimate goal of State-wide energy use disclosure legislation has never been clear. Nor has a compelling business case been put forth by the California Energy Commission that encouraged anything beyond the simplest level of compliance with AB 1103. It is hard to justify another required and potentially costly disclosure program of questionable benefit when the State of California has already collected building operating data in the California End Use Survey (CEUS) and when close to 5,000 buildings across the State of California have already earned the Energy Star Label. All of this data is readily and publically available and could be supplemented by the many voluntary benchmarking efforts across the State. Taking this one step further, benchmarking energy use performance is not an energy efficiency measure and those jurisdictions with active energy use disclosure programs would be hard pressed to identify any energy savings specifically as a result of a public disclosure of private energy use.

Finally, in the commercial real estate industry, our business relationships are built on legally-binding contracts, which generally have not envisioned a time when private property owners would be required to collect a tenant's private operating data from a third-party utility with whom an Owner may not have a business relationship but with whom the tenant has their own contractual relationship. These agreements certainly never envisioned a future where an Owner would be required to submit the collected data to the State of California for public distribution. This puts property owners and investors in a very tenuous position – unnecessarily. Regardless of any protections the State believes are granted to commercial property owners by the aggregation of meter level data, until this arrangement is codified in a contract and we have the permission of each tenant to collect data in order to comply with the State regulation as written, AB 802 creates unknown and unnecessary liability for commercial property owners. Generally, greater risk can generate greater reward, but in this case we believe this particular risk may result in frivolous and costly legal actions against property owners.

In conclusion, we believe we are well informed on the matter of energy use disclosure by commercial buildings and we believe we are already operating our buildings efficiently. We don't see how a public disclosure of energy use will positively benefit our building operations or our investment returns. While some very reputable commercial real estate organizations have been assisting the State in developing energy use regulations, regardless of their reach and influence, these groups don't speak for the industry beyond their memberships.

In this matter, we feel that we can better represent our individual interests by directly communicating our request for the postponement or repeal of AB 802 – until the State can present a compelling business case for disclosure programs of any type, until these deliberations become more transparent and until the State can identify and engage a more inclusive and representational group of stakeholders.

Thank you very much for your time and for your consideration of this request.

Sincerely,

Justin Mandelbaum  
MIRA Investments  
CEO

Copy: California Energy Commission, Public Docket 15-OIR-05