

BIAW FILES CHALLENGE TO NEW ENERGY CODE

BIAW attorneys filed a lawsuit May 25 challenging part of the recently-adopted changes to the state energy code (specifically, the “pick list” included in the new Chapter 9). This particular section of the new energy code requires builders to install HVAC and plumbing equipment that meet energy efficiency standards that are higher than the standards set by the federal government. Federal law explicitly prohibits states and local governments from setting more stringent rules. The complaint, filed in federal court, alleges that the state is pre-empted by federal law when it comes to setting standards for certain “covered products,” including HVAC and plumbing equipment, that are more stringent than federal standards and asks the court to stop the code from going into effect.

There is currently a similar challenge working its way through federal court in New Mexico that alleges many of the same claims against the City of Albuquerque's recently-adopted energy codes, and the plaintiffs there were successful in stopping the city's code from going into effect pending the Court's decision. With the injunction in place, Albuquerque was prohibited from enforcing their code and the Judge is expected to issue a final decision in the case any day.

The changes to the Washington State Energy Code are set to go into effect on July 1. Look for updates on this legal challenge in future editions of the Building Insight.