

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

**AMERICAN SOCIETY FOR TESTING AND
MATERIALS d/b/a ASTM
INTERNATIONAL, et al.**

Plaintiffs,

v.

PUBLIC.RESOURCE.ORG, INC.,

Defendant.

Civil Action No. 1:13-cv-01215-TSC

**UNOPPOSED MOTION FOR LEAVE
TO FILE *AMICUS CURIAE* BRIEF IN
SUPPORT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

The International Code Council, Inc. ("ICC") respectfully submits this motion for leave to file an *amicus* brief pursuant to LCvR 7(o)(2).

1. The ICC is an association dedicated to developing model codes and standards used in the design, build and compliance process to construct safe, sustainable, affordable and resilient structures. Most U.S. communities and many global markets choose the International Codes. The International Codes[®], or I-Codes[®], published by ICC, provide minimum safeguards for people at home, at school and in the workplace. The I-Codes are a complete set of comprehensive, coordinated building safety and fire prevention codes. Building codes benefit public safety and support the industry's need for one set of codes without regional limitations. Fifty states and the District of Columbia have adopted the I-Codes at the state or jurisdictional level. Federal agencies including the Architect of the Capitol, General Services Administration, National Park Service, Department of State, U.S. Forest Service and the Veterans Administration also enforce the I-Codes. The Department of Defense references the *International Building Code*[®] for constructing military facilities, including those that house U.S. troops around the world and at home. Amtrak uses the *International Green Construction Code*[®] for new and

extensively renovated sites and structures. Puerto Rico and the U.S. Virgin Islands enforce one or more of the I-Codes.

2. ICC seeks to submit an *amicus* brief in support of the Motion for Summary Judgment (DE 118) filed by the Plaintiffs in the above-referenced matter.

3. ICC and its members have a strong interest in the outcome of this case and ensuring that ICC retains the copyright rights to the codes that ICC develops and publishes. Like any copyright owner who earns their living by creating copyrighted works, ICC must be able to receive revenue from the I-Codes in order to sustain its operations. Loss of copyright protection for the works created by ICC would drastically undermine the ability of ICC to fund the ongoing creation and updating of these important works, and would therefore harm the public and the governments who benefit from and rely on the ICC works.

4. ICC is, like the Plaintiffs in this case, a Standards Development Organization (“SDO”). However, ICC believes there are nuanced differences between the processes, markets, history, and impact of ICC and the Plaintiffs such that the Plaintiffs do not adequately represent all of the interests of ICC. However, the determination by this court of the Plaintiffs’ interests will impact the ICC. Thus, ICC believes it can provide the court with a unique perspective relevant to the disposition of this case.

5. This Court has permitted *amicus* briefing where the *amicus* “has unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to provide.” *E.g., Jin v. Ministry of State Security*, 557 F. Supp. 2d 131, 137 (D.D.C. 2008) (quoting *Ryan v. Commodity Futures Trading Comm’n*, 125 F.3d 1062, 1064 (7th Cir. 1997); *Cobell v. Norton*, 246 F. Supp. 2d 59, 62 (D.D.C. 2003)). ICC’s unique role among SDOs is through ICC’s public-private partnership in the development of cutting edge, comprehensive

codes and standards for the built environment. The works of ICC promote the construction by citizens and governments of safe, sustainable, affordable and resilient structures. This unique perspective will help the court in understanding the context of the threats this case presents to citizens and governments to the safety of the built environment were the court to revoke the copyright rights of ICC and other SDOs.

6. The Parties have previously agreed that they will not oppose any *amicus* filing in support of either side. *See* Joint Report on Proposed Summary Judgment Briefing Schedule, dated October 30, 2015. Counsel for ICC conferred with counsel for Defendants and they have agreed not to oppose this motion or the filing of an *amicus* brief. A proposed order is included herewith.

DATED: January 8, 2016

Respectfully submitted,

/s/ Alan S. Wernick

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CORPORATE DISCLOSURE CERTIFICATION

Pursuant to Federal Rule of Civil Procedure 7.1 and LCvR 7.1, Anthony Onorato, the undersigned counsel of record for ICC, certifies that to the best of his knowledge and belief, that ICC does not have parent companies, subsidiaries or affiliates with any outstanding securities in the hands of the public. This representation is made to enable the judges of this Court to determine the need for recusal.

DATED: January 8, 2016

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that on January 8, 2016, I caused a true and correct copy of the foregoing Unopposed Motion For Leave To File *Amicus Curiae* Brief In Support Of Plaintiffs' Motion For Summary Judgment, Corporate Disclosure Certification, and Proposed Order to be served on all parties of record via the Court's CM/ECF system.

/s/ Anthony Onorato
Anthony A. Onorato