

Judge Puts City's Green Code on Hold

Federal Injunction Stalls Enforcement

By DAN MCKAY
Journal Staff Writer

Just two days old, Albuquerque's new "green" building code is on hold again, and it may never be enforced.

New Mexico's chief federal judge, Martha Vázquez, issued

a 24-page order late Friday prohibiting City Hall from enforcing the code, which outlines a host of energy-efficiency measures for homes and businesses. The preliminary injunction will be in effect until the case is resolved permanently.

The code's goals are "laudable," the judge wrote, but the city legislation "infringes on an area pre-empted by federal law."

A few industry groups had

challenged the green building code. Critics said it was vague and would drive up the cost of replacing basic home appliances, such as furnaces and air conditioners.

"I'm very pleased with the judge's decision," said John Richardson of Gorman Industries Inc. "I hope we can get this worked out with the city, so we can save energy and make it a reasonable plan."

The city adopted the code last year to address global warming by making buildings more energy efficient. The complex regulations called for 90 percent efficient furnaces, for example, with certain exceptions.

Attorneys for the city argued that the furnaces weren't mandatory, because homeowners could opt instead to make another change, such as adding roof insulation to save

energy, assuming they didn't want the 90 percent furnace. There were other options, too.

But Vázquez said none of them appeared to comply with the federal regulations.

"There is no doubt that Congress intended to pre-empt state regulation of the energy efficiency of certain building appliances in order to have uniform, express, national

energy efficiency standards," she wrote.

City Councilor Isaac Benton said he was disappointed in the ruling. The green code was written to be flexible enough to comply with federal regulations, supporters said.

"I don't know where we'll go from here," Benton said. "It's the reason we really need leadership at the national level to increase energy efficiency."