



October 10, 2016

Katherine Schultz, chair  
Portland Planning and Sustainability Commission  
1900 SW 4<sup>th</sup> Street, Suite 7100  
Portland, OR 97201

Sent via E-mail

Dear Chair Schultz,

As you and the members of the Planning and Sustainability Commission evaluate the Home Energy Audit proposal, please consider these comments submitted on behalf of the more than 7,500 members of the Portland Metropolitan Association of Realtors®. The remarks herein are from experts in the real estate and financial market on behalf of their clients, homeowners and those who want to become homeowners.

The Portland Metropolitan Association of Realtors® opposes the City imposing pre-listing mandates on owners and sellers of residential property, specifically energy audits being required in order to sell a home.

We urge you and members of the Planning and Sustainability Commission to recommend to the Portland City Council they not adopt the proposed energy audit mandate.

The proposal before you is highly flawed, disadvantages owners of older properties and causes hardship for moderate to low income families who—for a myriad of reasons—are choosing to sell their home.

Additionally, this proposal will not allow the City to achieve its goal of reducing carbon emissions from single family homes. As proposed, the mandate provides a potential buyer with a piece of paper: the report. There are no guarantees an audit will result in energy efficiency improvements being made to the home nor does it guarantee a change in behavior of how people live in a house.<sup>1</sup>

For the cost of the audit, the home owner (the seller) should be incentivized to do duct sealing, window caulking, or even adding insulation to the attic. The focus should be on expanding the 600 home energy audits that were voluntarily conducted in 2015.<sup>2</sup> Such incentives will move the City closer to its carbon emission reduction goals.

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<sup>1</sup> According to “How Well Do Energy Audits Serve the Homeowner?,” 2012 ACEEE Summer Study on Energy Efficiency in Buildings, by Aaron Ingle, Mithra, Moezzi and Loren Lutzenhiser, Portland State University, “increasing the home’s technical energy efficiency may rarely be of much fundamental interest,” (page 2-217\_ and “If home energy audits were to pay greater attention to behavior, they could potentially provide customized guidance on behavioral conservation that is more useful and salient than traditional energy conservation tips,” (page 2-221).

<sup>2</sup> Source: Home Energy Score—Proposed Policy 9.2.2016 Draft, City of Portland, page 1.

Many of Portland's 162,000 single family homes<sup>3</sup> will go decades—even lifetimes—without being transacted and therefore never be impacted by the mandate as proposed. Historically, between 4-6 percent of all residential units go up for sale in a year. In some cases, the home for sale today is the same home that was listed just a few years earlier. Under the staff proposal, the owner of the home that is repeatedly on the market would be required to provide proof of a home energy audit being conducted each time the home owner is considering listing the property for sale. Yet, the home next door, or the home across town that was built prior to the State of Oregon adopting energy efficiencies in the building code, that has been lived in for 20, 30, even 60 years by the same owner, would be untouched.

Specific to the idea that the home owner would be required to submit to the City the results of the energy audit and that the score will be posted on such public websites as portlandmaps.com, is counter to ORS 469. Energy auditors conducting audits within the City of Portland are subject to ORS 469.703 and the corresponding Oregon Administrative Rules (OAR) for the Oregon Department of Energy. The language of the statute is clear that in establishing standards for energy audits and auditors statewide, the intent was to ensure that scores were not published that would identify individual homeowners or individual residences. The proposal ignores this fact.

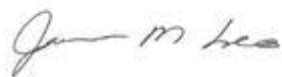
The requirement to file electronically the results of the energy audit disadvantages Portland home owners who do not own, have access to, nor know how to use a computer. Such a requirement harms low income and senior home owners.

The proposal repeatedly makes references to a program adopted in Austin, Texas. However, what the proposal fails to acknowledge is the number of exemptions and energy efficiency programs available to home owners who contract with the City-owned electric utility. Instead, Portland staff has said they want to limit exemptions. In many situations, the exemptions from the audit offered by Austin Energy move Austin closer to meeting the goal of reducing carbon emission.

For the reasons stated above, and more, you are urged to recommend the City Council not adopt the highly flawed and harmful mandatory pre-listing home energy audit proposal.

Thank you for your consideration of these comments. Please call on me if I can provide further information.

