

Another Reason to Build Green

By Joseph R. Harbeson and Adam L. Browser

In the absence of leadership from Washington, state and local governments have been taking the lead on measures to support sustainable building and combat the greenhouse gas emissions that accelerate climate change.

Recently, New York State has taken a significant step to support sustainable building by authorizing local municipalities to grant real property tax exemptions for construction that meets certain levels of certification under the U.S. Green Building Council's Leadership in Energy and Environmental Design ("LEED") rating system or substantially equivalent rating systems.

On June 11 and June 20, 2012, respectively, the New York Senate and Assembly each unanimously passed bill SB1462, and on July 18, 2012 Governor Cuomo signed the bill into law. The bill was sponsored by Ken LaValle in the Senate and by Fred W. Thiele, Jr. in the Assembly.

The law grants to municipalities the power to pass local legislation that exempts a percentage of the increased assessed value of property from property taxes for a period of up to 10 years depending on the level of LEED or similar certification the property receives. The law applies to construction commenced on or after January 1, 2013.

For example, a building receiving a LEED Platinum certification, the highest level granted by the U.S. Green Building Council, could be granted a 100 percent exemption from tax on any increase in the assessed value due to the improvement for six years, and then would receive a partial exemption over the next four years. Projects that achieve a LEED Gold rating would be exempt from tax on any increase



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in the assessed value due to the improvement for four years, with a partial exemption for another four years thereafter. Projects with a Silver or Certified rating would be totally exempt for three years and partially exempt for four years thereafter. The accompanying chart demonstrates the applicable partial and total exemptions:

LEED EXEMPTION

YEAR	CERTIFIED/SILVER	GOLD	PLATINUM
1	100%	100%	100%
2	100%	100%	100%
3	100%	100%	100%
4	80%	100%	100%
5	60%	80%	100%
6	40%	60%	100%
7	20%	40%	80%
8	0%	20%	60%
9	0%	0%	40%
10	0%	0%	20%

The law applies to all types of real property where the cost of the improvement exceeds \$10,000 and a building permit or other appropriate documentation has been issued for the construction. Ordinary maintenance and repairs do not qualify for the exemption. Provided the municipality

has passed enabling legislation, the owner (or contractor or architect) must file a copy of the LEED certification (or its equivalent as determined by the municipality) with the assessor's office where it must be approved in order to achieve the exemption. The exemption would then take effect in the assessment roll prepared after the taxable status date.

New York State has now given municipalities a tool that will benefit the environment, but one which can also motivate economic activity. It remains to be seen which local governments will take advantage of this opportunity, but presumably the Town of Babylon, which has been at the forefront of many environmental initiatives, will be one of the early adopters.

There are many reasons to build green. Some are altruistic, such as reducing greenhouse gases to benefit all. Other reasons are economically motivated, such as direct savings through reduced energy or water use, or gaining a competitive business advantage, such as a landlord attracting tenants to a green building that offers not only energy savings but also a healthier employee work environment. Now there is another potential benefit, reduced real estate taxes, should the local municipalities follow the state's lead and adopt enabling legislation.

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