

January 12, 2010

**Real Estate/ Solar Industries Support Passage of H.R. 4256**

Dear Representative Sanchez:

We are writing to express our support for H.R. 4256, the “Sustainable Property Grants Act of 2009,” that was introduced last month by you and cosponsored by Representatives Berkley, Heller, Larson and Nunes. We strongly encourage Congress to pass this bipartisan measure that would allow real estate investment trusts (REITs) to be fully eligible for energy grants authorized in last year’s stimulus bill to encourage greater energy efficiency in commercial buildings.

Congress created REITs in 1960 to enable all investors to own professionally managed, income-producing real estate (i.e., office buildings, shopping centers, industrial warehouses, apartment buildings, etc.) Today, REITs own approximately 6 billion square feet of commercial real estate, amounting to about 10% of the U.S. commercial real estate industry. Because of the statutory requirements under the REIT tax rules, REITs generally do not benefit from energy credits in current tax law that have been the primary incentive Congress has created to encourage private investment in qualifying energy projects. Companies investing in qualifying projects that include investments in solar, fuel cell, small wind, combined heat and power system, and geothermal technology, are eligible for a credit against their federal income tax liability. Last year, in recognition that the current economic downturn would likely limit many taxpayers from producing adequate taxable liability, Congress authorized the use of energy grants in lieu of tax credits in the American Recovery and Reinvestment Act (Pub. L. 111-5) through 2010 for companies that invest in renewable energy projects that would qualify for the energy tax credits. Despite being designed for this purpose, the energy grants provision in the Recovery Act has been interpreted to limit any direct benefit to a REIT.

Since buildings represent almost 40% of all U.S. energy use and approximately 70% of all electricity consumption, providing incentives for REITs to engage in energy efficiency projects, similar to other property owners, could significantly contribute to achieving the energy reduction goals outlined by Congress and the Obama Administration.

H.R. 4256 would amend last year’s Recovery Act to allow REITs to fully participate in the energy grants in lieu of tax credits program. We agree with you that adoption of this legislation would go a long way toward increasing the use of renewable energy projects to fuel growth in the U.S economy. For this reason, we are writing to express our combined support for this measure, and we encourage the 111<sup>th</sup> Congress to pursue its adoption early in 2010 to allow REITs take full advantage of the energy grant program as early as possible before the program expires at the end of this year.

Building Owners and Managers Association International  
International Council of Shopping Centers  
NAIOP, the Commercial Real Estate Development Association  
National Apartment Association  
National Association of Real Estate Investment Trusts  
National Multi Housing Council  
Solar Energy Industries Association  
The Real Estate Roundtable