Regards,



Jane M. Leo  
Governmental Affairs Director

cc: Commissioners, Portland Planning and Sustainability Commission  
PMAR Board of Directors  
PMAR Realtor Advocacy Committee  
K. Querin, PMAR CEO

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<sup>3</sup> Source: Portland Housing Bureau, September 22, 2016.



# Mortgage Trust

October 7, 2016

RE: City of Portland Proposal for Residential Energy Audit

To Whom It May Concern;

As a real estate industry professional I wanted to submit my concerns regarding the city of Portland's proposal to require energy audits at the point of sale for residential property.

There are many issues with this policy but I wanted to focus on two.

First, this policy will threaten some residential sales which use financing. As I'm sure you are aware a majority of home purchases require financing. When a mortgage loan underwriter reviews the loan application for approval one of the resources they routinely use is portlandmaps.com. This is a great resource for the underwriter to learn about the collateral for the loan. It is my understanding that the city plans on making the energy audit available on this website. In doing so the underwriter will see all the possible adverse conditions in the home. The underwriter will be required to consider any information they see from the audit and if there is evidence that the home does not meet "minimum property requirements" as determine by Fannie Mae/ Freddie Mac or FHA/ VA underwriting guidelines then the lender would impose necessary repairs as a contingency for completing the financing. If the buyer and/ or seller are not in a financial position to pay for the repairs then the transaction could not take place unless there was a cash buyer.

As a result, I believe this policy will unfairly hurt low income households who tend not to have the resources to maintain their homes and who are less likely to have the resources to make lender required repairs.

Second, this policy will form a moral hazard issue between home energy assessors and Realtors. As we witnessed during the housing boom-bust where mortgage brokers who had a financial incentive to "select" appraisers who routinely delivered appraisal reports that "made the deal work" the quality of appraisals was impacted by this relationship. Appraisers felt pressure to deliver appraisal results that complied with the home applicants needs or else they risk the mortgage broker not selecting them again for future business. The same thing exists with this policy. In all likelihood the Realtor will be the one who has relationships with home energy assessors (similar to the referrals they deliver for inspectors and mortgage brokers). The home energy assessor will feel pressure to deliver the reports in a favorable manner because that will align with the Realtors ability to sell the property. If the assessor generates a report that is not favorable then the Realtor may discard that relationship and seek another assessor who is willing to deliver better reports. There will be varying degrees of how much assessors and Realtors will compromise integrity but I can almost guarantee that on average these reports will show that the home is more energy efficient than the home actually is just like during the housing boom on average appraisal reports showed that homes were more valuable than the homes actually were. I do not believe the city of Portland has the capacity to monitor and regulate these relationships.

I encourage the Planning and Sustainability Commission to advise the Portland City Council to not adopt the energy audit mandate.

Sincerely

Evan T Swanson, CFP® NMLS# 120856

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Thursday, October 6, 2016

Re: City of Portland's proposal for mandatory residential energy audit

To whom it may concern;

As the Chief Appraiser of the premier Appraisal Management Company in Portland I would like to submit my perspective and comment to the City of Portland's recently released mandatory residential energy audit policy and how it may impact the real estate market in the future.

Fundamentally an appraiser's job in a real estate transaction is to provide an unbiased report for the lender regarding the collateral for the loan being made. A common misconception amongst the general public is that the only aspect regarding an appraisal that is of importance to a lender is the opinion of value. In fact, along with an opinion of value the appraiser provides a comprehensive report with a variety of information pertaining to the age, structure, and condition of the home. One of the sources of information that appraisers routinely use is portlandmaps.com.

It is my understanding that under the proposed policy the results of the standardized energy audit would be publicly available on portlandmaps.com. One of the potential issues this raises is the misuse of the energy audit results that could lead to a variety of outcomes including:

- Homes potentially being looked at as deficient when in fact they are typical of a good segment of the market as evidenced by other sales w/ similar audit results.
- Potential addition of lender required repairs which typically must be completed at the seller's expense prior to closing and could lead to termination of the sales transaction.
- Delays in transactions in a market where the typical transaction is already out over two months.

In short, it is my belief that this proposal could have unintended consequences on real estate transactions and make it more difficult for households to sell homes that are actually typical of the market. Thank you for your attention and please feel free to contact me with any questions.

