

Industrialized Buildings Commission

◆ An Interstate Compact ◆

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MINUTES

Industrialized Buildings Commission
Wednesday, July 18, 2007
Herndon, Virginia

Michael Baier called the annual meeting of the Industrialized Buildings Commission to order on Wednesday, July 18, 2007, at 9:15 a.m. at the Dulles Crowne Plaza in Herndon, Virginia. Attendance was taken as noted below:

Members Present: Michael Baier, State of New Jersey
Bob Blatchford, Dynamic Homes
Warren DuCharme, State of Rhode Island
Stephen Hernick, State of Minnesota
Scott McLellan, State of Minnesota

Others Present: Debbie Becker, NCSBCS
Pete Blaser, NCSBCS
Ujval Dave, State of Maryland
N. Kevin Egilmez, NCSBCS
Michael Slifka, PFS Corporation
Bob Tanger, T. R. Arnold & Associates
David R. Tompos, NTA, Inc.

Approval of Minutes

On a motion by Steve Hernick, seconded by Bob Blatchford, the minutes of the July 19, 2006, meeting were unanimously approved as submitted.

Correspondence

The secretariat noted that a list of correspondence received since the last meeting was available along with copies of the public notices generated by the states regarding amendments to the MRR and UAP.

Commissioners Reports

Steve Hernick reported on Minnesota's adoption of the 2006 editions of the International Building and Residential Codes effective July 10, 2007 and discussed the 180-day grace period. He also mentioned that radon provisions from Appendix F of the IRC have been adopted and will become effective by the end of this year.

Warren DuCharme announced that John Leyden has been appointed the new Rhode Island Building Commissioner. He reported that Rhode Island will be adopting the 2006 editions of the International Building, Residential, Plumbing, Mechanical, Energy Conservation, and Fuel Gas Codes effective August 1, 2007.

Michael Baier announced that William Connolly, the current IBC Chairman, will be retiring effective August 1, 2007. He reported that New Jersey had already adopted 2006 editions of various International Codes in February 2007 and that the 180-day grace period will end in late August.

Kevin Egilmez reported that he and Michael Baier along with Modular Building Institute members met with Pennsylvania Labor and Industry representatives earlier this year regarding use of the Commission's program to regulate commercial modular buildings. After Pennsylvania enacted a statewide construction code, manufacturers of commercial modular buildings have been forced to deal with local enforcement agencies to obtain approval for their product. Although Pennsylvania has a modular program, it only addresses residential buildings.

Kevin Egilmez reported that Howard Sage has replaced Rich Gray in North Dakota. Mr. Sage was informed that North Dakota's interim reciprocity agreement which was signed in August 2003 is approaching the five-year time limit. Since North Dakota's legislature meets every other year, the Commission may need to grant additional extensions if North Dakota decides to introduce the compact legislation.

Kevin Egilmez reported that he was contacted by NAHB Building System Council's new executive director, Jeremy Bertrand. The Council's former executive director, Barbara Martin, worked closely with the Commission including nominating several residential industry members for the Rules Development Committee.

Unfinished Business

Attachment A, a revised Application of Building Systems Documents, was reviewed. Revisions were made to items 2 and 3 as requested during last year's meeting to further clarify which documents would need to be submitted. Steve Hernick felt that feedback was needed from people involved in the original discussion and requested comments be solicited from the RDC members.

After a lengthy discussion, it was decided that the document was trying to address two issues: application of building systems and maintenance of "as-built" designs by the Commission. A motion was made by Bob Blatchford, seconded by Warren Ducharme, and unanimously approved, to issue an interim bulletin requesting as-built designs that would include but not be limited to building data, elevations, cross sections, and floor plans. A separate motion was made by Steve Hernick, seconded by Bob Blatchford, and unanimously approved to solicit comments on the revised Application of Building Systems Documents from the RDC and designated agencies.

Jerry Brosius was given the task at last year's IBC meeting to draft language for the UAP, Part VI, Section 4, to accept ICC certification. Because RDC did not meet due to a lack of quorum, Jerry Brosius did not attend this year's meeting and the consideration of the item was postponed until next year.

New Business

A motion was made by Steve Hernick, seconded by Bob Blatchford, and approved unanimously to appoint Howard Sage to the RDC to replace Rich Gray.

On a motion made by Steve Hernick, seconded by Bob Blatchford, the Commissioners unanimously reappointed Mark Blanke, Michael English, Craig Simpson, and Scott Zweifel to the RDC for three-year terms.

