



November 21, 2011

Marshall Graham
Materials Management and Local Assistance Division
California Department of Water Resources Recycling and Recovery
P.O. Box 4025
Sacramento, California 95812-4025

RE: Title 14; Division 7; Chapter 9.4 - Mandatory Commercial Recycling Regulation

Dear Ms. Graham:

Thank you for the opportunity to participate in the public process to develop mandatory commercial recycling regulations. The California Association of REALTORS®, the Apartment Association of Greater Los Angeles, the San Diego County Apartment Association and the Santa Barbara Rental Property Association support reasonable recycling programs and look forward to working with you to develop a workable commercial recycling regulation for multifamily housing. In proposing new regulations, CalRecycle must take into account their impact upon small, minority and family-owned businesses to assure that the proposed requirements do not create a significant adverse economic impact on both housing and small business within the state.

Unfortunately, the proposed regulations do not adequately take these impacts into account. We respectfully request that the following issues be addressed by the mandatory commercial recycling regulations:

1. **A financial hardship exemption is necessary to assure that the regulations do not adversely and unfairly impact small, minority and family-owned businesses.** Multifamily complexes comprising 5 to 15 units are considered small businesses, and are often owned by seniors on fixed incomes, minorities and families of modest means. These regulations must include a financial hardship exemption from recycling requirements, to address the fact that these recycling services could result in a significant cost increase to such businesses, either due to space limitations that require substantial property renovations or due to a significant increase in costs for providing solid waste removal services.
2. **Owners should not be held responsible for the actions of their tenants who may not comply with recycling regulations.** The proposed regulation subjects multifamily property owners and their agents to additional liability, exposing owners to a local jurisdiction's enforcement penalties, regardless of their good faith efforts to comply with recycling requirements. It is imperative that a "safe harbor" provision be added to the regulations to protect multifamily property owners who, through no fault of their own, are unable to comply with a jurisdiction's requirement due to tenant's refusal to adhere to the applicable recycling requirements.
3. **When developing compliance criteria for enforcement programs, a jurisdiction must consider a multi-family complex owner's effort to comply with recycling requirements.** Criteria for exempting a multi-family complex owner from enforcement penalties should include a waste hauler's refusal to provide recycling services to the complex. Due to the unique nature of multifamily properties, even if adequate recycling services are available, some waste haulers refuse to service small complexes. As currently drafted, the regulation will penalize many self-managed small or unique properties that cannot effectively comply and will unintentionally remain in violation of the recycling requirements.

Thank you for your consideration. The California Association of REALTORS®, Apartment Association of Greater Los Angeles, San Diego County Apartment Association and Santa Barbara Rental Property Association look forward to working with CalRecycle to develop a fair cost-effective recycling regulation for multifamily housing that will not adversely impact small business and housing throughout the state.