



Has the well run dry? State and local water management efforts

August 24, 2009 - Upstate New York

The commercial real estate industry is increasingly confronted with water management issues as more states and local communities are acknowledging that supply is being tested by demand based on rainfall deficits, a weak infrastructure or other issues.

State and local governments are increasingly discussing and passing legislation regarding water management and usage in recognition that water is no longer available in unlimited supplies. No area is isolated from this discussion. Whether it is water quantity, quality or management, it is important to understand that water is an issue at various levels in every state and community and that the commercial real estate industry must increasingly factor in these issues in the overall development, management and maintenance of commercial properties. Today's commercial real estate projects have to address and incorporate water capacity, management and runoff into the planning, development and overall productivity of commercial real estate.

While each level of government from Capitol Hill to city hall continues to play a role in water management issues, it is important that a strong intergovernmental relationship exists between the government entities so that unnecessary bureaucracy and redundancy are avoided. The commercial real estate industry must be engaged in the development and adoption of policies that are appropriate and will fundamentally address the issue without over-regulating and potentially adding unnecessary costs without resolving the issue.

For the most part, the federal government and primarily the U.S. Environmental Protection Agency (EPA) maintains jurisdiction over pollutant discharges and water quality standards for surface water through the Clean Water Act (CWA) of 1972, as amended in 1977. Under the CWA, various federal programs have been implemented to regulate water issues that often set the floor and allow states and local governments to adopt additional regulations more stringent than the federal standards. The states and local governments have been active in setting additional standards and have approached congress and the federal government in seeking the adoption of similar federal standards. In order to establish a unified approach towards a water issue, states and local governments attempt to level the playing field by not placing their communities at an economic disadvantage by setting a higher standard. However, previous attempts to make changes to the CWA have not been successful.

As governments continue to debate water issues, commercial real estate owners, investors and developers are moving forward with projects that provide economic opportunity and create jobs while incorporating water management issues that meet federal, state and local standards. On Jan. 6, during a stakeholder workshop on water infrastructure sustainability and adaption to climate change, the EPA outlined key elements which impact current and future water management that included: growing population, climate change, regulator issues, uncertain economics, infrastructure,

evolving institutions.

Commercial owners or developers take these elements into consideration and collectively apply them when advancing a project. It is important that clear and consistent rules are established so that the commercial real estate industry can make the appropriate decisions in the planning and budgeting of resources. Many challenges often arise when rules or codes are inconsistent, contradictory or amended in the middle of the project.

The industry can and should play a key role in spurring economic growth, creating jobs, revitalizing depressed communities and awakening America's inner cities. There needs to be a strong public-private relationship in order to achieve this. It is important, particularly during the current economic recession, that each level of government, along with the private sector, work together to update and implement rules that reflect current conditions, streamline and expedite the review process and extend currently approved project permits.

NAIOP recognizes that this applies as well to water related issues, such as quantity, quality, conservation and discharge and their growing impact on commercial real estate. In practical reality, no community, state or region is immune from one or more of these issues.

NAIOP is committed to and will continue to serve as a resource for the commercial real estate industry in working with public officials to address current and future water issues.

For more info on NAIOP and how you can become a member, contact their membership director, David Topian at (585) 742-3236 or executive director, Karen McCready at (585) 249-9232. Ask about special rates for professionals 35 years of age and younger, and also student discounted rates.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540