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P.O. Box 52025  
Phoenix, AZ 85072-2025

August 17, 2020

Greg Wheeler, CBO  
President, International Code Council  
City of Thornton  
9500 Civic Center Drive  
Thornton, CO 80229

Dominic Sims  
CEO, International Code Council  
500 New Jersey Avenue, NW  
6th Floor, Washington, DC 20001

2019 Group B Appeals Board  
c/o Mike Pfeiffer  
Senior Vice President of Technical Services  
International Code Council  
500 New Jersey Avenue, NW  
6<sup>th</sup> Floor  
Washington, D.C. 20001

*Re: Opposition to Appeal Filed regarding RE107 & RE126 – Federal Preemption Issue*

Gentlemen, and Members of the Board of Appeals:

The Associations' request that this provision not be included in the next edition of the IECC is based on the Associations' contention that the ICC staff improperly processed this proposal and the fact that, if included, any jurisdiction that adopts the 2021 IECC will be in violation of federal law.

I would ask you to consider the following items:

1. It is not the role of the staff to identify items that may be in conflict with local, state or federal law. The AHJ must evaluate all aspects of a code in relationship to their own jurisdiction. Every jurisdiction has their own attorney, and their determinations on interpretations of the law are as different as their jurisdictions.
2. The code development process is an open process, allowing anyone to testify regarding their opinion of a proposed code change. In another hearing last code cycle an individual raised a point of order "Mr. Moderator, Is he allowed to lie?" The answer being that the



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individual testifying can say whatever they believe. It is not the staff's job to call people out for lying, or even determine if they are lying or misleading.

3. Federal preemption is a complicated issue. Cases regarding this issue are currently being heard in courts throughout the nation. Natural gas bans, plastic bag bans, mandatory residential sprinkler bans, and other subjective conversations are taking place on many aspects of environmental concern. The staff are facilitators of conversation, not judge or jury. More cases need to be heard regarding these issues before one could even begin to expect staff to stop a public proposal from being heard, openly discussed and voted upon.

I urge you to leave in the code the items that the membership has voted to support. Should a jurisdiction choose to adopt the 2021 IECC, they alone have the choice to remove an offending requirement, or choose to create a case for local preemption. They alone should choose if they want to take this item to the courts, not the ICC Staff.

Thank you for your time and efforts for the benefit of the ICC Membership,  
Sincerely,

*Sharon Bonesteel*

**Sharon A. Bonesteel, AiA, CBO**

Energy Storage Collaboration Team Leader

Building Codes Program Manager

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