



DeKalb County Inefficient Plumbing Fixtures Replacement Plan

Our Position

- REALTORS® support water conservation efforts that are efficient, reasonable, and cost-effective.
- REALTORS® support property owners' rights and oppose unnecessary barriers to the buying and selling of property.
- REALTORS® oppose attaching to real estate transactions a mandate to replace plumbing fixtures, commonly referred to as "retrofit at resale."

Setting the Record Straight

- **The Water Supply and Conservation Management Plan does *not* endorse retrofit at resale.**
The Water Supply and Conservation Management Plan was amended in 2006 to remove all references to the recommendation of enacting legislation to require retrofit at resale.
- **There is no legislative mandate to convert to low-flow plumbing fixtures.**
The ordinance states that the General Assembly adopted a plan requiring the county to convert older, inefficient plumbing fixtures. The Water Supply and Conservation Management Plan was adopted by the Metropolitan North Georgia Water Planning District Governing Board, *not* the General Assembly. The General Assembly *twice* rejected retrofit at resale legislation.
- **The proposed ordinance would apply to all properties, both residential and commercial.**
CEO Jones has stated that the proposed ordinance does not apply to businesses. However, the proposed ordinance defines "qualifying property" as "any land in unincorporated DeKalb County containing a structure(s) constructed prior to 1993." This definition makes no distinction between residential and commercial property, and there is no exemption for commercial property in Section 25-48(e).

Problems with the Proposed Ordinance

- **Certificate of Compliance:** The certification requirement is blatantly anti-consumer. The proposal requires sellers to obtain a certificate of compliance prepared by a plumber or inspector licensed by the State of Georgia. Georgia does not license home inspectors, so only a plumber could prepare a certificate. There is high potential for consumer abuse regarding preparation fees for the certificate, which will be in addition to the considerable costs of fixture replacement. Transaction costs will also increase, since the certificate must be notarized to satisfy the requirement that it be sworn under penalty of perjury.
- **Effective Date:** The January 1, 2008, effective date of this proposal is unreasonable. Transactions already under contract to be closed in 2008 will close illegally or will grind to a halt. Parties to such contracts have had no opportunity to negotiate the financial impact of the proposal. Buyers who occupy a qualifying property or apply for water service will face significant criminal penalties.
- **Exemptions:** The proposal contains illogical exemptions and excludes logical exemptions. If water conservation is the goal, there is no reason why property sold or conveyed between family members should be exempt. There is no rational basis to require retrofit at resale for properties that will be demolished, renovated, or redeveloped. There is no reason to require retrofit for office or retail property that will be reconfigured upon leasing to tenants. The proposal does not address sales through probate. The proposal does not impact government-owned structures.
- **Criminal Penalties:** Exposing property owners to draconian criminal liability for what would otherwise be normal and routine behavior in a real estate transaction is careless public policy. Institutional investors will red-line DeKalb County rather than risk criminal penalties upon purchasing property for investment when even the most remote warehouse or mechanical room restroom might put officers of publicly-traded companies in jeopardy.
- **Conflicting Language:** Sec. 25-48(d) requires the closing attorney to present the certificate of compliance at the closing to both parties. Sec. 25-48(a) requires the seller to provide the certificate to the buyer at closing or as much as 48 hours afterwards. Under Sec. 25-48(c), a buyer that applies for water service without attaching a certificate – a process which typically occurs prior to closing – would be in violation of the law. It's a no-win situation.