



# MASSACHUSETTS FEDERATION OF BUILDING OFFICIALS, Inc.

President – Robert Camacho  
Vice-President – Dan Walsh  
Treasurer – Paul Tacy  
Secretary - Michael Mendoza

**PAST PRESIDENTS**  
David Moore, Steve Frederickson, Paul Tacy

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Date: January 3, 2010

To: Brian Gale, Chairman  
Massachusetts Board of Building Regulations and Standards  
One Ashburton Place, Suite 1300  
Boston, MA

Re: Code change proposal number 2010\_12\_12

Chairman Gale and Board members:

The Massachusetts Federation of Building Officials offers the following as testimony in opposition to the above cited code change proposal known as the “Stretch Residential Sprinkler Code”.

We have included a copy of an article which appeared in the October, 2010 issue of *The Journal of Light Construction*. The report gives insight into the progress of the adoption of IRC sprinkler requirements nationwide since the tainted vote in Minneapolis two years ago. As you know, this embarrassing action, widely believed to be influenced by special interest groups for their own gain, has imposed the requirement for sprinklers to be installed in all one and two family dwellings in jurisdictions adopting the IRC in its entirety.

The article illustrates how poorly received the ICC vote was when reviewed by rationally thinking state code authorities. When charged with the responsibility to promulgate reasonable and effective building codes for their citizens, only one state in the country (California) has fully implemented the mandate for residential sprinklers. Unfazed by the lobbying of special interest groups, by varying means other states have done the cost/benefit math. They realized that code is not to be written by emotion or through the bidding of those seeking profit, but through science.

Mr. Vara, author of the *JLC* report, has laid out the history well; it need not be re-written here. We urge you to take a close look at the article, its facts and statistics. It clearly illustrates the reluctance of other states to bow to pressure from special interests. The BBRS must decide if the board wishes to take the leap supporting the commercial special interest groups and their supporters and impose unnecessary and costly mandates on the residents of Massachusetts.

While the ICC vote in 2008 and the *JLC* article cited refer to the full implementation of residential sprinklers, the positions- pro and con- can also be made for the proposed “Stretch Residential Sprinkler Code”. Besides furthering the fracturing of the code, this code change proposal simply starts us on the slippery slope toward full implementation.

The Massachusetts Federation of Building Officials therefore asks your board to not approve Code Change Proposal Number 2010\_12\_12.

Most Respectfully,

Robert Camacho, President  
Massachusetts Federation of Building Officials

cc: Senator James Timilty, Joint Committee on Public Safety  
Representative Michael Costello, Joint committee on Public Safety

# JLC Report

## State Legislators Deal Blow to Residential-Sprinkler Codes

**A**t a conference in Minneapolis two years ago, the International Code Council approved the 2009 IRC, which includes a provision requiring sprinkler systems in new one- and two-family homes built after January 1, 2011. Passage of the code was marked by a controversial vote that took place in a meeting hall packed with both supporters and opponents of the provision, many of them flown or bused in for the occasion. Since then, builders have continued to oppose the sprinkler rule, claiming that it increases costs to consumers while adding little in the way of safety. And though their arguments may have failed to carry the day during the code-development process, they're proving to be quite a bit more persuasive at the state level.

**California stands alone.** A number of municipalities nationwide have adopted the 2009 IRC with the sprinkler provision. But so far, only California has done so at the state level, with the expectation of enforcing the requirement across the board when it takes effect on January 1, 2011. Pennsylvania, Maryland, and New Jersey have also adopted the 2009 code, but Maryland allows local jurisdictions to amend the state code as desired, while New Jersey has delayed the effective date of its sprinkler provision for another year. At press time, Pennsylvania was still in flux: At the end of August, a state court rejected a home-builder challenge to the state's adoption of the 2009 IRC and its sprinkler provision, but a likely appeal to the state Supreme Court probably won't be settled by the January phase-in date.

In the meantime, Pennsylvania builders plan to press the state legislature for relief. Should they be successful, they'll join a long list of other states — including Arkansas, Florida, Georgia, Idaho, Iowa, Kansas, Louisiana, Maine, Missouri, New Hampshire, North Dakota, Rhode Island, South Dakota, Tennessee, Texas, Utah, Washington, and West Virginia — in which legislators have enacted laws that prohibit state building codes from mandating residential sprinklers. The Iowa and New Hampshire legislatures actually stripped the sprinkler provision from the 2009 code after state building officials had already adopted it. The other states in the list still use earlier versions of the code, without the mandatory sprinkler provision, so their sprinkler regulations prevent building officials from taking future action requiring sprinklers.