Kevin Egilmez reported that he will work with the NAHB Building Systems Council new executive director, Jeremy Bertrand, to fill the vacancy in the residential industry representative position.

Kevin Egilmez reported that the workload for the RDC was diminishing and that the Commission may want to consider reducing the frequency of their meetings. Steve Hernick commented that the RDC would have to meet next year to address at least two pending issues. The Commission would address the meeting frequency at that time.

Kevin Egilmez reported that there were no public comments received regarding the adoption of the proposed UAP and MRR. A motion was made by Steve Hernick, seconded by Michael Baier, and approved unanimously, to adopt the UAP and MRR as proposed and recommend that the states make the appropriate changes to their legislation.

Kevin Egilmez suggested that in the future, the Commission use the same method to solicit comments: New Jersey and Minnesota through their state registers and Rhode Island through the *Providence Journal*, the official newspaper in Rhode Island for public notices.

Model Consumer Complaint Procedures (Attachment B) from June 1995 were revisited. Although states are responsible for handling consumer complaints, the Commission needs to be involved and should serve as a central repository for all complaints. Currently, when a complaint is forwarded, the Commission gathers basic information on the building based on available records on file and performs a cursory design review. This process needs to be formalized and states need to have a method for requesting detailed reviews or investigations from the Commission when warranted. Kevin Egilmez agreed to draft consumer complaint procedures for review.

Item F-4 was placed on the agenda at RADCO's request. In January 2007, designated agencies started forwarding copies of data plates to the Commission. RADCO requested that the UAP be amended to remove the provision that requires designated agencies to maintain copies of data plates.

The topic was informally addressed at last year's meeting when designated agency representatives said that their agency would continue to maintain copies. This year's attendees reiterated their position.

Financial Report and Approval of FY '08 Budget

Marketing and outreach efforts were discussed. Kevin Egilmez said that he had been in contact with Louisiana and Mississippi. He said that the Commission usually finds out about a state's interest indirectly through various sources. Kevin suggested that the Commission needs to become more proactive and better inform the states about the Commission and its program. It should also consider offering some of our services such as tracking labels for a nominal fee.

The draft budget for fiscal year 2008 was discussed. Kevin Egilmez reported that production was slowing down resulting in lower label sales and smaller reimbursements to states. The latter is expected to result in a decrease in general and administrative expenses by \$23,000.00. Training expenses were also projected to be lower due to smaller seminars scheduled in FY '08. Marketing and outreach budget was increased by \$6,000 to carry out some of the activities discussed above. A motion was made by Warren Ducharme, seconded by Steve Hernick, and approved unanimously to adopt the budget as proposed.

The Commission's audited financial statements for FY 2006 were reviewed. Kevin Egilmez pointed out that the management letter contained two comments both of which were raised previously. The auditor commented that supporting documentation is not provided to the Commission by NCSBCS for monthly charges and that NCSBCS' existing accounting manual has not been updated in several years. A motion to accept the 2006 Financial Report was made by Steve Hernick, seconded by Bob Blatchford, and approved unanimously.

On a motion made by Bob Blatchford and seconded by Warren DuCharme, the Commission entered an executive session to discuss designated agency annual performance reports, waiver requests, and the Commission's administrative services support contract with NCSBCS. A motion to reconvene into an open session, made by Michael Baier and seconded by Steve Hernick, carried unanimously.

Bob Blatchford made a motion, seconded by Steve Hernick, to redesignate HWC, Minnesota, MCC, NTA, PEI, PFS, Pyramid1, RADCO, TRA, and Vendola subject to limitations or conditions, if any, established during the executive session. The motion carried.

A motion was made by Warren Ducharme, seconded by Steve Hernick, and approved unanimously to approve the certification waiver requests for Charles Arvidson and Gearald Puffer.

Election of Officers

On a motion made by Steve Hernick, seconded by Bob Blatchford, and unanimously approved, Minnesota commissioner was elected IBC Chairman. On a motion made by Warren Ducharme, seconded by Steve Hernick, and unanimously approved, New Jersey commissioner was elected treasurer.

Secretariat's Work Assignments

Michael Baier reviewed secretariat's work assignments:

1. Issue an interim bulletin requesting as-built plans that would include but not be limited to building data, elevation, cross section, and floor plan.
2. Solicit comments from the RDC and designated agencies on Attachment A, Application of Building Systems Documents.
3. Draft consumer complaint procedures and/or form for review.
4. Forward copies of the 2006 annual report to the Commissioners.

