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To: All CHBA Members

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## CHBA's Position on Environmental or "Green" Labeling Initiatives

Attached to this message you will find a briefing note about the CHBA's position on environmental or "**green**" labeling initiatives. This updates previous materials sent to members on these subjects.

The briefing note addresses the CHBA's concern over the actions of some provincial and municipal governments to impose poorly-planned green regulations on our industry, and on **today's** and **tomorrow's home buyers**.

The CHBA is taking a strong position concerning ill-conceived environmental regulations, and on green labeling initiatives that create **liability exposure for members** and **unjustifiable costs for our customers**. We take these positions knowing that **our industry is an environmental leader**, and that we are delivering the environmental results that Canadians expect of us.

CHBA members recognize the need for effective action to address climate change – and we are doing something about it. In fact, **we are leaders in this area**.

This progress was reinforced with the recent release of Environment Canada's *2006 Greenhouse Gas Inventory*, which Canada is required to file each year under the terms of the Kyoto Treaty. According to this federal government report, in 2006 the greenhouse gas emissions from the residential sector were **8.5% below** the level released in 1990. This is **2.5% below** the Kyoto target. **Housing has met the Kyoto challenge!**

Other sectors of our economy have not achieved similar success, and Canada's total greenhouse gas emissions in 2006 were some 28% above the Kyoto target. For instance, commercial and institutional buildings were nearly 37% above the target, the transportation sector was 38% above it, and electric utilities were off target by 28%.

**The achievement of our industry in meeting the Kyoto treaty targets two years before the 2008 deadline is significant and commendable.** This proves that our industry does not need more environmental regulation for us to get on with the job. **We are already doing the job.** And we're doing it in a way that respects housing affordability and the needs of our customers.

I trust that you will find the attached information interesting, and that it will help you to make appropriate business decisions, as our industry moves forward to a greener future.

Yours truly,

John Hrynkow  
President



# **Briefing Note on the CHBA's Position on Environmental or "Green" Labeling Initiatives**

May 22, 2008

Recent CHBA reports and the Red Alert on liability related to green labeling programs have led to interest from members about the Association's broader position and policies related to environmental or "green" initiatives, as approved by the National Board of Directors. This briefing note provides an overview of these issues for members.

## ***Does the CHBA support green labeling initiatives?***

Yes. The CHBA is a strong supporter of truly voluntary, market-driven initiatives including R-2000, and the various builder-led regional label programs that are based upon it, including EnergyStar™ and Built Green™.

The CHBA's support for these initiatives reflects three factors:

First, they are based upon sound building science and the house-as-a-system approach, so we can be confident that the health and comfort of home buyers is being protected.

Second, these are truly voluntary, market-driven programs that have come about through industry leadership. We trust them. There is no confusion about whether the program operators are working to have their label imposed as a regulatory requirement – they are not.

Third, these voluntary, market-driven initiatives work – they get results. In the last 15 years, the residential sector has achieved greater environmental improvement than any other sector of the economy. These initiatives, particularly R-2000, are the reason why. We need to stick with this proven approach.

## ***Is the CHBA opposed to the EnerGuide Rating System (ERS)?***

No. The CHBA continues to support the use of the EnerGuide Rating System (ERS) within voluntary, market-driven programs like EnergyStar™ and Built Green™. At the same time, the Association recognizes that the ERS has a number of technical problems, especially when used to rate, or compare, the performance of new homes.

The CHBA strongly opposes the use of the ERS as a regulatory tool for new homes, incorporated into provincial building codes. The ERS was never intended to be used in this way, something that NRCan has been very clear about.

Misusing the ERS by applying it to new homes within building codes poses a number of potentially serious liability issues for both builders and municipalities. The technical flaws in the ERS are manageable when it is used simply as an assessment tool within a voluntary program. When given the force of law within the building code, the technical flaws in the ERS are much more serious. Building codes should not include requirements that are based on flawed approaches to measurement.

Perhaps the most serious problem with putting ERS requirements into the building code is that this circumvents the disciplined process that governs the development of building codes. The ERS has never been subjected to the level of technical scrutiny that the building code process involves. It is wrong to put requirements into the building code that have not had proper peer review, validation and scrutiny by all affected parties.

***Is the CHBA opposed to Provinces including energy performance requirements in their building codes?***

Yes. The CHBA opposes incorporation of energy performance requirements in building codes, as experience has shown this is effectively addressed through the marketplace. The CHBA also recognizes that a number of provinces have moved forward to do this, potentially creating a patchwork of differing code approaches across the country, and undermining the Code process by adopting ERS requirements.

In response to this situation, the Association has asked the Canadian Commission on Fire and Building Codes to refurbish the Model National Energy Code for Houses (MNECH). An updated MNECH will be subject to a disciplined and transparent development process. If provinces cannot be dissuaded from enacting energy performance requirements in their building codes, use of the MNECH will at least ensure that proposed measures are subjected to a proper review process.

