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### Departments // Law

#### The Bottom Line on Green Building Practices in Common Interest Areas

Common Interest Developments (CIDs) are residential or commercial developments that have common elements or areas maintained through an association of the owners of individual units or properties. Condominiums, townhouses, co-ops and planned unit developments of lots for single-family homes all fall within this definition.

Developers of CIDs have a vested interest in holding the line on common area costs. Keeping operation and maintenance expenses down means lower assessments to owners. In turn, having lower assessments increases the number of purchasers who can qualify for loans to buy properties. This kind of competitive advantage can make or break a project, particularly in a down market or tight credit cycle. With an increase in public awareness of environmental issues, the availability of tax credits and incentives, and improvements in materials, many builders are finding that building Green can help keep costs down and provide an additional marketing tool.

#### What is "Building Green"?

The U.S. Green Building Council is the nonprofit organization that developed and administers the LEED Green Building Rating System. The Council defines Green building as: "Design and construction practices that significantly reduce or eliminate the negative impact of buildings on the environment and occupants." These practices include "sustainable site planning, safeguarding water and water efficiency, energy efficiency and renewable energy, conservation of materials and resources and indoor environmental quality."

#### The Application of Green Practices to Common Interest Developments

Because CIDs are the result of comprehensive land use, architectural, engineering and design planning by the developer, it is easy to see how Green practices can be applied to this type of project. In large developments, sustainable site planning would include location of common amenities to encourage walking by residents. Passive and active systems can be incorporated in the design of buildings and common facilities to minimize, manage and conserve surface water runoff, and to provide for heating and storage of water for use in swimming pools and other applications. Proper orientation and construction of buildings can maximize natural heating, ventilation and cooling opportunities, while photovoltaic cells can provide renewable energy for lighting and other electricity requirements. Contracts with local utilities that provide for delivery of electricity only from renewable sources are available.

That both common areas and individually owned units or detached residences can benefit from such planning and practices is readily apparent. But can any of this be done economically?

#### The Cost of Building Green

Conventional wisdom has long held that projects cannot be economically constructed or competitively marketed if Green systems are incorporated in their design. In light of mounting evidence, the conventional wisdom may have to change.

In 2003, a group of 40 California state government agencies banded together as the "Sustainable Building Task Force" and commissioned a study of cost data from 25 office and eight school projects that were LEED-certified. The study was a net present value analysis of the stream of current and future benefits and costs, quantified in then-present day dollars and assumed a discount rate of 5 percent, an inflation rate of 2 percent annually and a term of 20 years.

The findings of this study are truly remarkable. The average initial cost premium associated with obtaining LEED certification was about 2 percent, averaging about \$4 to \$5 per square foot. However, the 20-year net present value of financial benefits accruing from the practices leading to certification was in the range of \$49 to \$65 per square foot. The study reported benefits including reduced energy, water and waste costs, reduced emissions, lower operating and maintenance costs, lower insurance and risk costs, and enhanced productivity and health of the workforce.

These findings were supported by another even more comprehensive study accomplished a year later. This study compared the construction costs of 45 projects for which LEED certification was sought to 93 projects that did not seek certification, evaluating the costs of pursuing each LEED point and entire Green projects. The study essentially found that there was no statistically significant difference between LEED and non-LEED project costs.

Even the U.S. government is getting into the act. Based on a study it commissioned, the General Services Administration has adopted a program that requires all new construction and major modernization projects to be certified through the LEED program, with an emphasis on achieving a Silver rating. In order to achieve such a rating, GSA budgets for projects include allotments varying from 2.5 percent to 4 percent to cover the anticipated additional cost.

#### **The Lesson for Builders**

If the studies are correct, the initial cost of going Green is more than offset by the long-term financial benefits. Anecdotal evidence suggests that the public is increasingly in tune with the Green building movement, and that Green buildings can and do command higher prices and rents. Builders committed to delivering the highest quality product can and should explore Green building practices from both cost and marketing perspectives, and should learn as much as possible about available tax credits and other incentives.

Many projects employing Green-building practices have come very successfully into the market. How long will it be before an increasingly educated and environmentally conscious public insists on Green homes and workplaces? This is a classic case of "doing well by doing good." A builder can develop a common interest project incorporating the best environmental and building practices while keeping costs in line. Green building practices can lead to lower operating expenses, lower assessments and a more marketable product.