**Consistent opposition.** The broad-based pushback appears to owe its success to hard work by state and regional home-builder associations, whose members have consistently opposed the move toward residential sprinklers through the last two IRC code cycles. (Efforts to make residential sprinklers mandatory in the 2006 code failed, and the provision instead appeared as an optional appendix.) The NAHB has opposed mandatory sprinklers as well, although association spokesperson Calli Schmidt downplays the umbrella

■ After a six-week summer vacation, PEX is back in the California Plumbing Code. The flexible plastic water-supply tubing earned code approval in 2009, after years of resistance from the pipe trades, but a subsequent challenge from The Center for Environmental Health culminated in a court order withdrawing that earlier approval as of July. In mid-August, a revised environmental-impact report was approved by the California Building Standards Commission (CBSC), and code approval was restored. At the same time, a settlement agreement was reached between the CBSC, the Center for Environmental Health, and the Plastic Pipe and Fittings Association, in which the parties agreed to refrain from further legal action.

■ Lowe's has settled a class-action lawsuit by plaintiffs who claim to have purchased tainted Chinese drywall from the company, the *Palm Beach (Fla.) Post* reports. Although the building-materials giant says its vendors deny supplying it with any drywall that originated in China, it has agreed to issue gift cards worth \$50 to \$2,000 to customers who say they bought the defective drywall at a Lowe's store — provided they waive their legal right to sue for further damages.

# JLC Report

organization's role in the antisprinkler initiatives among the states. "We're a federation, not a top-down organization," she says. "If the state HBAs want statistics or information, we try to provide it, but we can't even keep track of the results unless they tell us."

**Doing the math.** How did state HBAs succeed in convincing lawmakers to go on record as opposing the sprinkler mandate? In some states, at least, it may be because sprinkler supporters overplayed their hand, overestimating the value that consumers and legislators were willing to place on what are by any measure small increases in safety.

Jason Reid, regulatory affairs director of the Homebuilders Association of Alabama, describes how the pro-sprinkler and antisprinkler activists marshaled their forces in his own state. The push for sprinklers, he says, began soon after Hurricane Katrina, when insurers began pressuring the state, which then had no statewide building code, to adopt one. Fire officials quickly made it known that any statewide code would have to contain a requirement for residential sprinkler systems in order to gain their support.

"When the study commission considered a version without sprinklers, the firemen showed up en masse," Reid recalls. But when the bill to prohibit the adoption of a code mandating sprinklers came to the floor in the legislature early this year, he says, numbers provided by the National Fire Prevention Association — a national organization that strongly supports making residential sprinklers mandatory — proved decisive in its passage.

"We used an actual estimate from an Alabama sprinkler company to install a sprinkler system in a home, which came to \$14,000. The estimate for a hard-wired smoke alarm was \$150," says Reid. The builders also conceded the oft-repeated claim by sprinkler advocates that equipping a home with both a hard-wired smoke alarm and a sprinkler system — rather than just a smoke alarm — increases the occupants' chances of surviving a structure fire by 80 percent.

"But we also used another NFPA figure that they tend not to mention, which is that you already have a 99.45 percent chance of surviving a structure fire with just the smoke alarm," Reid says. Working through the math reveals that the 80 percent increase in

safety attributed to sprinklers increases one's chances of surviving a hypothetical structure fire by .44 percent — from 99.45 percent (with a hard-wired smoke alarm only) to 99.89 percent (with alarm and sprinklers combined).

Asked to consider whether that less than one-half of a percentage point increase in safety justified a nearly 100-fold increase in cost to consumers, Alabama legislators decided that it didn't. "It was unanimous," says Reid. "There wasn't a single vote against the bill."

**Not out of the woods.** Although such success stories may be greeted as good news by builders concerned about controlling costs, the battle is far from over. Despite legislative moves to block it, the sprinkler provision is still in the 2009 IRC and will almost certainly remain in the 2012 edition, now under development. And while builders will no doubt continue to press legislators in states that have not yet acted to take a stand against mandatory sprinklers, they're unlikely to succeed in every case.

It's also worth noting that legislators are subject to public pressure in ways that building officials are not. A year or two of effort by builders has swung the pendulum in one direction — possibly helped along by the desire of legislators to be seen as pushing back against an unpopular government mandate — but that same pendulum may yet swing back. Somewhere, inevitably, there will be a fatal fire in a new home that lacked sprinklers because state legislators voted not to require them. In the storm of bad publicity that results, it's not hard to imagine lawmakers performing an abrupt about-face and lining up to make sprinklers mandatory after all.

Dominic Kasmauskas, a regional manager with the National Fire Sprinkler Association — a coalition of manufacturers that strongly supports making the use of residential sprinklers mandatory — believes that time is on the side of sprinkler advocates. "We never thought that once it went into the code the builders would just accept it," he says. "It's just another point in the journey." The real push for sprinklers, he says, will come when personal-injury lawyers take on the issue. "The plaintiff's attorney will say, 'Wait, the code said you had to do this, but you weakened the code, and now people are dead.' What's the defense against that?" — *Jon Vara*