***Is the CHBA opposed to LEED™?***

The CHBA does not support the system of standards put forward by the Canada Green Building Council (CaGBC) under the LEED™ initiative.

The CHBA will not support any green building labeling initiative it views as being in conflict with the best interests of our members, and their customers. There are a number of substantial reasons why the CHBA sees LEED™ as being detrimental, and these are laid out in our assessment of LEED™.

While LEED™ is presented as a voluntary undertaking, the Canadian Green Building Council (CaGBC), which manages LEED™ in Canada, actively supports and encourages the adoption of LEED™ standards as regulatory requirements. LEED™ standards are not subject to the discipline, rigour or transparency that characterize Canada's system of Codes and Standards. LEED™ standards are developed by a

private organization to suit the needs of its members and, as such, have no place within the regulatory system.

There are a number of specific examples of the failings of LEED™. For instance, LEED™ gives preferential treatment to wood products certified by the U.S. Forest Stewardship Council, ignoring other equally well-accepted sustainable forestry certification systems. Excluded certification systems include one backed by the Canadian Standards Association, which is used to certify the majority of Canadian forests.

In addition, the CHBA continues to have concerns about any point-based, multi-level home labeling initiative which does not require increased minimum levels of energy performance at each higher level, as is the case with LEED™.

The energy efficiency of a home has greater environmental impact than any other built feature. Yet the current LEED™ for Homes standard has a single minimum energy efficiency standard for all certification levels. There is no requirement for higher levels of energy efficiency beyond this minimum, LEED™ simply provides for additional points to be earned if this is done. However, points can also be earned in a number of other categories where the environmental significance, and cost involved, is far less significant.

In other words, it is possible to obtain a higher level of LEED™ certification without having improved the energy efficiency of the home beyond the minimum requirements. In practice, this could potentially expose the builder to accusations of “green washing”.

Issues surrounding the LEED™ point system have generated considerable controversy, and a growing number of lawsuits, in the U.S. where LEED™ was developed. The CHBA has a responsibility to advise its members about such potential liabilities, and will continue to do so.

LEED™ standards also incorporate measures that address social issues unrelated to the environment, and that have no place in an environmental labeling initiative. For example, inclusionary housing provisions are included in the LEED™ ND (Neighbourhood Development) standard currently being pilot tested in the U.S. and Canada.

Inclusionary zoning represents an unfair tax on new home buyers, and research has shown it to be ineffective at increasing the supply of “affordable housing”. We do not support inclusionary zoning because it does not work and it is blatantly unfair. As LEED™ ND includes such provisions, the CHBA does not support LEED™ ND.

***Why is the CHBA so concerned about municipalities adopting LEED™ requirements in their approvals processes?***

The CHBA will speak out anytime governments take action that would have the effect of imposing a supposedly voluntary standard as a regulation, either through insertion into the building code at the provincial level, or through other mechanisms such as development approvals or rezoning requirements.

This type of “back-door” regulation of the industry is unacceptable to the CHBA and its members, regardless of whether the action involves LEED™ or some other green building label. The fact is that when municipal politicians and regulators talk about regulating our industry, requiring LEED™ standards is frequently cited as the way to do this.

Regulation of how buildings must be constructed should be made through the building codes process, where proper review and discipline are assured. The CHBA does not support actions by government that result in ad hoc regulation without such scrutiny, as is the case when a specific third-party green label is required.

This situation is more of a problem in relation to LEED™ standards, because the Canadian LEED™ licensee, the Canada Green Building Council (CaGBC), supports this type of “back door” regulation of the industry. CaGBC has published information laying out exactly how municipalities can enact LEED™ requirements so that these have the effect of regulation. If the CaGBC were committed to its labeling program being truly voluntary and market-driven, they would not provide support and encouragement for its regulatory adoption.

***Is the CHBA opposed to municipalities including any green labeling requirements in their development approval process?***

Yes. This is the case regardless of the particular green label involved. Such actions amount to “back-door” regulation of the industry and this erodes Canada’s world-renowned system of building codes. This is something the CHBA strongly opposes. If municipalities believe that building codes need to be changed, they should work with their provincial governments to address these concerns in a legitimate way that respects the code development process.

***What is the CHBA’s position concerning developers or builders participating in LEED™ or any other green labeling initiative?***

CHBA developer or builder members are private businesses that are free to participate in whatever green labeling initiatives they determine are in their best interests. The CHBA views this as a private business decision.

At the same time, the fact that members choose to participate in LEED™, or any other green labeling program, does not affect the CHBA's responsibility to advise members of any flaws or risks associated with a particular green label.

For instance, the CHBA has ongoing concerns over the potential liability that both builders and municipal governments can face when green label requirements are mandated at the municipal level. The Association has a responsibility to inform members of such risks.

