



Dear Sir:

Are you having problems with your code official?

If so, please let us help you. You have very important legal rights and your code official has very important duties. It is important that you understand each other's point of view. Then, considerate communication is the way to get the best result.

In nearly every case, you will find that your code official is a dedicated, knowledgeable professional who is primarily concerned about your safety.

Radiantec Company recommends new energy systems that are efficient and responsive to the need to conserve energy. The new systems have been evaluated and approved by the major model codes. If your code official has not seen a new technology that you would like to use, he may ask you for proof that the new technology is safe and acceptable.

You need to understand what his duties and responsibilities are. You also want to know what your own rights and duties are.

The job of the code official is to interpret and enforce the local building code. The local code is likely to be based upon one of the "model codes". Building codes are intended to ensure public safety but they are not intended to be "straightjackets". New methods and materials come out on a regular basis and code officials have a duty to be "**reasonable**".

No code official wants to obstruct the use of new methods that can help save energy.

Every code that I have seen makes provisions for the use of "alternatives".

As an example, this paragraph is taken from the 2006 ICC Plumbing Code (International Code Council) which is the most commonly used "model code".

105.2 Alternative materials, methods and equipment. The provisions of this code are not intended to prevent the installation of any material or to prevent any method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material or method of construction *shall be approved* where the code official finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code in quality, strength, effectiveness, fire resistance, durability and safety

This means that you have the right to use an alternative method if it is safe. The code official must carefully consider your request. He must be diligent and open minded. He or she cannot deny you simply because he has not seen it before or because it is not in his book or if it is not specifically permitted by the code that he enforces.

If a code official will not let you use a system that is safe, he or she is **legally being arbitrary**. (According to Webster, arbitrary means autocratic, despotic, and determined by will or caprice).

A building code that is inflexible and will not permit equivalent practices and materials **is also arbitrary**. Code officials have discretion and they can issue waivers for good cause.

A building code or a code official that is arbitrary will probably be overruled upon appeal. No one wants that to happen.

The appeal process need not take a long time, and it need not delay your project. You probably do not need an attorney. Your local officials do not want to support a process that unreasonably prevents you from conserving energy. Your town or city attorney does not have time or the budget to take up an enforcement action that is arbitrary and doomed to lose.

On the other hand, *you have the duty to show that what you want to do is safe*. You need to present quality evidence.

Most code officials are very busy. Be considerate of his time and have supporting documents in order.

Radiantec is ready to help you. We have a great deal of evidence to support the alternative methods that we suggest including expert evaluations, approvals in other states, and high level code approvals. We will speak with your code official on your behalf.

If your code official is arbitrary, tell him that you would like to exercise your rights. *Please understand that the reason you have these rights is because someone before you stood up for them*. We hope that you will also stand up for these rights so that those who follow you may benefit from you effort.

Good luck with your project. I assure you that Radiantec Company will provide you with every possible support.

Sincerely,

Robert J. Starr
President,
The Radiantec Company, Inc.

attachment: Evaluation report from the ICC Evaluation Service, Inc.

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