



BREAKING NEWS

Rheem Government Affairs

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Key Policy Update

Yesterday, the **United States Court of Appeals for the Ninth Circuit** struck down the City of [Berkeley's](#) ban on new natural gas connections, finding that the city ordinance violates the Energy and Policy Conservation Act (EPCA) preemption provision. In *California Restaurant Association V City of Berkeley, CA*, the court held that the ordinance violates EPCA federal preemption provisions as the ban on new natural gas connections amounts to a de facto ban on gas appliance, as "Berkeley can't bypass preemption by banning natural gas pipping within buildings rather than banning natural gas products themselves."

AHRI along with the National Association of Home Builders, the National Association of Manufacturers and several other affected trade groups filed an amicus brief on the side of the California Restaurant Association.

In 2019 Berkeley was the first city to ban natural gas connections to new buildings, with the ordinances taking effect in 2020. Since then, major cities, including San Jose, Seattle and New York City enacted similar restrictions on gas service to new construction.

Next Steps

The City of Berkeley will review the opinion and could seek an appeal to the full Ninth Circuit Court of Appeals.

The scope of the decision is limited to the City of Berkeley and does not affect similar municipal ordinances, although the ruling will prompt challenges to similar natural gas restrictions and could result in a chilling effect on new natural gas connection ban ordinances.

The ruling does not affect the legal authority of the Bay Area Air Quality Management District (San Francisco) or the South Coast Air Quality Management District (Los Angeles) to set zero NOx emission standards for natural gas appliances, as the authority of AQMDs to set those limits is connected to a different underlining statutory authority.

