

TRANSITION ALERT

LAND USE ISSUES: Green Building



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Authors:

Third in a special B&D series on issues likely to be embraced by the next administration

GREEN BUILDING

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As new faces arrive in Washington, D.C., the local press has dusted off some conventional wisdom pieces on the local housing market. Some themes are familiar (“Democrats rent and live in the District, Republicans own and live in Virginia”) while others reflect the times (“departing Bush administration officials are taking a bath on homes bought at the height of the bubble”). The new faces and articles remind us, that, as the saying goes, “there’s a new sheriff in town” -- this one is armed with an ambitious “green” agenda.

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President-elect Obama officially introduced several new faces on December 15, 2008, announcing his energy and environment team. His choices, most of whom previously served in states active in an array of environmental issues, particularly energy and climate change, suggest that the Obama administration will usher in a new era of federal regulation relating to green building and energy efficiency.

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Nancy Sutley, who previously served in state government in California, and who is currently a deputy mayor in Los Angeles, will chair the White House Council on Environmental Quality. In September 2008, California enacted the nation’s first significant law linking transportation funding with urban planning and greenhouse gas reductions. Among other things, SB 375 requires the California Air Resources Board to establish regional emission targets. The State’s metropolitan planning organizations, in order to receive transportation funds, must design housing, transportation, and other land uses with greenhouse gas targets in mind. In addition, projects built close to public transportation qualify for streamlined review under the California Environmental Quality Act. It is expected that SB 375 will play a significant role in reducing the State’s greenhouse gas emissions, but its economic effects are being seriously questioned. Environmentalists tout the approach as a model for the rest of the U.S.

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Obama’s pick for EPA Administrator, Lisa Jackson, hails from New Jersey, a state active in climate change regulation, having enacted in 2007 the Global Warming Response Act. Jackson, who previously served as administrator at New Jersey’s environment agency, was instrumental in pushing forward New Jersey’s participation in the Regional Greenhouse Gas Initiative, also known as RGGI, the first mandatory, market-based carbon dioxide emissions reduction program in the U.S. RGGI is one of several regional greenhouse gas initiatives activists suggest will serve as a template for federal cap-and-trade legislation.

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Obama also intends to establish a White House Office of Urban Policy to develop strategies for metropolitan America. Will the Administration coordinate green building, energy efficiency, and infrastructure policy through this new office? The answer is not yet clear, but, given the Administration’s stated preference for transit-oriented development, and given Obama and Biden’s recent announcement that they will travel to Washington by train to kick off a series of events for inauguration week, chances are that the White House will be pushing and advocating for greener development.

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President-elect Obama has also outlined several specific green building and energy efficiency

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policy proposals. These include:

- *National Building Efficiency Goals.* President-elect Obama wants all new buildings to be carbon neutral by 2030. To meet this goal, Obama intends to establish a national goal of improving new building efficiency by 50 percent and existing building efficiency by 25 percent over the next ten years.
- *Renewable Energy.* The new Administration also intends to establish federal mandates requiring utilities to purchase renewable power from sources such as solar, geothermal, wind, and hydropower. The President-elect's stated goals are: 10 percent of U.S. electricity from renewable sources by 2012 and 25 percent by 2025. These requirements would provide important benefits and incentives to green buildings capable of selling power "back to the grid."
- *Building More Livable and Sustainable Communities.* Obama also intends to use federal transportation funding to incentivize public transportation and to invest in livable and walkable communities.
- *Accelerating Green Building Leadership by the U.S. Government.* Obama has called for all new federal buildings to be 40 percent more efficient in five years and carbon neutral by 2024. He also supports federal investments in retrofits of existing federal buildings to increase energy efficiency by 25 percent within five years and to reduce federal energy consumption by 15 percent by 2015.
- *Weatherization of Low Income Homes.* President Obama aims to weatherize at least one million low income homes each year for the next ten years to reduce U.S. energy usage, decrease utility demand, and increase housing affordability.

Capitol Hill also promises to be active in green building and energy efficiency initiatives. Congressmen and private sector entities recently formed a green building caucus, the High-Performance Buildings Congressional Caucus. The group will focus, among other things, on increasing energy efficiency and lowering the carbon footprint of buildings. Caucus members are considering a range of green-building initiatives that include tax incentives and funds for a smart-grid system. Expect members of the Caucus to take the lead on energy efficiency and green building legislation in the 111th Congress.

Beveridge & Diamond attorneys are steeped in the relevant federal, state, and local initiatives related to these issues. Whether emerging legislation and regulations present you with new challenges, or provide you with new opportunities, B&D can assist you in navigating the complicated regimes designed to force, and incentivize, green building and energy efficiency.

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