Thanks,

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October 10, 2016

Katherine Schultz, Chair  
Portland Planning and Sustainability Commission  
1900 SW 4<sup>th</sup> Street  
Portland, Oregon

Sent via E-mail

Dear Chair Schultz,

I am voicing my opposition to the proposed audit mandate and would like to outline a few reasons. First, I want to be clear that I support the concept of the 2015 Climate Action plan, that Portland can be a leader in reducing carbon emissions – and meet its 2050 goal to reduce those emissions by 80%. That said, as someone who has been in the real estate business for 15 years, I oppose this plan from both a philosophical and a practical standpoint.

A number of years ago, as the homeowner of an older home in Mt. Tabor, I went through the Clean Energy Works program. It was an excellent process, and I became a vocal champion with my clients who owned older homes. Realtors educate consumers on a wide array of issues relating to owning a home, and recent studies by the National Association of Realtors confirm that in an era of online information overload, consumer reliance on us for advice remains at an all-time high. Through collaboration with our industry, we can effect excellent change – not through mandates and restrictions on the free transfer of property.

For a governmental body to place a restriction on someone's ability to freely transfer their largest asset, a very high bar must be set. The city should demonstrate that through education and outreach their goals could not be met – and the need for restrictions is compelling or unavoidable (the "greater good" argument). Instead, that approach has not been attempted sufficiently.

Our industry has done an excellent job educating the consumer when it's in their best interest. Home inspections are now commonplace. In cities like Portland, sewer line inspections are now the norm; we want our clients protected. More recently, radon inspections have now become standard of practice in many to most transactions. Why? Not because the health department mandated the inspection. But because consumer outreach and education works.

Aside from my philosophical opposition, there are very compelling practical reasons why this is a bad idea. Consumers are rational. They know when they are buying an older home they will have to make improvements and updates. But we are in an environment of housing scarcity, which by every estimation, will remain in Portland for some time. An energy audit will have no practical effect. Older homes with energy efficient updates will be marketed accordingly (no seller will forget to emphasize the money they spent on updates) – and buyers will pay a top dollar premium. Older homes that have not been updated or maintained will convey in one of two ways – if the value is mostly in the land, this home may be torn down and replaced (not my preference in many cases, but our UGB and land use makes this an inevitability – great for efficiency by putting up newer housing stock, maybe not so great for the neighbors). If the value is still mostly in the home, it will get updated by the next buyer. It seems

backwards that the energy score is obtained by the person vacating the property – not the person who will be owning it.

Another issue is that due to high home prices, buyers who buy older, non-updated homes typically can make improvements as their pocketbooks allow – one project at a time. After the first incremental change, the score is immaterial. For this reason alone, the score should never be placed on public facing sites like portlandmaps.com. Others will use that data, such as appraisers or Realtors looking to complete market analyses, but it will be wholly unreliable data and valuations will be skewed.

And let's not forget, most buyers are already paying for a home inspection, and their inspectors comment on insulation, windows, age of furnace, etc. An energy audit could simply be another inspection that buyers opt for, along with sewer, radon, lead paint, furnace, chimney, and the like. Energy audits belong as buyers' due diligence process, if so desired.

**For those in the business, the best time to conduct a home energy audit would be during the home inspection process – for buyers who deem it necessary. During periods of inventory scarcity and fierce competition for homes, would some buyers choose to skip it? Absolutely. But those are the same periods in which this score would never become a relevant part of the negotiations in the first place.**

I strongly urge you to listen to everyday practitioners who can share real-world “unintended consequences” horror stories. Using our appraisal crisis as an example, this could translate into the energy audit process. We currently have a shortage of appraisers, and in all likelihood this will remain for years. So it has become a pay to play environment, where buyers who are willing to pay a huge premium will move up in line (\$1,000 surcharges have become commonplace), and those who cannot pay wait months – literally. Transactions are consistently delayed. As we all know our business is cyclical, it's very realistic to envision that during peak times, those who can pony up more money will get their audit performed more quickly. Sellers who cannot pay surcharge pricing will have to wait. This is not chicken-little sky is falling kind of talk. This is the world that buyers and sellers are dealing with every day.

Thank you for listening. Again, I agree the goals to reduce carbon emissions are essential – but the mandating approach as proposed is overreaching. We could make much better progress through collaboration with our industry to help educate and incentivize consumers.

Respectfully,

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Cc: Commissioners, Portland Planning and Sustainability Commission

PMAR Board of Directors

PMAR Realtor Advocacy Committee

K. Querin, PMAR CEO