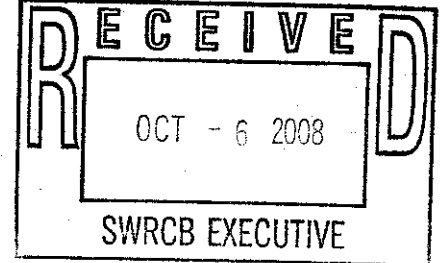




CALIFORNIA ASSOCIATION OF REALTORS®

October 6, 2008

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



RE: DEVELOPMENT OF AN URBAN WATER CONSERVATION REGULATORY PROGRAM

Dear Water Board Commissioners:

Thank you for the opportunity to provide comments on the proposed development of an urban water conservation regulatory program. In response to the State Water Board's solicitation for comments, we have detailed a general comment regarding implementation of an urban water conservation program that is a particularly important concern that we believe should be considered for the development of a successful program.

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 water audits can cost several hundred dollars per home to perform, not to mention the cost of the actual water efficiency retrofits or upgrades that will be required. Furthermore, additional costs will be mandated by third-party inspections and/or verification of compliance. 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 water efficiency standards in 1992. With less than 25% of existing homes changing hands before 2020, even in a robust market only a comprehensive broad-based approach will effectively reach older homes. These older homes use have the less efficient water use than homes built today, so no other approach makes sense, especially within the timeframes of 20X2020 and AB 32. These numbers further exemplify the need for a more comprehensive approach to addressing the existing housing stock.

Lack of Metrics. 20X2020 calls for 20% water use reductions by 2020 and 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 reduced water usage, in practice, it will be impossible to track and measure savings from water efficiency interventions if done at time of sale. Each home and yard is unique in its water use efficiency and physical attributes, so retrofits and upgrades will not be uniform. Local ordinances compelling water efficient retrofits at time of sale are often times neither documented nor tracked, therefore making actual water efficiency improvements and usage reductions impossible to measure and account for. As California moves toward the goals of 20X2020 and AB 32, a comprehensive, systematic approach to urban water use efficiency and tracking the resulting reduced water usage and greenhouse gas reductions is needed.



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Transactions Are Time-Sensitive Time of sale upgrades and retrofits are not sensitive to the escrow process. When a homeowner begins the audit and improvement process, they must first find and employ an auditor. The auditors 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.

Timely Implementation Hindered by Market Fluctuations. With time of sale programs, there is no guarantee that homes will be reached in time to ensure program success. In slow markets, the lack of sales will impede a program with date-certain goals. When sales are swift, many retrofits may need to occur, but the appropriately qualified workforce may not be available in sufficient numbers to address every transaction in a time-sensitive manner. 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.

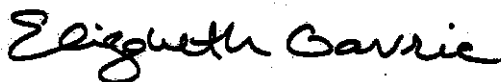
Renters Overlooked. Almost 40% of Californians live in rental housing. Time of sale mandates primarily affect owner-occupied single-family homes. As a result, millions of Californians won't be affected by, and therefore will not benefit from, water use efficiency upgrades. Renters with limited incomes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

REALTOR® Liability. REALTORS® take their disclosure responsibilities seriously and they have a good track record of performance, if they have a user-friendly way to discharge their responsibility. By the same token, we are not water conservation experts, don't want to be the "water cops" in a transaction, and won't be the guarantors of some other experts work product. Disclosure of water use efficiency program information can be dealt with through mechanisms we have already used in other areas such as the safe harbor for disclosures using an energy commission publication as provided for in Civil Code 2079.10, and the expert disclosures referenced in Civil Code 1102.4.

A Better Alternative. In keeping with the goals of 20X2020 and AB 32, we respectfully suggest that the key to improving water use 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-1992 homes first. Once this set of housing has been reached then the program could continue 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 as a more viable alternative. Similarly, if retrofits identified 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
Legislative Advocate