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Real Estate • Employment Law • Contract Disputes • Litigation • Estate Planning

Via First-Class Mail & E-mail

May 11, 2015

David Ashuckian, Deputy Director
Efficiency and Renewable Division
California Energy Commission
1516 Ninth Street, MS-26
Sacramento, CA 95814

*Re: Conflicts of Interest in the HERS Rating System
& Docket Number 12-HERS-01*

Dear Mr. Ashuckian:

This letter is in follow up to our previous communications, including but not limited to, our recent telephone conversation in which you advised me that, from this point forward, our efforts would be directed towards contributing to the OII process that was currently underway concerning potential rulemaking as to the pressing conflict of interest issue.

While this may have appeared to be an acceptable course of action at the time of our telephone conference, it has become clear that the OII process is a rather slow and laborious endeavor. As such, it is clearly ill-suited to the gravity of the matter that we are now dealing with. Given what now appears to be an almost unanimous agreement among the Providers and the responding building officials that the CEC's position on this matter is incorrect, any OII procedure that goes forward should be to determine whether this process can be allowed to continue as opposed to whether it is going to stop.

In the interests of maintaining program credibility and insuring that the California buying public is getting what they receive, the practice of HERS Raters procuring permits for and/or supplying materials to the contractors, they will eventually inspect must come to a stop. If we spend two or three years going around and around as we did with the Masco matter, we are of the opinion that irreparable harm can be done to the integrity of the Energy Efficient Constructions Process.

Please accept this letter as our renewed request that an immediate meeting be set with Commissioners Douglas and McAllister as requested in our earlier letter. If you are unable to carry out this request, we ask that you enlist the assistance of someone higher up in the

California Energy Commission

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12-HERS-01

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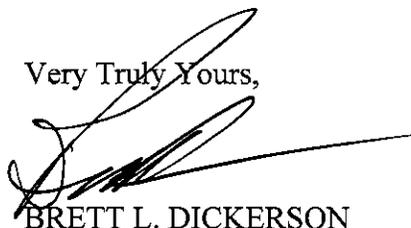
administrative hierarchy in the CEC to assist us in this matter. Please understand that this is not an effort on our part to disrupt your process. Nonetheless, it has become clear that the necessary effort on the part of both the CEC and the Provider involved has not been devoted to this very serious issue. Additionally, kindly forward this letter to Ms. Joan Walter. She has been engaged in on-going communications with Mr. Hegarty concerning a list of items he would like to be discussed, which I am providing below.

Given the need for us to have further communications on this matter and to ensure the process is carried out in a manner that is efficient and consistent with rules and regulations for the conduct of these meetings, we request that the meeting currently set for May 12, 2015 be continued to such time after we have had the opportunity to more effectively address the issues.

Thank you for your anticipated cooperation and assistance in this matter. It is our hope that we can meet with the Commissioners and fulfill the promise we made to them several years ago when we said we approach them to address problems of this nature as soon as they arose. Hopefully this will prevent the need for either a 1231 procedure or some other means of insuring that the regulations are carried out in the matter that protects the consuming public.

Should you have any questions, please do not hesitate to call.

Very Truly Yours,



BRETT L. DICKERSON

Suggested Agenda Items

- Conflict of Interest;
- Provider Rules and Regulations: Provider discipline procedures established so that fairness prevails and favoritism is removed from the process.
- Provider Complaint System: Revise the system so that: 1) the CEC knows when a complaint comes in; 2) the complaint is taken seriously; and 3) a thorough and timely investigation/report is carried out and generated.
- Providing greater due process in the discipline procedures from Providers to Raters;
- Rater advisory board for the CEC and the Providers