CALIFORNIA ASSOCIATION OF REALTORS®

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Helen Lam
California Energy Commission
Buildings and Appliances Office
1516 Ninth Street, MS-25
Sacramento, CA 95814-5512

RE: Docket Number 08-HERS-1: California Home Energy Rating System Program

Dear Ms. Lam:

Thank you for the opportunity to provide comments on the California Home Energy Rating System (HERS) Program Phase II Regulations Development. In response to the California Energy Commission's solicitation for comments, we have detailed a general comment regarding implementation of the HERS program that is a particularly important concern that we believe should be considered for the final HERS report.

The CALIFORNIA ASSOCIATION OF REALTORS®. strongly opposes time of sale as a trigger for energy performance testing and ratings and the enforcement of residential energy conservation ordinances. In addition, time of sale trigger mechanisms are doomed to fail to legitimately achieve California's greenhouse reduction goals because of the inherent lack of market penetration in such an approach. In addition, time of sale programs will only act to exacerbate the affordability problems that already plague the housing market.

Time-of-Sale Mandates Hurt Housing Affordability. Every $1,000 increase in the price of a home disqualifies over 20,000 California households from achieving home ownership. Even in the current market, housing affordability in California is still abysmal, while financing has become more restrictive. Home energy audits can cost up to $600+ per home to perform. REALTORS® are concerned about time of sale mandates and their effect of loading new costs on the transaction. Increased transaction costs are in conflict with housing affordability and these costs come at the worst possible time in the ownership cycle.

Time-of-Sale Takes Too Long. About 70% of California's existing housing stock was constructed prior to the implementation of State Energy Efficiency Building Standards in 1978. With less than 2% of homes changing hands each year even in a robust market, only a comprehensive broad-based approach will effectively reach older homes. These older homes use up to 50% more energy for heating and cooling than homes built today, so no other approach makes sense, especially within the timeframe of AB 32. These numbers further exemplify the need for a more comprehensive approach to addressing the existing housing stock.

Lack of Metrics. AB 32 calls for specific target reductions in greenhouse gas emissions by definite dates. While models and forecasts can attempt to conceptualize potential energy efficiency savings from retrofits, in practice, it will be impossible to track and measure savings from energy efficiency interventions if done, as proposed, at time of sale. Each home is unique in its energy efficiency and physical attributes, so retrofits and upgrades will not be uniform. Local ordinances compelling energy audits and retrofits at time of sale are often times neither documented nor tracked, therefore making actual energy efficiency improvements and usage reductions impossible to measure and account for. As California moves toward the goals of AB 32, a comprehensive, systematic approach to energy efficiency improvements and tracking the resulting greenhouse gas reductions is needed.

Transactions Are Time-Sensitive Home energy efficiency ratings and upgrades are not sensitive to the escrow process. When a homeowner begins the audit and improvement process, they must first find and employ a rater. The raters then need to visit and rate the home then provide a report with recommendations and cost estimates. Homeowners are then tasked with making the changes which may include finding and bidding a variety of different specialized contractors to implement the recommended upgrades and retrofits. Once the improvements have been completed, required code enforcement and third party verifications will take even more time to complete. In the context of a home sales transaction, these obligations are unreasonable and overly burdensome. The ability to complete an audit and subsequent improvements outside of escrow can make the difference between a workable and unworkable program.

Insufficient Green Work Force. Previous discussions with the California Energy Commission (CEC) have revealed that there is not an adequate supply of energy auditors to handle home sales in a timely fashion, let alone evaluations of the rest of existing buildings. In certain parts of the state, these professionals may not even be available. This is another reason we suggest that any new requirements be completed outside of a sales transaction.

Renters Overlooked. Almost 40% of Californians live in rental housing. Time of sale mandates primarily affect owner-occupied single-family homes. As a result, millions of Californians won't be affected by, and therefore will not benefit from, home energy efficiency audits and upgrades. Renters with limited incomes and resources are the very population that could stand to benefit the most from lower utility bills.

REALTOR® Liability. REALTORS® take their responsibilities seriously and they have a good track record of performance, but we are not energy conservation experts, don't want to be the "energy cops" in a transaction, and won't be the guarantors of some other experts work product.

A Better Alternative. We agree with the following statement from the Long Term Energy Efficiency Strategic Plan released by the California Public Utilities Commission in July of this year: *"To achieve both widespread and deep levels of energy efficiency throughout the existing housing stock eventually may call upon state or local government leadership."* In keeping with the goals of California's statewide and national energy and environmental policies and commitments, we respectfully suggest that the key to achieving energy efficiency in existing homes lies in a broad, statewide approach that would reach ***all*** California homes. This can be achieved by state and local governments partnering with utilities to target all pre-1978 homes first, then continue this approach to address the remainder of the housing stock. To deal with the negative impact of "front end" costs, we suggest the use of "public good" funds and/or grant programs through the utilities to perform the performance testing and ratings as a reasonable approach. Similarly, if retrofits identified in the audit can be funded through a utility surcharge, grant, or cost-avoidance financing repaid via a utility billing, then that alternative financing may constructively address the cost issue.

We will lend our efforts to making the proactive approach work, and look forward to collaborating with all interested parties.

Thank you for your consideration,

Elizabeth Gavric

Elizabeth Gavric
Legislative Advocate