



VIA EMAIL ONLY

February 23, 2023

David Calabrese
Daikin US Corporation
601 13th Street NW, Suite 200
Washington, DC 20005

Re: IAPMO Board of Directors Petition
Standards Council Decision Docket #09-24
UMC Item #138 Public Comment 1

Dear Mr. Calabrese,

I am transmitting to you herewith the following decision of the IAPMO Board of Directors.

A duly appointed Board Subcommittee of the IAPMO Board of Directors consisting of Kevin Tindall (Chair), David Gans (Vice Chair), Allen Becker, Rick Garcia, Barry Ramsey, and Jeremy Stettler held a hearing pursuant to the *Regulations Governing Petitions to the Board of Directors from Decisions of the Standards Council*, to consider the petition of Daikin concerning the IAPMO Standards Council decision referenced above. The IAPMO Board accepted the recommendation of the Board Subcommittee in its entirety. Henceforth the announcement and rationale provided by the Subcommittee has been adopted by the Board and is presented by the Subcommittee on behalf and with authority of the full IAPMO Board of Directors.

Under IAPMO rules, the Standards Council has been delegated the responsibility for the administration of the codes and standards development process, including adjudication of appeals and the issuance of the *Uniform Mechanical Code* (see the *IAPMO Regulations* §§ 1-7, 2-2). On a petition, the Board of Directors must give due deference to the judgment of the IAPMO Standards Council, and will not intervene unless the Petitioner demonstrates the existence of extraordinary circumstances requiring intervention to protect the integrity of the codes and standards development process (see the *IAPMO Regulations Governing Petitions* § 3; see also the *IAPMO Regulations* § 1-7).

Petitions to the Board of Directors are not intended to be a full appeal beyond that already afforded by the Standards Council, but rather an opportunity for the Board of Directors to intervene in the event the Board determines there to be extraordinary circumstances.

Procedural Concerns

Petitioner alleges the Standards Council erred in failing to find that the Technical Committee improperly disregarded the decision and vote of IAPMO's membership, in contravention to IAPMO's consensus process and ANSI objectives. The Board disagrees. No procedural violation occurred in the Standards Council's review of the record and decision on this item, and ANSI's principles were upheld.

Petitioner alleges that a violation occurred when certain members of the Technical Committee who voted in opposition to the membership vote “were not present at the Association Technical Meeting to hear the testimony and witness the vote even though this is a requirement of the Technical Committee.” There is no such requirement in the *Regulations*. During testimony, Petitioner claimed that there has been no previous history of the Technical Committee disagreeing with the vote of the membership. This is not the case, and in fact, the Board is aware of multiple occurrences in recent code cycles when the membership and TC vote were not in agreement. The Board finds no procedural violation.

Petitioner further alleges the Standards Council and the Technical Committee violated IAPMO’s *Regulations Governing Committee Projects* by failing to provide sufficient technical justification in adopting Public Comment #1. When the Technical Committee accepts a public comment, it adopts the substantiation provided by the individual(s) who submitted the comment unless the Committee expressly states otherwise. Therefore, no additional substantiation is required. The Board notes no procedural violation here.

Petitioner claims another violation of procedure occurred when the Council Chair permitted two Council hearing participants to respond during the Council question and answer period. The Chair has the authority and ability to permit further responses, at his discretion, in accordance with hearings procedures. Once again, the Board finds no procedural violation.

Finally, Petitioner asks the Board to address what he feels is dominance in the process. The Board does not find dominance present in the process. The Technical Committee acted according to the *Regulations*, reviewing the membership vote from Charlotte, and each step in the process thereafter was handled in accordance with the *Regulations*.

Conflict Within the Code

With regard to Petitioner’s claim regarding conflict, the Board agrees. Acceptance of Public Comment 1 creates a conflict within the *UMC* that may have been unforeseen by the Technical Committee and Standards Council. Public Comment 1 would change the requirements of *UMC* Section 602.1 (General) to prohibit the use of concealed spaces as plenums. However, Section 602.2 (Combustibles within Ducts or Plenums), exception 1, exempts concealed spaces in dwelling units from meeting the requirements for combustibles within ducts or plenums. Such a contradiction may lead to confusion in the enforcement of the *UMC*, creating a contradicting directive as to whether concealed spaces are permitted to be used as ducts or plenums.

Decision

The Board finds an extraordinary circumstance exists which requires action to avoid a conflict in the code, and grants the petition resulting in no change to the *Uniform Mechanical Code* at Section 602.1, which will read as follows:

602.1 General. Materials used for duct systems shall comply with Section 602.2 through 602.6 as applicable.

Concealed building spaces or independent construction within buildings shall be permitted to be used as ducts or plenums. Gypsum board shall not be used for positive pressure ducts.

Exception: In healthcare facilities, concealed spaces shall not be permitted to be used as ducts or plenums.

Sincerely,



Kevin Tindall
Chair

Cc: IAPMO Code Dept.
Members, Mechanical Technical Committee
IAPMO Standards Council
IAPMO Board of Directors
Jeffrey Jones, Esq.
Rusty Tharp