

Dear Senator \_\_\_\_\_ and Representative \_\_\_\_\_,

This letter is to advise you of what amounts to an improper rule promulgation the Bureau of Construction Codes within the Department of LARA has been enforcing since last summer in the re-registration of plan reviewers across the State. I am requesting your assistance to void this improper rule and allow me to re-register as I have done in the past. I would request you or a representative from your office contact me for more information on this issue.

A brief synopsis of the issue is this: Management within the Bureau of Construction Codes has refused to re-register plan reviewers in a manner that is consistent with past practices and which is, in fact, contrary to the existing, written law and rules. In the past, as provided in the written law and rules, a plan reviewer's re-registration was a single registration that allowed a registered person to review various plans, and called for a single fee. The written law and rules governing re-registration support this. Now, the Bureau's Management has directed staff to break the registration as a plan reviewer into component pieces, and re-register plan reviewers in different categories. The Department Director has admitted that staff and management are trying to promulgate a new rule to support this approach, but they are proceeding as if the new rule were already enforceable. The Bureau is attempting to 'backdoor' the change, based on nothing other than a change in the interpretation of the existing rules—not any change in the language of the rules or other law.

The approach that the Bureau has taken is contrary to Michigan law. The Michigan Supreme Court has explained in a number of cases involving rulemaking that “the preferred method of policymaking is by promulgation of rules. When action taken by an agency alters the status quo, those who will be affected by its future application should have the opportunity to be heard and to participate in the decision making.” *Detroit Base Coalition for Human Rights v Dep't of Social Services*, 431 Mich 172,185 (1988).

The Bureau's “new interpretation” of the existing rules and law is most definitely a change in the status quo, but it is not supported by any change in the rules or law. The plain and ordinary language of the rules and law, which the Bureau has to follow, support the past practice, See also, *Guardian Environmental Servs v Construction Codes & Fire Safety Bureau*, 279 Mich App 1, 6 (2008). The plain and ordinary meaning of the language in the existing rules and law identifies a “plan reviewer” as an individual, and as **one** single registration.

- MCL 339.6003(b) defines a “Plan reviewer” as “**an individual** who is engaged in the practice of examining construction documents for the purpose of determining compliance with applicable codes.” *The plain and ordinary meaning of this language is that a “plan reviewer” is one person, and that one person can review plans for different “codes.” The use of plural “codes” shows that a plan reviewer can review for multiple items, and weighs against the Bureau's efforts to break “plan reviewer” into component pieces.*

- Rule 408.30031(1)(b) identifies a “**A** plan reviewer” as one registration, the same as the other listed types; a building inspector, a plumbing inspector, a mechanical inspector, an electrical inspector and a building official. *Nothing in Rule 408.30031 supports breaking a registration for “A plan reviewer” into component registrations for persons who may review different aspects/”codes” of plans.*
- R408.30052 states “An application for **re-registration** as **A** building official, **plan reviewer**, or inspector shall be submitted on a form prescribed by the commission and shall be accompanied by all required fees.” *Again, nothing in the Rule’s plain and ordinary language suggests that a plan reviewer’s re-registration is broken into component pieces; it is a re-registration the same as the re-registration for a building official, a building inspector, an electrical inspector, a plumbing inspector or a mechanical inspector.*

The bureau has stated that there were changes in the law and rules, yet also states there have been no changes. In fact, there has been no language change in the law or rules pertaining to re-registration. The exact wording in 1986 PA 54—the former inspector registration act, has been incorporated into the Skilled Trades Act—2016 PA 407, *in its entirety*. The rule set did not change. The Bureau has changed the law and rules without proper notice, authority or procedure based only on its new interpretation. Pursuant to MCL 24.232(5), the Bureau's use of an interpretative statement as law or rule is illegal and should be stopped. Since the illegal rule, the Bureau has failed to re-register plan reviewers with all components/“codes” of plan reviewer they had previously held and inappropriately divided plan reviewer into component registrations. The Bureau has illegally charged multiple fees.

Because there has been no change in the statute or the rule that supports the breaking/dividing of a plan reviewer re-registration into multiple component registrations, I ask you to intercede with me to the Construction Code Commission and request that they do what they are allowed to do by law and void this improper rule change.

Thank you,

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Registration # \_\_\_\_\_

“One man with courage makes a majority” – Andrew Jackson