



Architecture & Planning ▪ November 11, 2009

E. David Walls, Executive Director
Building Standards Commission
2407 J Street, Suite 202 ▪ 2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Sacramento, CA 95816▪

**PUBLIC COMMENT ON THE PROPOSED
GREEN BUILDING CODE, PART 11, TITLE 24**

Dear Mr. Walls:

(916) 368-7990 ▪ I offer public comment by way of this letter about the recently proposed Green Building Code and its well-intentioned goal of reducing the artificial impact of the built environment on the natural environment. As a licensed architect in the State of California (License C 27834), I share the goal of the proposed Green Building Code, but recognize that facilitating many of the goals within it can only be at best *partially achieved* within a building code with very prescribed design measures.

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A Professional Corporation ▪

The proposed Green Building Code (GBC) is challenged not because of the height of the goals it seeks to achieve, but for the more mundane technicalities it lacks and the way in which it was developed.

The GBC was *not* developed collaboratively with full stakeholder input

The proposed GBC was for all intents and purposes developed in a vacuum before being vetted publicly through the Code Advisory Committee, where for the first time many stakeholders – including building owners, designers, and builders – had an opportunity to review the proposal comprehensively and respond to it. The inclusion of public participation at the early stages of the proposals development may have mitigated many of the expressed concerns and comments that the Commission will receive.

The GBC does *not* meet the BSC's Nine-Point Criteria

Item (1) The proposed building standards do not conflict with, overlap, or duplicate other building standards. *This proposed code overlaps with Title 24, Part 6 "California Energy Code". Additionally, the proposed code cites other existing codes sections for requirements.*

Item (3) The public interest requires the adoption of these building standards. *Unlike public health, safety and welfare, sustainability and "green building design and practices" has not been proven to be a public interest.*

Item (4) The proposed building standards are not unreasonable, arbitrary, unfair or capricious, in whole or in part. *The current proposed code contains unfair and arbitrary components, e.g., reserved parking for electric and or alternative fuel*

vehicles rewards those with such means of transport with preferential location(s), a requirement previously created for those with disabilities to create equal access to the built environment. Moreover, this capricious component may in fact be endorsing socio-economic discrimination.

Item (6) The proposed building standards are not unnecessarily ambiguous or vague, in whole or in part. *The proposed code contains ambiguous requirements, e.g., Section A5.213 - Energy Efficient Steel Framing, "punching large holes in stud web without affecting its structural integrity", "spacing the studs as far as possible while maintaining the structural integrity of the structure". It is not clear how structural integrity is measured and how this is to be enforced. How does a designer design this?*

The GBC is too broad

The proposed code is strewn with blanket prescriptive requirements or incentives such as "promoting bicycle travel" by requiring showers and changing areas and bicycle parking that may not be appropriate in areas of the state where terrain or climate preclude such transportation. Furthermore, requirements of building orientation and shading are not universally effective or desirable throughout California due to diverse climate and terrain conditions, and in some cases may directly compete with other building code requirements.

The GBC does not contemplate the cost impact on stakeholders

The proposed GBC does not contain a thorough analysis of the cost impact that the mandates and voluntary measures have on stakeholders. The proposal recognizes in generic terms upfront costs but quickly dismisses its impact by stating that such costs will be recouped in the long-term as a result of better design. For school districts, who are my primary clients, this generic, superficial analysis is harmful in that:

- It does not recognize the unique conditions under which public schools are funded. Both state and local public dollars dedicated to education are grouped into two, distinct protected categories: (1) capital outlay and (2) operations. The proposed GBC would require tremendous resources from capital outlay and much, if not all, of the "recouped" dollars would be deposited into and used for school operations. This has been a consistent challenge to school districts that have heretofore sought ways to design and build greener schools.
- Imposes an Unfunded Mandate on school districts at a time when their budgets have been significantly cut by the State and the flow of state construction dollars have come to a halt.
- It does not sufficiently contemplate how current incentive programs for sustainable design and construction will be impacted by the migration of "best practices" into "code."

As a designer committed to improving the built environment, I share the goals contained within the proposed Green Building Code, but cannot support the proposal currently promulgated. Much of the content in the proposed GBC is better placed in a "Best Practices" guide for sustainable design. Until such time that a proposed green building code is developed consistently with other parts of the building code and in a manner that is designable, applicable, and enforceable throughout California, I respectfully request that the Building Standards Commission defer approval of the proposal before you.

Thank you for your consideration,



Anthony C. Fejarang-Herrera, Architect
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cc: David Thorman, California State Architect
Theresa Townsend, Division of the State Architect