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January 14, 2020

Michael J. Pfeiffer
Vice President, Codes and Standards
Development
Liason to International Code Council's
Validation Committee
Via email: mpfeiffer@iccsafe.org

Re: **2019 Group B Online Government Consensus Vote**

Dear Mike:

I'm writing to ask you to present this letter to the Validation Committee when it meets to consider the 2019 Group B Online Government Consensus Vote ("OGCV.")

I'm writing this on my own behalf as a long time consultant and participant in ICC's code development process.

This letter has nothing to do with energy efficiency. It is about one thing - the integrity and credibility of ICC's code development process.

In the history of the OGCV, until now, I do not recollect there every being a code change proposal that was 1- recommended for "disapproval" by the Technical Committee, 2- was also "disapproved" at the Public Comment Hearing ("PCH"), but then was 3- approved "As Submitted" by a 2/3 vote in the OGCV.

It is not that such a vote "Flip" at the OGCV cannot happen since there is no rule prohibiting it. However, such "Flips" should be, quite rare.

Why? **First**, because one naturally assumes that when the votes taken by two separate bodies of experts (at the Technical Committee) and Government Officials (at the Public Comment Hearings) agree that a proposal should be disapproved, those votes represent a significant **consensus** that OGCV voters should look to, if not defer to, when casting their online votes. After all, the first two votes taken in ICC's code development process are cast by experts and Government Officials that were actually present to see and hear the arguments presented the Committee and Public Comment hearings. **Second**, CP#28 recognizes the strength of this consensus by requiring a 2/3

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online vote to overturn disapproval votes taken by the Technical Committee and at the Public Comment hearing.

The 2019 Group B OGCV results indicate a **far** different vote from those taken in any previous OGCV.

In voting on International Energy Conservation Code – Commercial proposals, the OGCV voted **five** times to overturn dual disapproval votes taken by the Technical Committee and at the Public Comment Hearings. (See, CE12-19, CE49-19, CE56-19, CE217-19 and CE262-19.)

In voting on International Energy Conservation Code – Residential proposals, the OGCV voted **fifteen** times to overturn dual disapproval votes taken by the Technical Committee and at the Public Comment Hearings. (See, RE21-19, RE29-19, RE32-19, RE33-19, RE36-19, RE37-19, RE126-19, RE145-19, RE147-19, RE151-19, RE182-19, RE184-19, RE192-19, RE201-19 and RE209-19.)

Interestingly, every one of these twenty vote “Flips” by the OGCV match the recommendations made in the “Energy-Efficient Codes Coalition 2021 IECC Voters Guide.” A copy of that Guide is attached to this email. According to its website, the Energy-Efficient Codes Coalition (EECC) is a coalition that is made up of many non-Governmental stakeholder members and some Governmental members.

There were **NO** vote “Flips” in any of the Preliminary Results of the 2019 Group B OGCV related to 1- the Administrative Provisions Code, 2- the International Building Code – General or Structural, 3- the International Existing Building Code, 4- the International Green Construction Code (Chapter 1), or 5- the International Residential Code – Building.

Given that:

- 1- there have **never** been any vote “Flips” by the OGCV in any previous code development cycle,
- 2- there were **no** vote “Flips” in the International Building, Existing or Residential Building Codes in the 2019 Group B development cycle,
- 3- numerous – **twenty** - vote “Flips” occurred, but only in the International Energy Conservation Code – Commercial and Residential, and
- 4- each of these vote “Flips” match a recommendation made by the Energy-Efficient Codes Coalition in its Voting Guide,

it is evident that “voting irregularities” may exist in the OGCV results regarding the International Energy Conservation Code – Commercial and Residential.

According to CP#28, section 10.2:

Where voting irregularities or other concerns with the Online Governmental Consensus Voting process which are material to the outcome or disposition of a code change proposal(s) are identified

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by the validation committee, such irregularities shall be **immediately** brought to the attention of the ICC Board. (Emphasis added.)

I would ask the Validation Committee to consider the matters set out in this letter; determine that they represent “irregularities or other concerns with the Online Governmental Consensus Voting process”; and, bring them to the attention of the ICC Board for actions it deems necessary “to ensure a fair and impartial Final Action Vote on all code change proposals” as provided in CP#28, section 10.2.

A mass “Flip” of votes in accordance with recommendations made in the voting guide of a coalition that includes non-Governmental stakeholder’s - after the close of all public debate and the disapproval votes of experts at a Technical Committee and Governmental Officials at a Public Comment Hearing - has the potential to seriously erode the integrity of, and the public’s confidence in, the Final Action Vote on proposals submitted to change the ICC’s family of International Codes.

Very truly yours,

Thomas S. Zaremba

TSZ/bc