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SHAPING OUR FUTURE, ONE BUILDING AT A TIME

By COLLEEN E. MOREY

Currently, Chicago has over 200 buildings that have been constructed with green roofs¹ including a serene setting on top of Chicago's City Hall, where green bushes fill the area with tiny flowers creating a small paradise.² In 2006, Mayor Richard Daley proposed a program that would allow the city to provide money to match a landlord's rooftop investments up to \$100,000.³ Additionally, in 2004, the city announced a resolution for all new city-funded construction to earn Leadership in Energy and Environmental Design (LEED) certification.⁴

Gardens on roofs are just one way constructors and owners can create sustainable buildings.⁵ These sustainable buildings or "green buildings" are not easily defined. Many advocates do not have specific standards for what constitutes a

green building, but define green buildings as those that reflect a concern for efficiency, water conservation, and air quality.⁶ Supporters say green buildings encourage the use of recycled materials as well as the health and happiness of human beings.⁷

The green building movement began in the 1970s, during the petroleum energy crisis.⁸ It was discovered buildings gave off 48% of all greenhouse gas emissions.⁹ The Union of Architects and American Institute of Architects met in 1993 to evaluate and discuss how to create buildings that reduced the amount of gas emissions.¹⁰ Around this time, the Audubon House in New York City was restored as one of the first green buildings in the United States.¹¹ The Audubon House was an Audubon Society initiative to publicize protection of the eco-system and to preserve an historic New York building while using 62 percent less energy than a conventional building.¹² The goal was to show the public green architecture was affordable and manageable on a large scale.¹³

A rating system was then created to determine the green standard.¹⁴ The United States Green Building Council (USGBC) instigated LEED to rate green buildings.¹⁵ The system uses five categories to rate the buildings: sustainable site development, water savings, energy efficiency, materials used, and indoor environmental quality.¹⁶ Each building can then obtain a certain level on the LEED scale: platinum, gold, silver, certified, or fail.¹⁷ Each level is separated by points equal to the exchange of the sustainable activities attained.¹⁸

Critics of LEED argue that it is too easy to obtain lower levels and too difficult to obtain the highest. Building constructors could choose the easiest, cheapest activities and still obtain the same level as someone who made substantial improvements.¹⁹ Auden Schendler, a LEED accredited professional and Director of Environmental Affairs at the Aspen Skiing Company, is vocal about the short falls of the LEED system. "You can certify a building as green without any energy efficiency measures in the building. . .and a building that isn't energy efficient isn't green, no matter how much bamboo you use." LEED has successfully certified gold over 80 buildings within the United States,²⁰ but whether these buildings actually conserve energy fuels the debate.

Green roofs have the potential to earn seven credits under the LEED rating system.²¹ Larry Merritt, the Public Information Officer for Environment for

the City of Chicago, says Chicago has instituted the “Chicago Standard.” Merritt said, “The best way to encourage green building construction is to lead by example. Buildings receiving funding from the city must meet the Chicago Standard and obtain LEED silver certification.”²²

Other areas of the country have also encouraged green buildings. In 2004, California Governor Schwarzenegger signed an executive order requiring all construction of new and renovated state-owned facilities to meet LEED silver.²³ Since the order, 64 buildings are on the way to achieving LEED silver.²⁴ Likewise, New York has offered incentive programs for design teams of any New York State building that achieves a LEED rating and will offer a 10 percent increase on incentives for energy efficiency measures.²⁵ In February of 2006, the city followed suit and required all city buildings to be LEED compliant by January of 2007.²⁶

Schendler argues that a more effective LEED system would “require that five or more energy credits be mandatory; green buildings should beat code by at least 50 percent.”²⁷ Merritt, on the other hand, sees no problem with LEED, “green features have to be installed to be LEED certified;” therefore his contention is every little bit helps.²⁸ Regardless of LEED’s shortfalls, the Audubon Society’s goal has been obtained as major US cities are adopting measures to encourage the use of green construction.²⁹ Schendler says, “changing the municipal code is the most important in encouraging more green construction.”³⁰

NOTES

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3 Washburn, *supra* note 2 at 6.

4 Theodore C. Taub, *Materials for Discussion Regarding Green Buildings*, SM004 A.L.I. 399, 404 (2006).

5 Taub, *supra* note 4 at 404.

6 Robert I. McMurry, *Green Development, American Law Institute-American Bar Association Continuing Legal Education*, SM004 ALI-ABA 445, 447 (2006).

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- 11 *Id.*
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- 18 *Id.*
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- 22 Phone Conversation with Larry Merritt, the Public Information Officer for Environment for the City of Chicago, (October 30, 2006).
- 23 Taub, *supra* note 4 at 419.
- 24 Green Action Team, Green Buildings Committee for the State of California, *LEED New Construction*, (Sept. 21, 2006), <http://www.documents.dgs.ca.gov/green/meetings/leednc060921.pdf>.
- 25 Taub, *supra* note 4 at 420.
- 26 Commissioner David Burney, AIA, *Memoranda: Local Law 86/2005 LEED Law*, (Feb. 9, 2006), <http://www.nyc.gov/html/ddc/html/ddcgreen/documents/ll86/memo.pdf>.
- 27 Email from Auden Schendler, Director of Environmental Affairs at the Aspen Skiing Company (October 24, 2006).
- 28 *Id.*
- 29 Audubon, *supra* note 12.
- 30 Schendler, *supra* note 27.