Date and Location of Next Meeting

The next annual meeting is tentatively scheduled for July 16, 2008. The secretariat reported that notice would be sent regarding the location.

Steve Hernick, seconded by Bob Blatchford, moved to adjourn the meeting and the motion carried. The meeting adjourned at 3:55 p.m.

Respectfully submitted,



N. Kevin Egilmez
Secretariat Staff

Attachments

APPLICATION OF BUILDING SYSTEMS DOCUMENTS

1. Manufacturers with approved building systems must still develop specific, “as-built” floor plans and other documents required by the Model Rules and Regulations, Part V, Section 1(B) “Required construction details”, as applicable.
2. Manufacturers must file a copy of the “as-built” floor plans and other documents with the Commission no later than 15 days following the end of the month in which the building was built. At a minimum, the documents shall include the following:
 - a. A cover page that indicates
 - i. Title and approval date of building systems;
 - ii. Codes complied with,
 - iii. Occupancy or use group,
 - iv. Construction type,
 - v. Live, dead and environmental loads,
 - vi. Unique model designation to cross reference to monthly production reports.
 - b. Dimensioned floor plans which include module layout and major structural elements
 - c. Elevations
 - d. Cross section(s) identifying major building components
3. For major structural elements, manufacturers must specify which option they chose on the “as-built” documents if a building system contains more than one method of complying with a code requirement.
4. Manufacturers may not cite or reference a code or code section as a method to demonstrate compliance. Such statements include “light and ventilation per code”, “branch circuit wiring and wire sizes must comply with NEC”, “smoke detectors must be located and installed per state and local codes.”
5. The process for selecting a header, beam, column or other structural member should be similar to and no more complicated than selecting a similar member from a code table.
6. Tables for structural members must clearly indicate the limits such as maximum loads (live, dead, wind, etc.), building configuration (module width, eave length, roof pitch, etc.) or any other parameter assumed in the calculations that, if exceeded, will adversely affect the capacity of the member.

Inspection agencies shall be responsible for monitoring manufacturers’ ability to develop specific plans and related designs from building system documents.

Manufacturers that repeatedly exceed the parameters of a building system may have their building systems suspended or revoked. During the term of suspension or revocation of the building system, manufacturers will be required to submit all documents to their evaluation agency for review and approval.

DRAFT

Industrialized Buildings Commission

Consumer Complaint Procedures

The objective of this proposal is to present a citizen complaint process which would be applied to each participating state. The procedure as outlined is based on the Uniform Administrative Procedures (UAP) and the Model Rules and Regulations (MRR) as adopted by the member states. The need to define a citizen's complaint process as required by UAP Part IX, Section 1(G)(1) is to insure uniformity between participating states.

Preamble: This Consumer Complaint Procedure shall be "in addition to" and shall not limit or supersede any existing State new home warranty act or limit the rights of a new home buyer.

1. The consumer of an industrialized/modular building shall be given a "Fact Sheet" with each unit which will describe this process and indicate the phone number of the Industrialized Buildings Commission.
2. The consumer shall first contact the seller of the unit if they are the first owners of the unit (go to step 3), or if this is a resale the consumer should contact the State Agency responsible for administering the Industrialized Buildings Commission program in the state in which the unit is located (go to step 7).
3. The seller of the unit shall have the opportunity to respond to the consumers' complaint and to refer that complaint to the manufacturer. If the seller notifies the manufacturer regarding the correction of a code violation, the manufacturer shall respond within 20 working days to the seller and consumer regarding the decision of the manufacturer to correct or not to correct the code violation.
4. If the manufacturer agrees to correct the code violation, the manufacturer must contact the evaluation/inspection agency for their review and determination as to UAP Part IV, Section 4© to determine the classification of the code violation and what action shall be required to correct the code violation. The evaluation/inspection agency shall be required to contact the Commission and participating states based on the following:
 - Individual Code Violation-notify the state
 - Class Nonconformance-notify the Commission
 - Program Nonconformance-notify the Commission and all participating states

5. If the manufacturer does not agree to correct the code violation, the manufacture shall notify the owner, seller, and evaluation/inspection agency why they have determined that the complaint is not their responsibility. The evaluation/inspection agency shall review the determination and within 10 business days uphold the decision or require the manufacturer to correct the code violation. At the time of the evaluation/inspection agency determination the state within which the unit is located shall be given notice of the decision.

