



Michael Sahn - NYC Local Law 84 data due May 1

May 23, 2011 - Long Island

Pursuant to Local Law 84 of New York City's Greener, Greater Buildings Plan (GGBP), on May 1, 2011, owners of "covered buildings" must have provided the city with energy-use benchmarking data. The GGBP was enacted in 2009, as part of the city's effort to tackle carbon emissions and address sustainability, by, among other things, requiring certain existing buildings to conduct energy-use benchmarking, energy audits, and retro-commissioning. Local Law 84 benchmarking is the first component of the GGBP to impact the built environment in New York City. Local Law 87, another component of the GGBP, requires the completion of energy audits and retro-commissioning beginning in 2013, and will be the subject of future blogs.

Local Law 84 requires that owners of "covered buildings" annually submit energy-use benchmarking data to the city using U.S. Environmental Protection Agency's Energy Star Portfolio Manager Benchmarking Tool. "Covered buildings" are those buildings within the city that exceed 50,000 gross s/f, two or more buildings on the same tax lot exceeding 100,000 gross s/f, or two or more condo buildings exceeding 100,000 gross s/f governed by the same board of managers. A list of "covered buildings" can be found at www.nyc.gov/GGBP. The city has noted that while "covered buildings" account for only 2% of the building stock in the city, they account for approximately 50% of the total s/f and 45% of the city's total energy use.

The energy-use benchmarking requires the input of significant data into the portfolio manager, including, but not limited to, energy use over the past 12 months, hours of operation, occupancy rates, number of workers per shift, number of computers, and percentage of floor area cooled and heated. The annual benchmarking scores/ratings for "covered buildings" will be available to the public through the city's Dept. of Finance website starting on September 1, 2012, for covered non-residential buildings, and September 1, 2013, for covered residential buildings.

It will be necessary that tenants of tenant-occupied "covered buildings" cooperate with landlords in connection with the landlord's input of benchmarking data into the portfolio manager. All new leases and lease renewals with tenants of such "covered buildings" should include a requirement that tenants comply with Local Law 84, cooperate with landlords with respect to energy-use benchmarking, and require tenants to certify the accuracy of any data provided. As these and other issues emerge concerning the implementation of Local Law 84, such as the confidentiality of the data provided and the completeness of the data, they will be the subject of future blogs.

Although the benchmarking data was due on May 1, 2011, the city has indicated that it has no expectation to impose penalties until August 1, 2011. Moreover, despite the fact that the penalties for failing to comply with the benchmarking requirements are not significant (\$500 per quarter), failing to have a score may affect the overall value of the building. The market has driven developers to construct buildings that qualify as LEED-certified due to the public's increasing awareness and demand for sustainable practices and a reduction in carbon emissions. Similarly, the market may

drive compliance with the requirements of the GGBP, including energy-use benchmarking, due to the stigma that may accompany a failure to comply with the laws.

By addressing existing buildings, the city is at the forefront of the implementation of green legislation. As issues relating to environmental sustainability, conservation of resources and energy use become more prominent, the city's GGBP may well become a model for other jurisdictions, such as the city, towns and villages in Nassau and Suffolk County. In anticipation of this, owners of buildings in other jurisdictions may want to explore whether to implement some of these measures voluntarily, including the benchmarking requirement of Local Law 84.

To see Local Law 84, please go to the following website:

http://www.nyc.gov/html/planyc2030/downloads/pdf/l184of2009_benchmarking.pdf

To see the EPA's Energy Star Portfolio Manager Benchmarking Tool, please go to the following website:

http://www.energystar.gov/index.cfm?c=evaluate_performance.bus_portfoliomanager

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