### ***Why does the CHBA support refurbishment of the Model National Energy Code for Houses (MNECH)?***

While the CHBA believes that regulating the energy performance of new homes is neither warranted nor necessary, a number of provincial governments are moving to incorporate energy efficiency regulations in their provincial Building Codes.

This ad hoc approach is creating a patchwork of different Code requirements across Canada, none of which will have been developed through the more disciplined, rigorous and transparent processes that govern the Model National Building Code.

Given these unfortunate developments, the CHBA has concluded that it would be better for both builders and consumers if provinces had access to an updated version of the Model National Energy Code for Houses (MNECH), should they decide to regulate the energy performance of new homes.

The refurbishing of the MNECH will take place within the national Code development process. This should ensure that all interested parties are involved, that proper research and analysis is carried out, and that costs and benefits are clearly understood.

### ***How is the residential sector doing in terms of environmental performance and climate change?***

Over the past 15 years the residential sector has achieved impressive energy efficiency gains – more than any other sector of the Canadian economy. In terms of climate change, we are also leading Canada's efforts to reduce green house gas emissions, and are the only sector to have actually decreased end-use emissions since 1990, a core goal of the Kyoto Treaty.

For instance, between 1990 and 2006, energy use in the transportation, industrial and commercial buildings sectors all increased by over 30%. In comparison, energy use in Canada's homes went up only 8.1%, despite a 27% increase in the number of households.

This impressive record reflects improvements in new home performance combined with the impact of home renovation activities. The net effect was to cut the projected growth of energy use in homes by two-thirds – a very significant accomplishment. Canadian new home builders, renovators and developers have every reason to be proud of this environmental accomplishment. It also shows that our industry’s commitment to voluntary, market-driven change produces substantial and affordable results.

### ***What is the CHBA doing to support its Green Agenda?***

The environmental commitment of the CHBA and its members goes back more than 25 years to the development of the R-2000 Initiative – one of the first industry-led environmental efforts in Canada.

The Association’s Vision Action Plan continually updates and reinforces this commitment to environmental leadership, and the activities of the Association put this commitment into action.

In order to support new home builders, renovators and developers in their efforts to build greener homes and communities, the Association has developed a series of guideline documents focusing on both homes and community development. These include:

- **Guidelines for New Home Builder, Renovator and Developer Members of the Canadian Home Builders’ Association to Contribute to the Development of Environmentally Responsible Housing**
- **Guidelines for the Development of Environmentally Responsible Communities**

These guidelines address practical measures that members can take to achieve meaningful environmental improvements without undermining housing affordability or choice. Members can get these guidelines in the Members’ Area of the CHBA website.

This year, the Association has added a senior staff position to oversee our environmental activities, and to support and assist provincial and local HBAs in their environmental efforts.

The CHBA is also a strong supporter of industry-led voluntary, market-driven green labeling initiatives such as R-2000, Built Green™ and EnergyStar™. These initiatives provide builders with proven, cost-effective approaches to building greener homes. We are also working to update the R-2000 Standard so that this important initiative can once again serve as an “engine of innovation” for our industry.

Doing the “right thing for the environment” also means working to prevent governments from doing the wrong things.

The CHBA takes a strong position when governments bring forward poorly conceived and unnecessary regulation, such as incorporating EnerGuide rating requirements in provincial Building Codes. We also keep members informed of important business issues related to green building and labeling initiatives so they can make well-informed business decisions. Examples of this include the CHBA's assessment of the EnerGuide Rating System (ERS) as a regulatory instrument, the assessment of LEED™, and the Red Alert issued concerning green label liability concerns.

## Other Recent CHBA Documents Related to the Environment and Green Building

(NOTE: these can be downloaded directly by clicking on each document title)

- [CHBA Position on the Environment](#) (February 2007) Outlines the CHBA's policy on the environment and housing.
- [Addressing the Environmental Agenda](#) (Fall 2007) Developed by the CHBA Vision Action Committee, this discussion paper presents strategic options and recommendations for the CHBA. The recommendations were approved by the CHBA Board of Directors.
- [RED ALERT - "Green" Liability Issues and Builder Risk Management](#) (March 11, 2008) Discusses various potential liability concerns with green labeling programs that builders should be aware of (The RED ALERT contains links to other environment and green building related material).
- [Sustainable Forest Management and USGBC LEED](#) (February 2008) This paper examines the leading sustainable forestry certification systems operating in Canada and questions why only one of these is acceptable under the LEED™ initiative.
- [EnerGuide Rating System Assessment & Elaboration](#) (January 2008) Two reports developed for the CHBA that examine issues surrounding the use of the EnerGuide Rating System (ERS) as a regulatory tool.
- [LEED: An Assessment](#) (November 2007) This paper examines the LEED™ system of building labels and highlights a number of issues of concern to the home building industry.