Wright, Janice C.

From: Lynne Andersen [lynne@naiopnm.org]
Sent: Monday, July 19, 2010 3:02 PM
To: Wright, Janice C.
Subject: NAIOP Comments - Proposed Fee Increase for Air Quality Division

To: Janice C. Wright
From: Lynne Andersen, President
NAIOP, the Commercial Real Estate Development Association

Ms. Wright:

The New Mexico Chapter of NAIOP is very concerned about the proposed rate increases for the Air Quality Division. As you know, the on-going recession has had a devastating effect on the commercial real estate industry, and many companies have laid off 1/3 to ½ of their work force. It was noted in an article in the Albuquerque Journal this morning, that, if public sector employment figures were removed from the equation, unemployment in the state would be in the upper double-digit range. Every business has had to address their budgets (and their survival) by cutting costs or cutting jobs.

Therefore, NAIOP is particularly concerned about a rate increase that directly affects the cost of continuing to do business. We would request that the budget analysis that was done to justify this increase be made public. If one was not done, we request that an in-depth analysis be done for the Division that considers the work load in a time of reduced building permits, and possible budget cutting actions that would reduce expenses. The private sector should not be burdened with additional costs until every effort has been made to work within existing budgets.

We are also concerned about tying any increases to the CPI. We understand from the supplied summary that this action is allowed by the Federal Government. However, it does not say that it is required, and there no presented justification for implementing this policy. Automatic fee increases without the consent of stakeholders or elected officials is not a precedent that we believe should be instituted without some more study on the economic development effects of such a policy, as well as the practices of regional cities which compete with Albuquerque for private sector jobs.

We look forward to hearing the Division's position on these two items, and we appreciate the opportunity to provide questions and comment.

Richard J. Berry, Mayor

City of Albuquerque
Environmental Health Department
Air Quality Division
One Civic Plaza NW, Room 3047
P.O. Box 1293
Albuquerque, NM 87103

Mary Lou Leonard, Director

August 6, 2010

Air Quality Division's Response to the July 19, 2010 NAIOP Comments on 2.11.2 NMAC, *Fees* Stakeholder Review Draft

NAIOP President Lynne Anderson's Stakeholder Comments:

We would request that the budget analysis that was done to justify this increase be made public.

Response: The financial analysis was provided at the July 20, 2010 Fees stakeholder meeting and is available on the City of Albuquerque Environmental Health Department website at: http://www.cabq.gov/airquality/regulation-development/images/proposed-change-to-20-11-2-nmac-fees.pdf

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Response: The City of Albuquerque Environmental Health Department Air Quality Division is an Environmental Protection Agency (EPA) federally delegated program and application of consumer price index (CPI) is recommended by EPA. All of the fugitive dust program fees were adjusted by the consumer price index all urban consumers, also known as the CPI-U which is defined in the 20.11.2.7 NMAC of the Stakeholder Review Draft 6/25/10 as: "means a measure of the average change over time in the prices paid by urban consumers for a market basket of consumer goods and services as reported by the U.S. Department of Labor, Bureau of Labor Statistics."

The New Mexico Air Quality Control Act enables the Air Quality Division to collect fees to support the program operations. The New Mexico Air Quality Control Act, Section 74-2-16 addresses establishment of the air quality permit fund and the activities for the money in fund can by used for "paying the reasonable cost of". New Mexico Air Quality Control Act, Section 74-2-16 is provided below for reference:

*"A. A local authority shall create within the municipal or county treasury a fund to be known as the "*_____

(name of municipality or county)

air quality permit fund". All fees collected by a municipality or county pursuant to Section 74-2-7 NMSA 1978 shall be deposited in the fund created pursuant to this section.

B. Money in the fund created pursuant to this section shall be used by the municipality or county only for the purpose of paying the reasonable costs of:

(1) appealing, reviewing and acting upon any application for a permit;

(2) if the owner or operator receives a permit, implementing and enforcing the terms and conditions of such permit, not including any court costs or other costs associated with any enforcement action;

(3) emissions and ambient monitoring;

(4) preparing generally applicable regulations or guidance;

(5) modeling, analysis and demonstrations; and

(6) preparing inventories and tracking emissions."

Application of the CPI to the fees maintains consistency within the air quality fees programs.

The fugitive dust program is instrumental in maintaining the federal particulate matter standards in Albuquerque and Bernalillo County.