

## MWEO

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**From:** Steven Cruz [scruc@cbia.org]  
**Sent:** Tuesday, December 30, 2008 3:44 PM  
**To:** MWEO  
**Subject:** CBIA Comments on Modifications to the Proposed Model Landscape Ordinance  
**Attachments:** CBIA Comments on Proposed Model Landscape Ordinance.pdf

Please find attached comments from the California Building Industry Association (CBIA) on the Modifications to the Proposed Regulation of the Model Water Efficient Landscape Ordinance.

We are pleased to meet with staff to answer any questions regarding our comments.

Could you please e-mail confirmation of receipt?

Thank you.

Steven D. Cruz

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December 30, 2008

State of California  
Department of Water Resources  
Office of Water Use Efficiency and Transfers  
Attention: Simon Eching  
901 P Street, Room 313A  
Sacramento, CA 95814  
*Submitted via e-mail to [mweo@water.ca.gov](mailto:mweo@water.ca.gov)*

#### Re: **CBIA Comments on Draft Landscape Model Ordinance**

Dear Mr. Eching: Comment 058.1

California homebuilders, represented by the California Building Industry Association (CBIA) are regrettably opposed to the proposed updates to the Model Water Efficient Landscape Ordinance (the "Model Ordinance") – specifically the contents of the Modified Text of the Proposed Regulations released on November 26, 2008.

CBIA continues to support the Governor's efforts to promote water conservation and is committed to the homebuilding industry doing its part to help the state achieve its goals. In order to achieve these goals, however, everyone needs to do their part and CBIA believes the Model Ordinance simply adds burdensome and costly requirements on new housing and fails to establish a fair and broadly distributed program for water conservation in California.

In that regard, the recommendations contained in the Model Ordinance lack balance and appear to place an unreasonable and disproportionate water-conservation burden on new housing. This is a penny-wise and pound-foolish approach to pursuing the state's water conservation goals, since new homes represent only a tiny fraction of the state's inventory of water-consuming homes. Moreover, it's profoundly unfair to impose these new requirements on new homes without making a reasonable effort to institute similar water conservation measures for existing homes and related water users. This is particularly true when newly built homes in California far out-perform existing homes in terms of water conservation.

Comment 058.2

Of particular concern is the imposition of a state compliance standard which creates a new bureaucratic project-approval hurdle for all new housing in California to clear. This new "Certificate of Completion" – which, according to the Model Ordinance, is required to be granted prior to issuance of a "Certificate of Occupancy" – puts the state squarely in the position of dictating local land-use planning, design and decision-making.

Indeed, the new "certificate" requirement begs more questions than it answers. How does the certification get enforced? Who performs the pre and post-construction inspections that appear to be required? Does the state plan to post technical "field" representatives to identify and direct the corrective action to be taken in the instance of non-compliance? How will local governments adjust, not just to a new landscape ordinance, but to completely revising their development-approval processes to comply with these complex new requirements? Construction delays? Home sale delays? And, of course, who pays for all of this and how much?

The new state certification also proposes monetary penalties on those found to be in non-compliance. Is that fine to be imposed on the authorizing unit of local government? On the project applicant? Are there appeal rights that go with these new state penalties? Where do the fine proceeds go?

Comment 058.3

CBIA is further concerned with other provisions of the Model Ordinance, particularly those whose prescription and cost implications that seem to depart from the goals of the underlying law, AB 1881, and which would at a time when the new home construction industry and the economy can least afford it saddles producers and consumers with new costs that they cannot likely absorb. Those new mandates include:

- "Landscape audits", performed before, during and after construction and paid for by homebuilders and their customers.
- New requirements for soil analyses and grading plans.
- Requirements for local agencies to hire the new technical and field staff to review and conduct landscape irrigation audits on a regular basis. Lack of funding and complexity of program will certainly lead to delays in permit processing.
- Requirements for recycled water plumbing notwithstanding the absence of a state standard for such plumbing
- Requirements for the installation of prohibitively expensive and cost-ineffective drip irrigation systems.

These and other requirements of the Model Ordinance layer considerable new costs on consumers. Indeed, as prices are falling – dramatically in many cases – the state is proposing to add new costs to new housing. And, asking new homebuyers to pay more for a home that is already vastly out-performing existing homes in both energy efficiency as well as water conservation is simply wrong.

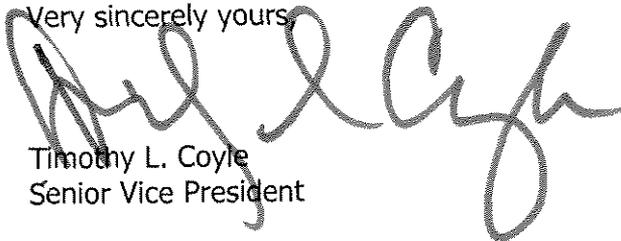
CBIA is also concerned that many of these same concerns, which were detailed in comments letters of industry groups in February of this year were neither addressed nor reflected in modifications to the revised Model Ordinance.

Moreover, CBIA is puzzled by the cost-impact determination of the Department of Water Resources (DWR) contained in its *Initial Statement of Reasons*. On page 15 of the document DWR has determined that complying with the new landscape rules would have no effect on housing costs. Yet, even the most conservative estimates reveal significant costs on new homes in order to comply with the conservation installation and operational requirements of the Model Ordinance.

CBIA is concerned about the implications of the Model Ordinance on the homebuilding industry and requests that DWR take whatever time is necessary to work with CBIA and other interested stakeholders to resolve these concerns.

CBIA looks forward to discussing this matter with you further.

Very sincerely yours,

A handwritten signature in black ink, appearing to read "Timothy L. Coyle". The signature is fluid and cursive, with a large, stylized initial "T" and "C".

Timothy L. Coyle  
Senior Vice President

cc: Victoria Bradshaw, Office of the Governor  
John Moffatt, Office of the Governor