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PA STATE DEPARTMENT OF REVENUE

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Pennsylvania
Association of
REALTORS®

*The Voice for Real Estate
in Pennsylvania*

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March 3, 2010

Chairman Art Coccodrilli
IRRC
14th Floor
333 Market St.
Harrisburg, PA 17101

On behalf of our over 30,000 members, I am writing in regards to concerns that the Pennsylvania Association of REALTORS® (PAR) has regarding the proposed rulemaking for outdoor wood-fired boilers (OWB) under § 123.14. While we agree that OWBs should be better regulated in Pennsylvania, DEP's position that the regulations could be interpreted to prohibit a property transfer with a non-Phase 2 OWB causes PAR a great deal of concern.

As written, the regulations would preclude a seller/lessor of real property from conveying/leasing a property that had on it an outdated (Non-Phase 2) OWB. The proposed definitions, as well as the existing definitions, do not define "seller" or "lessor" and the regulations would therefore apply to those who sell/lease OWBs in the ordinary course of business as well as the occasional seller, including one who sells/leases real property that has on it such an OWB. PAR would like to see clarification in the form of definitions to ensure that these provisions only pertain to sellers/lessors of OWB products and not real estate professionals or their clients.

It is our belief that without clear definitions, our members will face liability in the event they are not cognizant of the issue and fail to advise their seller/lessor clients of the notice requirements as well as the prohibition against selling an outdated system. Buyer and lessee agents could also face liability for failing to inform buyers that a buyer may not purchase a property with a non-compliant OWB.

Point-of-sale provisions are not overly effective in fixing problems such as environmental hazards in a timely fashion. These requirements can unnecessarily hold up the transfer of property and in some cases will force a potential seller to decide not to sell. It is likely that a seller has the money needed to pay for the repairs or upgrades but it is tied up in the equity of the home. In this case, \$8,000 to \$18,000 could be a substantial hardship. By forbidding the transfer, DEP runs the risk of not fixing the majority of the problem systems. For this reason, PAR believes this interpretation of the regulation would be an inefficient method of achieving the highest level of compliance to environmental standards.



Existing law which requires a seller to disclose material defects at the time of sale, and which encourages buyers to obtain a home inspection before purchasing a property, provides self-improvement of current housing stock and negates the effects of point-of-sale requirements. The cost of the repair of defects is often negotiated by the potential buyer and seller. In this instance, for example, the seller could reduce the price of the home and the buyer would be required to repair the outdated OWB. This has proven to catch and repair many defects such as leaking on-lot sewage systems.

In closing, PAR would like to see clearer definitions of seller/lessor to ensure that real estate professionals are not liable for enforcing this potential point-of-sale activity. Also, as outlined above, point-of-sale provisions are not an adequate means of fixing environmental hazards as the market is ever changing and unpredictable. I am available at your convenience to further discuss our concerns.

Sincerely,

Derenda Updegrave
Director, Government Affairs

Cc: Senator White, Chairman, Senate House Environmental Resources and Energy Committee
Senator Musto, Chairman, Senate House Environmental Resources and Energy Committee
Representative George, Chairman, House Environmental Resources and Energy Committee
Representative Hornaman, Chairman, House Environmental Resources and Energy Committee
Secretary Hanger, Department of Environmental Protection, Chairman, Environmental Quality Board



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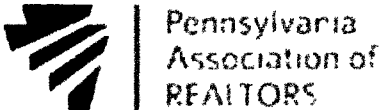
From:
Sent: Friday, March 05, 2010 4:31 PM
To:
Subject: FW: PAR Comments on OWBs
Attachments: IRRC Comments - OWB3.10.pdf

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From: Elizabeth Hensil [mailto:ehensil@parealtor.org]
Sent: Friday, March 05, 2010 4:29 PM
To: Schalles, Scott R.
Subject: PAR Comments on OWBs

Attached are PAR's comments regarding the OWBs

Elizabeth Hensil
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