



# Town of Portola Valley

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(650) 851-1700

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August 30, 2010

Joe Loyer  
Associate Mechanical Engineer  
California Energy Commission  
1516 Ninth Street  
Sacramento, Ca 95814-5514

**Re: Town of Portola Valley Green Building Ordinance No. 2010-386 and  
California Energy Commission Review and Approval**

Dear Mr. Loyer,

Thank you for your review of the subject Portola Valley Green Building Ordinance as transmitted to you with my June 15, 2010 letter. I appreciated receiving your July 21, 2010 email review comments, which we discussed by telephone earlier this month prior to my vacation. As I advised I would during our conversation, now that I'm back from vacation, I'm providing the follow-up responses you requested so that the Energy Commission can complete review of the town's green building ordinance. These comments are set forth below and in the attached letter from Gary Fitzer, the town's building official/inspector.

As you advised in your email and during our discussion, you tentatively concluded that the town ordinance could be approved in its current form with two supplemental pieces of information. First, you requested a letter from the town building official committing to enforcement of the current Title 24 Building Energy Efficiency Standards. The August 30, 2010 letter from Mr. Fitzer is attached and specifically addresses this request. Second, you asked for a letter from the town advising of how the specific ordinance sections would be applied or clarified to ensure enforcement of Title 24 Building Energy Efficiency Standards. I've reviewed your specific section comments and discussed them with the Gary Fitzer, Deputy Building Official. The comments that follow are provided in response to your second request.

In your review you offered comments on a number of ordinance sections where you concluded that a specific clarification was needed to ensure there is no question as to the town's commitment to enforce Title 24 Building Energy Efficiency Standards. Your main concerns had to do with the sections allowing for "good-faith" or "hardship" relief. Commitments relative to the sections are listed below. Please, however, be assured that it has always been clear to staff and in our presentations to the town council that, at a minimum, Title 24 standards

would be enforced. This would be the case even if a specific green building ordinance had not been pursued. As noted in the attached letter from Mr. Fitzer, this is the case and if additional training is needed to ensure full enforcement, this will be accomplished.

As to the specific town ordinance and resolution sections we discussed, the following clarifications and comments are provided:

**Green Building Ordinance No. 2010-386**

Section 15.10.040. This section lists general comments relative to standards for compliance. We specifically commit that the intent of the standards as adopted is to require buildings to be designed to consume no more energy than permitted by the 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code.

Section 15.10.050(a). This section allows incentives to encourage higher levels of green building. We specifically commit that even if incentives are permitted, any project must, at a minimum, demonstrate compliance with 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code.

Section 15.10.060(b)(5). This section allows for a project to proceed if even if it does meet the target green building threshold if a "good faith" effort has been demonstrated. We specifically commit that even if a "good faith effort" has been shown, a project must, in any case, at a minimum demonstrate compliance with 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code.

Section 15.10.060(b)(5)i. This section also pertains to the matter of a "good faith effort." We again commit that even if a "good faith effort" has been presented, a project must, in any case, at a minimum demonstrate compliance with 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code.

Section 15.10.060(b)(6). This section pertains to final inspection procedures. As noted in the August 30, 2010 letter from the Gary Fitzer, at the time of final inspection a project must demonstrate compliance with 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code and this has always been the intent of the green building ordinance.

Section 15.10.060(b)(8). This section also pertains to the matter of a "good faith effort." It allows for "interim compliance." We again commit that any allowance for interim compliance for a "good faith effort" would only be permitted when it is first demonstrated that a project is, at a minimum, in compliance with 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code.

Section 15.10.070(a), (b), (d), (e) and (f). These sections set forth procedures for an exemption for hardship or infeasibility. We commit that even if hardship or infeasibility is shown, a project must, in any case, demonstrate, at a

minimum, compliance with 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code. Demonstration of compliance would need to be addressed and satisfied at the time of hardship/infeasibility exemption application (b), consideration for granting of exemption (d), and town council review of the exemption request (f). It is further specifically committed that if a project does not demonstrate compliance with 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code it would be denied.

### **Green Building Implementing Resolution 2490-2010**

1. New Residential Construction. In demonstrating GreenPoint Rated compliance, it has been clearly understood during development and adoption of the Portola Valley green building program that using the BIG checklist with professional certification requires not only compliance with 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code, but for a project to exceed these minimums. In any case, as noted in the August 30, 2010 letter from the building official, demonstrating Title 24 compliance is required.

1.D. LEED option. It is clear from the town's records that LEED is an option to the GreenPoint BIG system. But, again, this does not relieve a project from Title 24 compliance.

2. Substantial residential additions and/or rebuilding. For such projects, it is clearly understood from the town's records on green building ordinance consideration that all projects must demonstrate compliance with 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code.

3. Small residential additions or remodels. For such projects, it is also clearly understood from the town's records on green building ordinance consideration that all projects must demonstrate compliance with 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code.

4. Institutional and non-residential projects. Also for these projects, it is clearly understood from the town's records on green building ordinance consideration that all projects must demonstrate compliance with 2008 California Building Energy Efficiency Standards (Title 24, part 6) of the California Building Code. (See also comments below relative to use of LEED and "sample-protocol.")

To be clear, we not only commit to the above, but also advise that the ordinance and resolutions would be periodically reviewed and updated. At the time of the first "update," we commit to include the above clarifications with any other ordinance amendments.

Lastly, in your July 21, email, you raised a question regarding sample-inspection protocols, particularly as related to the local option for use of LEED for Homes, and provisions calling for use of LEED for commercial buildings. In Portola Valley, there are only individual building projects, i.e., and there is no basis, need or history of application of a "sample-

protocol." All buildings have their own individual permits not and are all individually inspected and certified for Title 24 compliance. We have no multi-unit developments or subdivisions where all homes are constructed by one builder. So, simply, there is no "inspection sampling" in town. Since this is not a local issue or condition, it was not necessary to address it in the ordinance.

Thank you for your review effort and responsible and rational comments. It was a pleasure to talk to you and to have the opportunity to not only emphasize the town's commitment to enforcing Title 24, but to ensuring Portola Valley will be a model for sustainable communities.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Tom Vlastic". The signature is fluid and cursive, written over a light blue horizontal line.

Tom Vlastic,  
Town Planner  
Town of Portola Valley  
(650) 851324-8600

Encl.

cc. Gary Fitzer, Deputy Building Official/Building Inspector  
Angela Howard, Town Manager  
Leslie Lambert, Planning Manger  
Town Council