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December 22, 2008

Ms. Gabriella Davis  
International Association of Plumbing and Mechanical Officials  
5001 East Philadelphia Street  
Ontario, California 91761

To: IAPMO Board of Directors

Re: Petition to the Board of Directors from decisions of the Standards Council

Petitioner: Jack Beuschel, President  
Studor, Inc.  
720 Brooker Creek Blvd., Suite 205  
Oldsmar, Florida 34677

## **STANDARDS COUNCIL ACTION**

This petition relates to the Standards Council (SC) decisions dated November 14, 2008 to appeal docket #1153-09 to include air admittance valves (AAVs) in the body of the code and appeal docket #1166-09 to include air admittance valves in Appendix "L". The SC denied both appeals.

## **ARGUMENT**

The reason given by the SC in their decision letter dated November 21, 2008 for denying appeal docket #1153-09 was "on an appeal, the Standards Council accords great respect and deference to the IAPMO Codes and Standards Development Process". This goes without saying but does not constitute a technical reason for denial. What is required to support their decision are actual facts supported by scientific evidence contained in the ROP and ROC on which they relied in making their decision. The SC's decision letter does not contain a single fact in support of their decision.

Likewise the reason given by the SC for denying appeal docket #1166-09 is the same as the previous docket. However, they go on to add, "the Standards Council's review of the entire record provides ample technical support for the process-based recommendation to return the issue to the committee and to utilize the existing text from the 2006 edition of the UPC for the

2009 edition”. Here again, they do not state any “technical” evidence in the ROP and ROC that they relied on in support of their decision.

To the contrary, the SC ignored all of the scientific and documented evidence presented by the petitioner in the ROP and ROC, during testimony at the code hearings and in our appeal. These included:

- Technical response to all concerns presented by those opposed to air admittance valves (AAVs).
- AAV performance standards ANSI/ASSE 1050 and 1051 as well as ANSI/NSF 14. The SC did not state during the appeal hearing why they do not recognize these consensus standards (page 2 ROP and SC appeal letter October 10, 2008).
- The findings of Dr. Michael Gormley and Prof. John Swaffield of Heriot-Watt University (Edinburgh, Scotland) titled “Building Drainage Waste and Vent Systems: Options for Efficient Pressure Control”. This study shows that DWV systems in which AAVs are installed are equivalent to open pipe vented systems in terms of trap seal retention in low-rise buildings and are superior to open pipe vents in high-rise buildings (page 5 ROC and Studor’s appeal letter October 10, 2008).
- AAVs are listed by IAPMO, ASSE, NSF, ITS, UL and ICC-ES.
- AAVs are included in the IPC, IRC, NSPC and Canadian National Plumbing Code.
- AAVs are approved in many states and jurisdictions that adopt the UPC, including Arizona, Washington, Oregon, Clark County (Nevada), and in California – the City of Los Angeles, City of Sacramento and many other California jurisdictions.
- AAVs are referenced as an alternative method in the publication “Health Aspects of Plumbing”. The booklet was produced through a partnership between the World Health Organization (WHO) and World Plumbing Council (WPC). IAPMO takes an active role in the WPC and participated in the editing of the document (Studor’s appeal letter October 10, 2008).
- AAVs are included in Appendix “L” of the UPC adopted by India.
- AAVs have been installed in Europe since 1972 and in the USA since 1989. They have been field tested and are operating successfully.
- There are no report health problems associated with AAVs.

If the Board of Directors do not recognize the performance standards, certifications and successful installation of millions of AAVs since 1972, they are applying a “double standard” for AAVs versus other plumbing products in the UPC. This is a violation of due process.

Further, during the appeal hearing the SC did not point out a single concern they had based on the comments submitted by those opposed to AAVs in the ROP and ROC, yet they use this process as the basis and reason for their decision. This position is nothing more than simply “rubber stamping” the outcome of the code development process without an explanation. This is not the duty of the SC – their duty is to review the entire record, consider both pros and cons, and **support their decision by stating the facts upon which it was based**. The decision letters dated November 21, 2008 do not accomplish this. It is nothing more than an arbitrary and capricious decision, which is not based on facts.

The SC and IAPMO Board of Directors must be concerned that AAVs are not included in either the body of the code or in Appendix “L”. This concern should be based on the fact that

thousands of AAVs are being installed annually in UPC jurisdictions, yet there are no installation guidelines in the UPC for contractors and inspectors to follow. This “ostrich head in the sand” position creates a potential health and safety risk should AAVs not perform properly due to importer installations.

The Studor, Inc. appeal docket #1153-09 recommends including AAVs in the body of the code. This would allow their general use in both residential and commercial applications. The ASPE appeal docket #1166-09 recommends including AAVs in Appendix “L”. Studor views the ASPE proposal as a compromise for those opposed to AAVs and those in support. The ASPE proposal requires that the system be designed by a design professional and that prior approval be granted by the authority having jurisdiction. These provisions should satisfy those opposed to AAVs, since the authority having jurisdiction would have the authority to prohibit their use and if they were permitted the design professional would be responsible if there was a problem. Further, AAVs would not be used in residential construction since the cost of having a design professional design and seal drawings would be cost-prohibitive. On the other hand, those in favor of AAVs can be satisfied that AAVs are at least referenced in the code with installation guidelines.

### **RELIEF REQUESTED**

Studor, Inc. respectfully requests that the IAPMO Board of Directors rules in favor of our petition and includes AAVs either in the body of the code or in the alternative Appendix “L”.

Further, we request that we are granted a hearing before the Board to present our petition. Enclosed is a check in the amount of \$2,500.00 covering the fee.

Sincerely,

Jack Beuschel  
President, Studor, Inc. div. of IPS Corporation