

23 November 2010

**Re: Woodstove Retrofit at-sale on horizon for all of Placer County.**

**To: All Realtors<sup>®</sup> and Affiliates** who participate in transactions throughout Placer County.

**From: John R. Falk**, Legislative Advocate.

Presented below in four parts-

- (I) The “**Bottom line**” bare bones information that has value to all practicing real estate professionals;
- (II) Where to obtain **additional info and documents** on the matter;
- (III) The “**rest of the story...**” providing the interested reader with greater depth and breadth of information than can be gleaned from simply reviewing the available materials; and,
- (IV) Our organization’s **ongoing effort** to call out the program’s fatal flaws, **offer up superior alternative** approaches to achieving the desired end-state, **and how you can participate** in correcting this suboptimal methodology.

(I) **Bottom line** at the top: The Placer County Air Pollution Control District (APCD) adopted an initial set of regulatory measures back in June of 1986 to address emerging woodstove emissions particulate matter concerns. This set of standards was/is collectively referred to as “Rule 225”. On December 13, 2007, the APCD Board adopted a number of amendments to Rule 225 “Wood Burning Appliances”. Some of these amendments took effect immediately, such as the requirement that those who sell woodstoves provide purchasers with information regarding proper use and appliance maintenance, EPA standards, and so forth. Other provisions were not set to be triggered upon adoption, but rather at a future date as articulated in various Sections of the Rule as amended. Section 300, “Standards”, has just such a mix of provisions; some of which became active in

2007/2008, and others that are slated for implementation in 2012. The core concern that precipitated this broadcast to our general membership is to be found in subsection 303, which mandates a point-of-sale driven woodstove retrofit/compliance program for existing residential dwellings. This program is slated for implementation on January 1, 2012, and applies to the entire County. As such, Rule 225 (as amended) has the potential to touch a large segment of the property sales activity in Placer County.

The focal point of this discussion, Placer County Air Pollution Control District Rule 225, Sec. 300, subsection 303, reads as follows:

### 303 SALE OR TRANSFER OF REAL PROPERTY

303.1 Effective January 1, 2012;

303.1.1 No person shall sell or transfer any real property which contains an operable free standing wood stove which is not EPA Phase II certified.

303.1.2 Prior to the sale or transfer of improved real property, the seller shall provide to the recipient of the real property, and the Placer County Air Pollution Control Officer, documentation of compliance with section 303.1.1 of this Rule. The Placer County Air Pollution Control District Board will approve a procedure to implement this Rule to become effective January 1, 2012.

303.1.3 Each property which contains a free standing wood burning stove may be subject to an inspection prior to sale or transfer by the District or other District approved agency, in order to verify compliance with this rule.

For our purposes today, the objective in submitting this information for your review is to afford you, the real estate professional, the opportunity to consider how best to address the issue. The standards and procedures that you utilize as a value-added participant in the real estate sales process is a matter best left to you, your broker, your office, your firm, and its legal counsel. Your professional trade association (TSBOR) has and continues to fight for what's right, not only for the industry but for the community and customers we serve. The point-of-sale

retrofit methodology is not our preferred approach to addressing real problems in a timely fashion. Nonetheless, at present the Placer County APCD has charted a course that follows that ill-conceived path.

**(II) *Additional information & documentation*** may be obtained from either the implementing agencies or by referencing the extensive dataset that TSBOR has collected in regard to this matter.

The TSBOR/TSMLS website has posted a large number of documents related to the issue under consideration. Of specific/direct interest, we have the APCD Rule 225 as amended posted, the APCD Staff Report of 2007 that drove the amendment discussion, a pre-adoption Q & A “FAQs” sheet that the District developed, a thought-provoking e-mail thread between the APCD staff and your professional advocate, as well as two letters that TSBOR has submitted on this issue. If you go to our Board’s website, over to the Local Government Relations Committee (LGR) page, in the PDF library you will find a category that has been created to house the above mentioned info/docs, entitled “Placer APCD WoodStove”.

If you wish to make contact with the Placer County Air Pollution Control District (APCD) directly, they can be reached by phone at (530) 745-2330, via e-mail to Ms. Margie Koltun, Clerk of the Board, [mkoltun@placer.ca.gov](mailto:mkoltun@placer.ca.gov), or by submitting an e-mail to the APCD’s general ‘in box’, which is: [pcapcd@placer.ca.gov](mailto:pcapcd@placer.ca.gov). The Placer County APCD also has a web presence, at the web address [www.placer.ca.gov/Departments/Air.aspx](http://www.placer.ca.gov/Departments/Air.aspx). The county APCD is a stand-alone agency, with powers that are much same as those of a “special district”.

