



August 1, 2024

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The Honorable Gretchen Whitmer
Governor of Michigan
P.O. Box 30013
Lansing, MI 48909

Dear Governor Whitmer,

As a member of your Housing Advisory Partnership and on behalf of the nearly 5,000 members of the Home Builders Association of Michigan (HBAM), I am writing to ask your Administration to adopt a newer, more flexible set of model codes found in the soon to be published 2024 International Residential Code (2024-IRC). Doing so would increase energy efficiency gains beyond what the Department of Licensing and Regulatory Affairs (LARA) is proposing and place Michigan in the position of having the most recent edition of model residential building codes. It would also enable us to step forward together rather than battle over an outdated 2021 model code that only five states across the country have chosen to fully adopt.

Housing affordability and attainability is the lowest it has been since 1984. Only families approaching household incomes of \$200,000 can afford the typical new home being built in our state. I applaud the work being done by Amy Hovey and her team at MSHDA to address our housing crisis. Their efforts to bring more focus to the need for workforce housing production across our state have been tremendous. HBAM has supported legislative and programmatic changes to make this possible and we will continue to partner with MSHDA. However, much of their positive work will be lost if we add tens of thousands of dollars per house in unnecessary code compliance costs for newly produced homes.

The paradox of building codes is the safer, and more energy efficient each new edition of a code makes a home, the more costly it becomes. The more costly it becomes, the fewer number of Michigan families that can afford that home. Studies have shown that for every \$1,000 increase in the price of a new home more than 4,500 Michigan families are priced out of being able to purchase one. In turn, more families are then forced to live in homes that are demonstrably less safe and energy efficient.

The Legislature, in passing amendments to our construction code act were well aware of this contradiction. In response, and in order to protect housing affordability and attainability, Michigan's lawmakers required any new energy efficiency code measures to meet an important cost-effective standard. LARA's outdated 2021 proposed rules do not meet this requirement. HBAM has repeatedly indicated its opposition to the proposed Part 5 (residential code) and Part 10 (energy efficiency) rules put forth by LARA. We've explained and provided documents at the three public comment sessions and in numerous private conversations with LARA representatives showing the manner by which these rules violate the cost-effective standard codified in the Stille-DeRossett-Hale Single State Construction Code Act (the Act). HBAM has also shared its concerns that the process and impact statements used in their promulgation violate the Administrative Procedures Act (APA).

Over a year ago, HBAM offered LARA an alternative energy code. Our alternative proposal was based on the ICC's 2018 and 2021 energy efficiency requirements and Maryland's 2021 alternative energy code. A study was provided to LARA showing the use of the prescriptive path found in our offered code would increase home energy savings by 13.6% on average across the state, while LARA's proposal would only result in savings of 10.7% on average.

LARA's response was it wouldn't be "*prudent*" to consider our proposal, as they felt they were "*required*" to adopt a model code produced by the International Code Council (ICC). HBAM does not agree with LARA on this point. Regardless, adoption of the ICC's new 2024 model code would not offend this alleged "*requirement*." Moreover, the 2024-IRC provides more flexibility and would actually result in an energy savings that is more than 6% higher than the outdated 2021 codes now before JCAR.

To resolve the issues involving the Part 5 & Part 10 rules, HBAM is offering two proposals for your consideration.

The first is for LARA to reconsider and adopt the alternative energy code HBAM offered a year ago. The Single State Construction Code Act empowers the LARA Director to amend the model codes. "*Amend*" connotes broad power to substitute and replace.

The second is for LARA to proceed along the following lines.

- Withdraw the current Part 5 and Part 10 rules from JCAR.
- Begin adoption of all chapters of the 2024 International Residential Code including Chapter 11 and Part VII Electrical.
- Proceed as required by the Administrative Procedures Act.
- Appoint a balanced, broad-based residential code review committee as outlined in the bipartisan SB 363 of last session. HBAM would nominate builder/contractor members. Other entities would nominate members in their covered specialties.
- Set a three-month deadline for the review committee to complete their work (virtual meetings allowed) and make their recommendations to the Director of LARA. All meetings shall be noticed and open to the public. All votes cast shall be recorded and posted on the LARA website.
- Unless verifiable Michigan-specific data is provided showing a need, all arc fault circuit interrupter (AFCI requirements) will be removed.
- Chapter 11 governing energy efficiency will not be subject to amendment and will be adopted as published. HBAM will support adoption of Chapter 11 as found in the 2024 IRC without any amendments and will not contest its promulgation in the court system.
- Non-mandatory provisions incorporating solar ready provisions, additional energy efficiency and greenhouse gas reduction resources and provisions that lead to achievement of zero energy buildings may be included. Compliance with these provisions will either be a.) at the discretion of the builder or b.) provided for in the code solely as being optional such that overall compliance with the code is still possible without complying with these provisions. No fuel type shall be disadvantaged or eliminated in the code.
- Agreement to this proposal will not bind any parties to its use in future code promulgation.

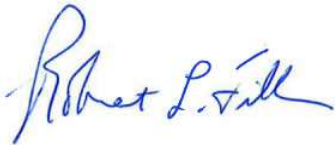
HBAM is certainly not opposed to updating Michigan's building codes nor is it opposed to energy efficiency. HBAM was the primary advocate for the Michigan Uniform Energy Code, the Single State Construction Code Act, the Michigan Rehabilitation Code for Existing Buildings (adopted before the International Code Council [ICC] wrote the International Existing Building Code) and the Flex Code Act (Public Act 504 of 2012).

Since 1999 our members and staff have participated and testified in 30 ICC code development hearings held across the nation and have served on numerous ICC code development committees including the ICC's 2021 Residential Energy Code Development Committee. Our members and staff have also actively participated Michigan's informal advisory and formal public hearings on Michigan's codes. Members and staff had served for many years as appointees to the full range of Michigan's formal code review committees. This process, however, was eliminated by the previous administration.

As our history shows, we are strong supporters of the state's adopting and enforcing building codes which provide a reasonable level of safety, health, general welfare and energy efficiency while protecting home affordability and attainability. For 75 years protecting housing attainability has been at the forefront of HBAM's mission. We are looking forward to the opportunity to continue to work with your Administration toward this goal.

We stand ready to talk with you or members of your Administration about our proposals noted above.

Sincerely,

A handwritten signature in blue ink that reads "Robert L. Filka". The signature is fluid and cursive, with the first name being the most prominent.

Robert L. Filka
CEO

cc: Majority Leader Winnie Brinks
Speaker of the House Joe Tate
Members of the Joint Committee on Administrative Rules
Senator Jeff Irwin, Chair, Committee on Housing & Human Services
Representative Jason Hoskins, Chair, Committee on Economic Development & Small Business
Representative Kristian Grant, Chair, Subcommittee on Housing
Director Marlon Brown
Dawn Crandall, HBAM EVP of Government Relations