

Federal Court in New Mexico issues ruling in *AHRI et al. v. City of Albuquerque*

By: Sonja C. Rice, Esq.

The United States District Court for the District of New Mexico has issued a ruling on the motion for summary judgment filed by a group of trade associations and local distributors of HVAC products and water heaters, against the City of Albuquerque, New Mexico.

The decision is the latest in a matter that arose when the City of Albuquerque issued a set of new standards – set forth in its Energy Conservation Code – for energy efficiency of major appliances and equipment and related energy conservation measures for all new construction and certain renovations or alterations to existing buildings. The Code required Silver LEED certification for certain buildings and set energy efficiency standards for water heaters and HVAC equipment that were in some cases more stringent than the standards set by the Federal government in the National Appliance Energy Conservation Act.

In 2008, the plaintiffs filed a lawsuit against the City of Albuquerque, challenging enforcement of the new standards. In October 2008, United States District Court Judge Martha Vazquez granted the plaintiffs' motion for a preliminary injunction, temporarily enjoining the City from enforcing the Code, and suggesting that the Code was preempted by Federal law.

The Judge's latest decision, issued September 30, 2010, grants the plaintiffs' motion for summary judgment in part and denies it in part. The Judge agreed with the plaintiffs that certain portions of the City of Albuquerque's Code are expressly preempted by the National Appliance Energy Conservation Act. Thus, the City may not enforce certain portions of the Code that require more stringent energy efficiency standards for HVAC products and water heaters in certain buildings.

Judge Vazquez did not, however, agree with the plaintiffs' claims that the LEED certification and Build Green New Mexico requirements of the Code are preempted by Federal law. Federal law allows, in some circumstances, state and local governments to set energy efficiency targets for new construction that may exceed Federal standards, so long as the local law allows for other means for achieving those targets with products that do not exceed the Federal standards. Judge Vazquez did not offer an opinion on whether the City's Code is preempted by Federal law, but simply found that the plaintiffs had not met their burden of argument sufficient for her to rule in their favor. As such, this part of the plaintiffs' original complaint remains open and may be revisited at some future date.