**(III) *The rest of the story...*** Each year, the Air Pollution Control District identifies a number of issues that will be considered over the course of a given year. This list of topics is published by the District and distributed to interested parties. The practice is a good one, in that it both sets the agenda for the District and acts as an ‘early warning’ radar for those who might be affected. In 2007, the Placer County APCD Board of Directors took up, among many other things, possible revisions to Rule 225. At that time both TSBOR and our neighboring Board, the Placer County Association of Realtors<sup>®</sup>, immediately saw the red flag implications of a proposed change-out of non-compliant woodstoves in existing homes. Both Boards GADs offered input regarding the pitfalls of point-of-sale mandates and escrow encumbrances. Hearing no follow-up information or intention to proceed with the ill-conceived p-o-s tactic, the assumption was that the matter was ‘off the table’. In speaking with Placer AOR’s GAD, the general sense was that the wisdom and logic of our position had prevailed; that the ‘powers that be’ understood and agreed to pursue a more productive course of action. Jump ahead to 2010, in the context of our organization’s ongoing effort to ensure that point-of-sale performance mandates do not creep back into the “preferred alternative” of the TRPA’s 2027 Regional Plan Update; your advocate came upon a brief statement in a TRPA status report that referenced a Placer County woodstove Ord. to be implemented in 2011. Having not heard of any renewed interest in pursuing such a change, much less it being something with a 2011 trigger date, a concerted research effort was launched at once. Net result, the TRPA staff report on Air Quality was vaguely referencing the APCD’s Rule 225 amendments, with a 2012 trigger date. This came as something of a shock, for it was not even on our radar. In contacting Placer AOR, their GAD was similarly puzzled and concerned about this turn of events.

It was only because every page TRPA produces is reviewed by our Board that such a remark in passing, deeply embedded within a TRPA progress report of

hundreds of pages covering a wide range of topics, caught our attention and spurred our initial reinvestigation of the p-o-s matter. As the official documents came to light, the facts of the Placer APCD action were worse than anticipated. A number of questions arose out of this investigation. Confounding variables such as the pre-existing Supervisor based Code provision regarding woodstoves in the Martis Valley, the TRPA's current and intended/potential course of action regarding change-out, and the pre-existing compliance mandate from the APCD with a narrow focus limited to Squaw Valley, added to the uncertainty regarding the District's intent.

The whole woodstove compliance effort, while laudable in its intent, has become a "jumbled" mess of fragmented efforts by multiple agencies; each with its own set of regulations, incentives, documents, and standards for demonstration of compliance. Stating the obvious, air and the particulates suspended within it do not respect the artificial boundaries drawn by units of government. Our Board worked long and hard to achieve the model approach to the issue of getting older gross polluting stoves out of circulation/use. Namely, the Universal Compliance Requirement with a Date-Certain set to be in compliance, as seen in the Town of Truckee's "gold standard" program (ref. Title 7 of Town Code).

***To pursue information and documentation on these matters, the interested reader has ready access to a plethora of source materials.*** If you would like to reference the Board of Supervisors actions, or pose questions to this arm of government, they can be contacted by phone through the Clerk of the Board at 530-889-4020, or via their website [www.placer.ca.gov](http://www.placer.ca.gov). The County Codes are posted on a separate website, <http://qcode.us/codes/placercounty>. Within this site, the Code Section of interest is Chapter 15, Building and Development, Article 15.26, Air Quality in the Martis Valley.

With a segment of Eastern Placer County within the Tahoe Basin, it would also be of interest/value to cross-reference your data/doc collection with the Tahoe Regional Planning Agency's (TRPA) Code. Their website, [www.trpa.org/](http://www.trpa.org/) has an entire section devoted to woodstoves in the Tahoe Basin. On the left of the opening page there is a list of topics (e.g., About TRPA, Regional Plan Update, Environmental Issues, Governing Board...); select Homeowner Info, and under that tab is Wood Heater Program Information, click it and it will take you to all the background info, documents, and requirements. TRPA can be reached at their general contact, by phone at (775) 588-4547, or via email - [trpa@trpa.org](mailto:trpa@trpa.org). To bypass this stage, it might prove expedient to contact their Environmental Improvement Branch directly- by phone (775) 589-5252, or e-mail to [jmcmamara@trpa.org](mailto:jmcmamara@trpa.org). Either of these two contact options will put you through to Jeanne McNamara, Acting Branch Chief, TRPA.

Of course, if you want to see the template for how woodstoves should be addressed, take a look at the Town of Truckee's Municipal Code, Title 7 in specific.

**(IV) A call to action.** If you are inclined, the effort to correct the APCD's poorly conceived point-of-sale retrofit approach to woodstove change-out could always use your voice. Speaking not only a practicing real estate professional, but also as a business owner, community member, and "air consumer", you have a stake in the outcome of this debate. Our request to the Placer County Air Pollution Control District is to formally reconsider the Rule 225, section 300, subsection 303 point-of-sale performance mandate. Based upon the new information we have provided them, it would be fair and just if their Board of Directors were to officially rescind the concerning components. Then, re-engage us and other 'stakeholders' in a dialogue to identify a more appropriate course of

action. Take a look at the TSBOR advocate letter to the APCD, which outlines five distinct paths that could/should be considered. The 22 page correspondence is posted on the TSBOR/TSMLS website. Using whatever arguments resonate with you, please draft and send a letter to the APCD, with “cc” to the County Board of Supervisors (specifically, our 5<sup>th</sup> District Supervisor, The Honorable Jennifer Montgomery – via e-mail [JenniferMontgomery@Placer.ca.gov](mailto:JenniferMontgomery@Placer.ca.gov), with a copy to her High Sierra Field Rep. Mr. Steve Kastan, whose e-mail is as follows [skastan@placer.ca.gov](mailto:skastan@placer.ca.gov)).

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The strength of our argument against the onerous point-of-sale retrofit mandate (e.g., inefficient, ineffective, inequitable...) should be sufficient to carry the day; but as you know, numbers count. Adding your voice to the call for reconsideration and rescission of the p-o-s mandate would increase the power of our position immensely. As always, if you have questions, comments, concerns, or desire additional information, please contact me for assistance. Thank you.

John R. Falk

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