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Sustainable Florida initiatives proliferate local codes in 2009

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The most recent boost to the Green building movement came on Oct. 5 when President Obama signed Executive Order 13154. That requires federal agencies to set a 2020 Greenhouse gas emission reduction target, and among other efforts, increase energy efficiency, conserve water, reduce waste and support sustainable communities.

At the local level, municipalities across

Florida have created Green building programs to encourage the development of resource- and energy-efficient buildings. In response to mandates by Governor Crist, the Florida Legislature and concurrent federal initiatives, resource- and energy-efficient building regulations have proliferated local



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codes in 2009 and will continue to do so as the Green building movement continues to grow.

While some municipalities are providing incentives to encourage Green building, others have created baseline Green regulations requiring the incorporation of certain Green building and design concepts into new developments, while others are requiring upgrades to existing buildings to increase their efficiency and reduce their greenhouse gas emissions. Since each municipality has specific needs, a multitude of regulations have been adopted with the ultimate goal of resource conservation.

Land use planning

Decisions affecting land use directly affect energy use and the consequent production of greenhouse gases. This is due to the relationship between where we live and work, and our transportation needs.

GUEST COLUMN

Euclidean zoning encouraged the separation of incompatible uses by way of land use classification. The unwanted effect is what most consider urban sprawl, a major culprit for inefficient use of land and resources which creates greater distances between residential uses and commercial uses.

With these new energy efficiency goals in mind, municipalities will be updating their comprehensive plans - their most sophisticated long term planning tool - in order to promote energy efficient land use planning. Cities have focused on creating regional activity centers, encouraging urban infill and developments near existing public transportation nodes, developing regulations for transit-oriented developments, and allowing for mixed-use residential/commercial developments that will allow people to live, work and play within the same geographic area.

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tified wood, locally manufactured materials and low VOC paints and wall coverings with little or no cost over a standard product. Even when you get to Gold certification, the difference is not that much more. It's getting to the point where it's not that hard to do it."

How do you feel about the level of adoption of Green building principles in commercial real estate in Florida?

"I think that even in this down economy it has shown its importance by the number of buildings that are in for certification. People are looking to build Green, and it's showing its value just by that."

What are some of the key legal issues surrounding sustainable development?

"One is Greenwashing. That's the term for saying your building is Green when it may not be. Until you're awarded the certification, you can't say your building is LEED-certified. But saying your building is Green - there's not a legal definition of Green. You've got to be careful how you market your building when claiming that it's Green. A tenant might come in and say, 'Our power usage is no less than in the other building,' and you might have a claim of fraud or misrepresentation."

"There are other legal issues in how you're drafting your construction contracts and allocating responsibility among the parties to achieve a certification level. The building owner wants to get to a certain level, but at the same time the architect, engineer and general contractor don't want to assume the liability in the event that certification is not reached. It can happen for a number of reasons, and it's hard to quantify sometimes why a

building doesn't get to a certain level. There are AIA forms for agreements between an architect and owner regarding responsibility for developing a Green building, but there are still limitations."

"Also, things are in a state of flux regarding energy savings, but I think it's demonstrated relatively reliably that - all things being equal - a building that is certified will have a higher sales price and will achieve a higher rental rate than a building that is not certified. It's also reasonably demonstrated that these buildings are healthier, resulting in greater productivity and less absenteeism. There are really good financial reasons to build in a sustainable way."

What do you see on the horizon for sustainable development in Florida?

"Only more. It's a differentiator, and I think that building owners are just going to have to pay attention to it to be competitive. If you're going to lease to any government agency, they'll require the building to be Green, and there are a number of private companies making it a matter of policy that they lease in Green buildings. Companies like Flagler are doing all of their product in Green."

"Very often, when I share my LEED AP designation with somebody in the industry, that will engender some questions. It's given me the opportunity to educate people about Green development and to put aside a number of the old myths about it being fraught with tremendous difficulty and expense."

"When you look at the various firms in the industry, they have lots of these LEED APs on their staffs because they know that's the way it is and we're not going back. It's here to stay."