

December 29, 2018

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California Building Standards Commission
Attention: Mia Marvelli, Executive Director
2525 Natomas Park Drive, Suite 130
Sacramento, CA 95833

Re: Public Comments regarding HCD adoption and amendment of the 2019 CEBC
Comments with respect to 15-day Notice

Dear California Building Standards Commission:

This letter provides my public comments regarding the proposed adoption with amendment of the California Existing Building Code (CEBC) by the Department of Housing and Community Development (HCD). In particular, this letter responds to the Express Terms made available for public comment on December 19, 2018.

The adoption of the 2019 CEBC as proposed by HCD will create a fundamental and overwhelming change in how repair of damaged dwellings is treated in California, by requiring that a tremendous amount of resources (both time and money) be put into improving damaged dwellings before they are allowed to be reoccupied. In some instances the cost of mandated improvements will be many times the cost of damage repair.

This change is occurring because HCD has chosen to stop carrying forward in the repair section language from the 2016 and prior editions of the CEBC and CBC. This language, if maintained, would permit in-kind repair of damaged dwellings. By making the decision to stop carrying this language forward, damaged dwellings will now be subject to engineering evaluation of damage and potential triggering of upgrades to the entire gravity and/or lateral force-resisting system. This will be done using inadequately defined criteria never vetted for application to residential construction, most of which has not been engineered. The likely outcome of this is both chaos in determining if and what upgrades are triggered, and tremendous increase in the effort and cost expended to get residents back into dwellings that have been damaged.

While I have heard comments made that HCD does not intend to change past practice with regard to repair of damage, I have also heard that they do intend to change practice. In the absence of an authoritative statement of intent, I as a practicing engineer am required to implement code provisions based on the letter of the code. From my more than 30 years as an active member of code and standard development in California and nationally, I can state that a deletion of language between code editions will be interpreted as an intent to change practice by those design professionals, home builders, and building officials that are dutifully trying to comply with California law. Further, the conflict between the language not carried forward in the CEBC and matching language still existing in the Health and Safety Code puts the design professional, home builder, and building official in the untenable position of trying to decide which state law to ignore or break. I ask that you not approve the adoption as proposed by HCD because it will put the design professional, home builder, and building official in this untenable position.

The choice to invest substantial resources in the improvement of damaged buildings is one that can and should be debated by the broader affected community. This discussion would be appropriate to a forum,

time frame, and participants relevant to the impact on California housing. It should be kept in mind that the events triggering repair to dwellings are varying in type and extent, including house fire, wild fire, flooding, earthquake, wind, snow, vehicle impact, slope stability, decay, deterioration, etc. The extent of improvement that would be triggered can be very substantial and potentially extend to full reconstruction. This is because so much of the California existing housing stock has not been engineered, but much of it would be forced to implement engineered upgrade designs. The choice to implement changes with significant cost implications are most often viewed in a cost-to-benefit approach. In this case, however, the costs and benefits do not appear to have been appropriately considered. When looking at improvement of lateral force-resisting systems, significant information is available suggesting high benefit-to-cost solutions are available that target known vulnerabilities. All of this should be brought forward in a future and organized discussion of potential fundamental change to treatment of damaged dwellings. Because the work had not yet been done to support making this fundamental change, I ask that you do not approve the adoption as currently proposed by HCD.

The significant cost of this change, should it be successful, will be borne by the residents of California as a group. In the short term it will most likely be borne by individual owners who without code-upgrade coverage in their insurance will be forced to walk away from damaged homes rather than rebuild. This could include many of the homes damaged by recent wildfires, if the owners are not able to apply for permits before the 2019 California codes go into effect. In the longer term, insurance companies will likely adjust available code-upgrade insurance and its cost to cover increased use and expense. Home owners who have the financial resources will purchase this insurance. While this appears to move the cost back to the insurance industry, we will all pay the cost in increased insurance rates. Given that one way or another it is the residents of California that carry the cost, it is paramount that the balance of cost and benefit be thoroughly considered, and refined rather than brute-force approaches developed before moving forward.

I ask that the California Building Standards Commission either:

1. Reject the adoption of the 2019 CEBC in its entirety, retaining the 2016 CEBC with 2016 HCD amendments,
or
2. Modify the proposed adoption of the 2019 CEBC as follows:
 - Do not adopt Sections 302.5.1, 405.2.1, 405.2.1.1, 405.2.2, 405.2.3, 405.2.3.1, 405.2.3.2, 405.2.3.3, 405.2.4, and 405.2.4.1. These sections conflict with Section 17958.8 of the HSC and violate the requirement that in-kind repairs and in-kind construction be permitted.
 - Add Section 401.2.1 to the 2019 CEBC as follows:
[HCD 1] 401.2.1 In-Kind Repairs. Local ordinances or regulations shall permit the replacement, retention and extension of original materials, and the use of original methods of construction, for any building or accessory structure, provided such building or structure complied with the building code provisions in effect at the time of original construction and the building or accessory structure does not become or continue to be a substandard building. For additional information, see Health and Safety Code Sections 17912, 17920.3, 17922(d), 17922.3, 17958.8 and 17958.9.
 - Add Section 503.1.1 to the 2019 CEBC as follows:
[HCD 1] 503.1.1 Materials. Local ordinances or regulations shall permit the replacement, retention and extension of original materials, and the use of original methods of construction, for any building or accessory structure, provided such building or structure complied with the building code provisions in effect at the time of original construction and the building or accessory structure does not become or continue to be a substandard building. For additional information, see Health and Safety Code Sections 17912, 17920.3, 17922(d), 17922.3, 17958.8 and 17958.9.

Note that adoption of the 2019 CEBC without HCD amendments should not occur. It will not resolve the issues that are raised in this letter, and will cause other issues. In absence of other solutions, continued reliance on the 2016 CEBC with 2016 HCD amendments is the best interim solution.

I would be happy to be available for discussion.

Sincerely,

A handwritten signature in blue ink that reads "Kelly E. Cobeen". The signature is written in a cursive style with a large initial "K".

Kelly E. Cobeen
S.E. 3362