CALIFORNIA ASSOCIATION OF REALTORS®

July 16, 2008

Mary Nichols, Chair
California Air Resources Board
1001 'I' Street
Sacramento, Calif. 95814

Re: Climate Change Draft Scoping Plan

Dear Madam Chair Nichols:

Thank you for the opportunity to provide comments on the Climate Change Draft Scoping Plan. In response to the Air Resources Board's solicitation for comments, we have detailed a particularly important concern that we believe should be considered for the final Climate Change Scoping Plan.

The CALIFORNIA ASSOCIATION OF REALTORS®. strongly opposes time of sale as a trigger for real estate mandates as is suggested in the Preliminary Recommendations section for the Electricity and Commercial/Residential Sector for environmental performance testing and ratings. Time of sale trigger mechanisms are doomed to fail because of lack of market penetration, and will exacerbate the affordability problems that plague the housing market.

<u>Time-of-Sale Mandates Hurt Housing Affordability.</u> Every $1,000 increase in the price of a home disqualifies 26,600 California households from achieving home ownership. Even in the current market, housing affordability in California is still abysmal. Home energy audits can cost up to $400+ per home to perform. One of our principal concerns about time of sale mandates is their effect of loading new costs on the transaction. New transaction costs are in conflict with California's efforts to promote housing affordability and these costs come at the worst possible time in the ownership cycle.

<u>Time-of-Sale Takes Too Long.</u> About 70% of California's existing housing stock was constructed prior to the implementation of State Energy Efficiency Building Standards in 1978. With less than 2% of homes changing hands each year even in a robust market, only a comprehensive broad-based approach to addressing energy efficiency needs can effectively reach older homes. These older homes use up to 50% more energy for heating and cooling than homes built today, so no other approach makes sense, especially within the timeframe of AB 32. These numbers further exemplify the need for a more <u>comprehensive</u> approach to addressing the existing housing stock.

<u>Insufficient Green Work Force.</u> Our previous discussions with the California Energy Commission (CEC) have revealed that there is not an adequate supply of energy auditors to handle home sales in a timely fashion, let alone evaluations of the rest of existing buildings. In certain parts of the

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state, these professionals may not even be available. This is another reason we suggest that any new requirements be completed outside of a sales transaction. The ability to complete and audit outside of escrow can make the difference between a workable and unworkable program.

<u>REALTOR® Liability.</u> Our members take their disclosure responsibilities seriously. Our members have a good track record of performance, if they have a user-friendly way to discharge their responsibility. By the same token, they are not energy conservation experts, don't want to be the "energy cops" in a transaction, and won't be the guarantors of some other experts work product. Disclosure of audit program information and home energy efficiency ratings can be dealt with through mechanisms we have already used in other areas such as the safe harbor for disclosures using an energy commission publication as provided for in Civil Code 2079.10, and the expert disclosures referenced in Civil Code 1102.4.

<u>A Better Alternative.</u> In keeping with the goals of California's statewide and national energy and environmental policies and commitments, we respectfully suggest that the key to achieving energy efficiency in existing homes lies in a broad, statewide approach that would reach ***<u>all</u>*** California homes. This can be achieved by partnering with utilities to target all pre-1978 homes first. Once this set of housing has been audited then the program could continue to address the remainder of the housing stock. To deal with the negative impact of "front end" costs, we suggest the use of "public good" funds and/or grant programs through the utilities to perform the performance testing and ratings as a more viable alternative. Similarly, if retrofits identified in the audit can be funded through a utility surcharge, grant, or cost-avoidance financing repaid via a utility billing, then that alternative financing may constructively address the cost issue. We also suggest that that it is also important to get energy audits into the hands of a seller well in advance of the sale process itself. This will allow the true energy costs of a building to be reflected in its price, and allow any retrofits made in response to it to be done in a timely and cost effective timeframe.

That said, we propose the following broad-based and more proactive alternative to time of sale. We are happy to help by providing additional housing data or further vetting any of the ideas presented below:

<u>Near Term Objectives</u>

- Conform Civil Code 2079.10 to any new and existing CEC consumer materials, and make their materials fit the charge of the program. Real estate agents give out hundreds of thousands of existing earthquake safety and environmental hazard brochures already, at no cost to the state, and this would work for an energy piece – <u>IF</u> it was structured the same way and didn't invite new liability to agents.
- Empower the release of utility billing records to prospective purchasers. Utility bills are obviously less accurately predictive of a home's energy efficiency than a true audit, but they are still a rough guide and the best energy efficiency indicator available right now. This may require specific statutory authorization to alleviate utilities' concerns about privacy and funding issues.
- Create a repository for audit reports, searchable by property. Reports of both audits and utility billings should be accessible on-line and allow Multiple Listing Services (MLSs) to auto-populate their information fields with the information. Many MLSs do this now with tax assessor data.
- Add promotion of audits, and possibly basic energy features review, to be required contents of appraisals, home inspections and relevant (e.g. renovation, HVAC) building permit inspections.
- Promote existing web-based resources that profile area-specific information on rebate and subsidy programs.

Middle Term Objectives

- Task the CEC with the prioritization of oldest and least efficient building stock (both housing and non-residential) for an audit campaign.
- Task the CEC with completion of a basic audit model and complete training of an adequate cadre of inspectors. The audit model should yield prioritized recommendations to building owners of cost-effective retrofits and identify which retrofits yield most rapid returns.
- Authorize cost-avoidance "on-bill" financing.
- Begin public good surcharges to build funds to pay for audits and subsidized retrofits. Mandatory audits should be at no cost to building owners.
- Begin neighborhood by neighborhood audits and expand as auditor availability permits. Goal to audit all pre-Title 24 buildings by 2015. Require tracking and progress reports on audits and retrofit responses annually.
- Begin subsidized retrofit programs funded via public good surcharges or conservation loans paid back through utility bill installments.
- Allow the job creation that will inevitably occur in the "high value" target areas to count as community reinvestment for participating lenders when the areas overlap (as they often will) with underserved communities.

Long Term Objectives

- Validate the progress of audits and subsidies toward goals.
- Subsidize retrofits (especially "big ticket" items) that might not otherwise be cost effective but still make substantial progress.
- Examine the effect on job creation resulting from the program in targeted areas.
- Enhance density bonus land use incentives to encourage more efficient development of housing.

We will lend our efforts to making the proactive approach work, and look forward to collaborating with you, other state agencies, utilities, lenders, builders, contractors and any other interested parties.

Thank you for your consideration,

Elizabeth Gavric

Elizabeth Gavric
Legislative Advocate