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LEED for Existing Buildings Subcommittee

Joint Meeting with USGBC-LA Commercial Real Estate Finance Subcommittee

Handout for Meeting No.04/2009

Date: November 4, 2009 – 12:00—1:30 pm PST
Location: TPG's office at 515 South Flower St. 51st Floor, Los Angeles CA 90071
Prepared by: Daniele Aquino & Drew Shula
Next Meeting: TBD, first quarter 2010

Key Federal, State & Local Legislation Affecting Commercial Real Estate

1. Federal Laws & Regulations

1.1. Energy Independence and Security Act of 2007 (EISA)

In 2007, EISA was signed into law which authorizes the Department of Energy to implement a new program, the Commercial Buildings Initiative (CBI), to be designed with input from an industry consortium. This program will combine research, development, and deployment activities designed to achieve the goal of making all new commercial buildings "zero energy" by the year 2030. The EISA also permanently authorized Energy Savings Performance Contracts (ESPCs,) a financing tool for upgrading the energy efficiency of federal buildings.

- The act in full (310 page PDF): http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h6enr.txt.pdf
- CCIM analysis of act as it relates to commercial buildings (7 page PDF): http://www.ccim.com/system/files/ccim_energy_law_paper_2.pdf

1.2. Proposed Senate Bill (Kerry-Boxer), Clean Energy Jobs and American Power Act

The Kerry-Boxer bill, "Clean Energy Jobs and American Power Act," includes a 2020 mandate to curb the nation's greenhouse gas emissions by 20 percent from 2005 levels. The bill authorizes new greenhouse gas (GHG) emissions standards, creates new programs for energy, research and development (R&D), adaptation, transition assistance and other purposes. The bill also authorizes the establishment of GHG emission caps and directs the investment of allowance value to various programs.

- The bill in full (821 page PDF): http://www.eenews.net/public/25/12592/features/documents/2009/09/30/document_gw_07.pdf
- New York Times article: <http://www.nytimes.com/gwire/2009/09/30/30greenwire-boxer-kerry-launch-campaign-to-pass-senate-cap-29235.html>
- At a Glance: Waxman-Markey and Kerry-Boxer bills: <http://www.nicholas.duke.edu/thegreengrok/waxmanmarkey-vs-kerryboxer>

2. State Laws & Regulations

2.1. CA, AB 1103 (California Assembly Bill 1103) – Building Energy Usage Disclosure

Enacted in October 2007, the major component of California's Assembly Bill 1103 (AB 1103) requires that, as of Jan. 1, 2010, non-residential buildings release their EPA Energy Star Portfolio Manager-benchmarked data and ratings for the previous 12 months to parties in a commercial real estate transaction involving the sale, lease or financing of a whole building. The intent of the law is "commercial valuation of energy usage" during a financial transaction, just as square footage is valued, says Martha Brook, senior mechanical engineer with the California Energy Commission (CEC). AB 531, signed into law October



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11, 2009, defers the January 1, 2010 commencement date on a schedule to be established by a committee of the California Energy Commission (CEC). Rulemaking to implement AB 1103 has been initiated by the CEC. Comments on the proposed regulations can be submitted to Staff Counsel, Robin Mayer, at rmayer@energy.state.ca.us.

- The California Energy Commission (CEC), AB 1103 Info:

<http://www.energy.ca.gov/ab1103/index.html>

- AB 1103 Overview:

<http://www.facilitiesnet.com/energyefficiency/article/California-AB-1103-Requires-Energy-Benchmarking-Data-Released-During-Sales--11020>

- Assembly Bill No. 1103 (2 page PDF):

http://www.climatechange.ca.gov/publications/legislation/ab_1103_bill_20071012_chaptered.pdf

2.2. California, Title 24, Part 11

In 1989, California issued Title 24, a Building Standards Code that sets regulation for energy conservation. In 2008, Title 24 was updated with more stringent standards; the update is currently in the rulemaking phase and will be in effect as of January 1, 2010.

- The California Energy Commission, 2008 Building Energy Efficiency Standards:

<http://www.energy.ca.gov/title24/2008standards/>

- California Code of Regulations – Title 24, Part 11:

http://www.documents.dgs.ca.gov/bsc/2009/part11_2008_calgreen_code.pdf

2.3. California, Executive Order #S-20-04

In 2004, EO#S-20-04 was signed, requiring the design, construction, and operation of all new and renovated state-owned facilities to be LEED Silver.

- Executive Order S-20-04:

<http://www.dot.ca.gov/hq/energy/ExecOrderS-20-04.htm>

2.4. CA, AB 32 (California Assembly Bill 32), California Global Warming Solutions Act

To respond to the challenge of climate change, Governor Schwarzenegger and the State Legislature passed the California Global Warming Solutions Act in 2006 (Assembly Bill 32). The Act caps California's greenhouse gas emissions at 1990 levels by 2020. By 2050, the Governor has established a goal of reducing emissions to 80 percent below 1990 emission levels.

