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Connecticut takes the LEED in sustainable development - Part II

March 18, 2009 - Connecticut

Effective January 1, 2009, the state has statutorily required, with some exceptions, that buildings constructed by both the state and the private sector attain LEED silver certification or its equivalent (the CT LEED Requirements).

Connecticut LEED Requirements

The CT LEED Requirements apply to both private sector construction projects and state-funded construction projects. Regarding private construction, the CT LEED Requirements require any construction, except residential buildings with no more than four units, constructed after January 1, 2009 that is projected to cost \$5 million or more, and any renovation to any building started after January 1, 2010 that is projected to cost \$2 million or more, to be built or renovated using building construction standards consistent with or exceeding the silver certification rating of the LEED Green Building Rating System for New Construction & Major Renovation or an equivalent standard, including, but not limited to, a two-globe rating in the Green Globes USA design program. The CT LEED Requirements mandate the State Building Inspector and the Codes and Standards Committee to revise the State Building Code to make it consistent with the criteria set forth in the CT LEED Requirements. To date, the State Building Inspector and the Codes and Standards Committee are diligently examining the State Building Code and the CT LEED Requirements, but have not issued proposed amendments thus far.

For state-funded construction, the Office of Policy and Management (OPM) has proposed a set of regulations to implement the CT LEED Requirements (the Proposed Regulations). The Proposed Regulations are applicable to any new construction of a state facility that is projected to cost \$5 million, or any renovation of a state facility that is projected to cost \$2 million or more and for which all budgeted project bond funds are allocated by the State Bond Commission on or after January 1, 2008; and any new construction of a public school that is projected to cost \$5 million, or more, of which \$2 million or more is state funding, and is authorized by the General Assembly on or after January 1, 2009 or any renovation of a public school that is projected to cost \$2 million or more, of which \$2 million or more is state funding, and is authorized by the General Assembly on or after January 1, 2009.

The Proposed Regulations implement a regulatory paradigm that substantially borrows its criteria from the LEED Green Building Rating System for New Construction & Major Renovation version 2.2 and consists of mandatory building practices which must be implemented in conjunction with one of two prescriptive options. All projects covered by the Proposed Regulations (the Covered Projects) must incorporate 12 mandatory building requirements and any Covered Project that is a school project must incorporate six additional mandatory building requirements.

In addition to the aforementioned mandatory requirements, a Covered Project that is not a school

project is required to undertake either of the following two prescriptive options: (1) obtain silver certification under a LEED Green Building Rating System or a two-globe rating in the Green Globes USA design program, or (2) incorporate a minimum of 26 of a set of 60 building strategies enumerated in the Proposed Regulations.

If a Covered Project is school project, in addition to the aforementioned mandatory requirements, the school is required to undertake either of the following two prescriptive options: (1) obtain silver certification under a LEED Green Building Rating System, or meet the criteria set forth in the Northeast Collaborative for High Performance School Protocol or (2) incorporate a minimum of 28 of a set of 59 building strategies enumerated in the Proposed Regulations.

The Proposed Regulations also contain a provision that allows the Secretary of the OPM to grant an exemption to any Covered Project if, after a cost-benefit and life cycle analysis, the Secretary of the OPM finds that the cost of compliance with the Proposed Regulations significantly outweighs its benefits. The Proposed Regulations have been submitted to the General Assembly's Regulations Review Committee for final approval.

Conclusion

As LEED green building principles become the new defacto building standard in Connecticut, real estate developers should seek the advice of LEED Accredited Professionals (LEED AP) who have the knowledge and familiarity with the LEED Green Building Rating System required to participate in the design process, encourage an integrated design and coordinate the documentation process necessary for certification. Project developers should also seek advice from legal counsel familiar with the LEED Green Building Rating System.

1 Conn. Gen. Stat. Â§Â§ 16a-38k and 29-256a.

2 Conn. Agencies Regs. Â§Â§ 16a-38k-1 through 16a-38k-9.

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