6. The manufacturer has the right to appeal the final determination of the evaluation/inspection agency to the Commission as outlined in the UAP Part XI Appeals.

7. If the State Agency is notified of an alleged code violation by an owner of a resale unit, the State shall contact the responsible evaluation/inspection agency for their review. The evaluation/inspection agency shall contact the manufacturer and allow the manufacturer a reasonable amount of time to review and determine their responsibility for the code violation. At no time shall the manufacturer be given more than 30 business days to respond to the alleged code violation. If the manufacturer determines that the code violation is their responsibility then the procedure in step four above shall be followed. If the manufacturer does not agree that the code violation is their responsibility then the procedure in step five above shall be followed.

8. If the State Agency shall not agree with the determination of the manufacturer or evaluation/inspection agency regarding an alleged code violation they shall make a final determination and notify all parties and outline the appeal rights available under the appropriate state laws as noted in the MRR Part VII Appeals. The State shall inform the Commission of their final determination.

9. The consumer shall have the right to appeal the determination of the manufacturer or evaluation/inspection agency to the State Agency responsible for administering the Industrialized Buildings Commission program. The State Agency shall make a final determination and notify all parties pursuant to MRR Part VII Appeals. The State shall inform the Commission of their final determination.

Consumer Fact Sheet

YOU HAVE PURCHASED AN INDUSTRIALIZED/MODULAR BUILDING WHICH IS CERTIFIED UNDER THE INDUSTRIALIZED BUILDINGS COMMISSION WHICH IS THE ADMINISTRATIVE PROGRAM OF THE INTERSTATE COMPACT ON INDUSTRIALIZED/MODULAR BUILDINGS.

The following facts may help you in processing a complaint as a result of your purchasing and occupying your industrialized/modular building.

What is the Industrialized Buildings Commission?

The Commission is the administrative program of the participating States and the program assures a uniform administrative process which manufacturers, evaluation/inspection agencies and state agencies follow in providing a code compliant unit to be sited in a participating State.

What is a label?

A label is applied to each modular unit which comprises your building. This label is the certification that the unit has been manufactured under an approved building system and quality assurance program.

What is a building code?

A building code establishes the standards, design criteria, specification and other requirements to assure that a building meets health and safety standards. It is the guide used to assure that individual manufacturers construct units designed to meet health and safety requirements.

What is a defect or code violation?

A defect and code violation are two different problems. A defect, as a term used in construction, relates to workmanship issues and whether a defect exists or not depends on workmanship standards as defined by acceptable business practice or a set of criteria developed as part of a typical new home warranty. A code violation may or may not be a defect but is a result of an error in implementing the construction code used to define the building system. A building defect relates to how a trim and finish are installed, where as a code violation may relate to the fire resistant rating of a trim or finish.

If I have a problem what do I do?

If you have a problem with your unit, you should first review your purchase contract to see if you have a warranty, a complaint procedure to follow, or other contractual obligations or rights. Your rights under different state laws may direct you to a specific agency for assistance. If, however, you have reason to believe that you have a code violation in the industrialized/modular portion of your building you should first contact the person or company who sold you the building. They should then refer the alleged code violation to the manufacturer who is bound by the uniform procedures to respond to your allegation. Depending upon the results, you will then be informed of all your rights and appeal procedures through the uniform procedures under the Commission and participating State.

If you are a second owner or do not have information regarding your unit then you should contact the State Agency responsible for administering your state's industrialized buildings program or contact the Industrialized Buildings Commission in writing or by phone and they will be able to refer you to the proper agency so that your concerns can be addressed.

NOTE: THE CONSUMER COMPLAINT PROCEDURES ESTABLISHED UNDER THE COMMISSION'S UNIFORM PROCEDURES IS "IN ADDITION TO" AND SHALL NOT LIMIT OR SUPERSEDE ANY EXISTING STATE NEW HOME WARRANTY ACT OR LIMIT THE RIGHTS OF A NEW HOME OWNER.

**Industrialized Buildings Commission
Address and phone**

member states

**State of New Jersey
Address & phone**

**State of Minnesota
Address & phone**

**State of Rhode Island
Address & phone**

participating states

**State of Kentucky
Address & phone**

**State of Wisconsin
Address & phone**