- ClimateChange.CA.gov:

<http://www.climatechange.ca.gov/policies/index.html>

- NRDC, AB 32 Factsheet:

http://www.solutionsforglobalwarming.org/docs/AB-32_fact_sheet_12.07.06.pdf

2.5. CA, SB 375 (California Senate Bill 375)

On August 31, 2008 Senate Bill 375 was passed. The bill aims at cutting carbon dioxide emissions by rewarding cities and counties that prevent urban sprawl and improve public transportation. The bill is intended to foster development patterns that will reduce the need to drive. California households could reduce their transportation-related climate pollution by 30 percent or more from reduced fuel use alone if development patterns between now and 2020, both inside and outside the urban core, were more efficient. This means additional compact single-family detached housing, apartments, condominiums, townhouses, and new developments that are served by good, reliable transit.

- NRDC Guide to California's SB 375:

<http://www.nrdc.org/globalwarming/sb375/files/sb375.pdf>

2.6. CA, AB 811 (California Assembly Bill 811)

AB 811 is an "On-bill" energy financing program that allows cities and counties to create loans to individual property owners which are repaid via their property tax bill. Similar on-bill financing programs are already offered by utility companies for qualifying energy-



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efficient improvements. The key components most often associated with these programs are 100% financing, a repayment amount that is lower than the energy savings, and debt that is automatically transferred to the new owner on sale. Most tax professionals consider the interest on the payments to be tax deductible. The capital pool to fund on-bill financing was envisioned to come from the high-grade municipal bonds formed by pooling this debt. However some legal challenges to the on-bill process have surfaced. As the debt is “contractual and consensual” and superior to a bank’s mortgage in default, there are questions on if a borrower is acting legally without getting a bank’s permission first. Boulder County Colorado has just issued the first public bonds backed by on-bill debt and many other cities are in line to see how this and some other legal snags will work out.

- Assembly Bill 811:

http://www.energy.ca.gov/recovery/documents/ab_811_bill_20080721_chaptered.pdf

- Flex Your Power AB 811 Overview:

<http://www.fypower.org/news/?p=3189>

3. Local Laws & Regulations

3.1. Los Angeles Green Building Ordinance

In 2008, the Los Angeles Green Building Ordinance was signed into law requiring all private developments of 50,000 sq. ft. or greater to earn LEED certification and offers expedited plan review and permitting for all projects seeking LEED Silver. It also commits city resources to ongoing review and improvement of city codes, removing obstacles to green building, revision of green building policies, engaging the development community and directing the city to continue to work with DWP to offer financial incentives for green building.

- City of Los Angeles, Green Building Program (9 page PDF):

http://clkrep.lacity.org/onlinedocs/2007%5C07-0705_ord_179820.pdf

- Los Angeles Times article:

<http://articles.latimes.com/2008/feb/16/local/me-greenbuild16>

- FacilitiesNet Overview:

<http://www.facilitiesnet.com/green/article/Los-Angeles-Mandates-LEED-For-New-Buildings--8754>

3.2. City of Los Angeles Municipal Green Building Retrofit and Workforce Development Policy

On April 8, 2009 the Los Angeles City Council adopted this ordinance to begin the retrofit of all city-owned buildings with green standards. The goal is to achieve LEED EB Silver-equivalent or higher standards on all existing city-owned properties that are over 7,500 square feet, or that were built prior to 1978. The ordinance aims to link this large-scale city project with job creation in low income communities.

- The Apollo Alliance’s City of Los Angeles Municipal Green Building Retrofit and Workforce Development Policy:

<http://www.scopela.org/downloads/2009%20Apollo%20factsheet%20-%20ordinance.pdf>

- GreenBiz Article:

<http://www.greenbiz.com/news/2009/04/09/los-angeles-building-retrofit-designed-boost-green-jobs>

- Los Angeles Apollo Alliance Press Release:

http://www.scopela.org/downloads/04%2007%2009%20LA%20ordinance%20press%20release_final.pdf

4. Other Influences on Real Estate

4.1. U.S. Conference of Mayors, Sustainable Investment Initiative

The U.S. Conference of Mayors supports the efforts of the Capital Markets Partnership’s Sustainable Investment Initiative to generate market investment in high performance green buildings through Sustainable Mortgage Backed Securities that will stimulate the economy and combat climate change. The U.S. Conference of Mayors encourages additional public-



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private partnerships to increase market investment in environmental innovation and climate protection.

- The United States Conference of Mayors, Supporting Sustainable Investment Initiative:

<http://www.capitalmarketspartnership.com/UserFiles/Admin%20US%20Conference%20of%20Mayors%20Resolution.pdf>

4.2. The Architecture 2030 Challenge

All new buildings, developments and major renovations shall be designed to reduce meet a fossil fuel, GHG-emitting, energy consumption performance standard of 50% of the regional (or country) average for that building type. At a minimum, an equal amount of existing building area shall be renovated annually to meet a fossil fuel, GHG-emitting, energy consumption performance standard of 50% of the regional (or country) average for that building type. The goal is for fossil fuel reduction to create carbon neutrality by 2030.

- The Architecture 2030 Challenge:

http://www.architecture2030.org/2030_challenge/index.html

Thank you for attending! We look forward to seeing you again for our next EB Subcommittee meeting in Q1 of 2010!

Sincerely,

- Daniele Aquino, Chair, LEED for Existing Buildings Subcommittee (USGBC-LA)
- Kevin Devine, Co-Chair, LEED for Existing Buildings Subcommittee (USGBC-LA)
- James Finlay, Chair, Commercial Real Estate Finance Subcommittee (USGBC-LA)
- Marika Erdely, Vice-Chair, Commercial Real Estate Finance Subcommittee (USGBC-LA)