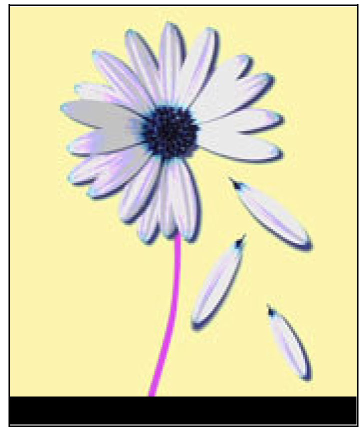
Daily Business Review
www.dailybusinessreview.com

Special Report: Going Green

Buildings that are kinder to the environment produce green anxiety

August 25, 2008

By: Terry Sheridan



The green-building movement is sprouting a crop of concerns over marketing hype and what could be misleading claims of energy savings.

Building performance is the latest issue of the effort begun earlier this decade to build environmentally friendly projects — called green or sustainable. They are intended to consume less electricity and water, use more natural lighting and offer better indoor air quality.

But some real estate brokers, tenants and attorneys say developer statements that their buildings are green can be misleading. And a lack of data and accountability about the post-construction green performance of buildings hampers any effort to determine cost savings and benefits.

The result is growing unease that disgruntled building tenants will sue over false promises.

“The focus is not to create expectations that can’t be met,” said real estate attorney Paul D’Arelli of Greenberg Traurig in Fort Lauderdale, a member of an informal group of green-building experts nationwide concerned about liability issues.

“One expectation is that the building will attain a certain rating [by green-building certification agencies],” he said. “The second is that it will achieve certain performance levels.”

Uncertainties grew earlier this year with publication of a study commissioned by the U.S. Green Building Council. Its Leadership in Energy and Environmental Design [LEED] building rating system is considered a benchmark among such programs.

Released in March, the nationwide study of 121 LEED-certified buildings’ energy use showed 25 percent performed significantly worse than design projections, while about 30 percent performed better. [See related article on Page A11.] Now a follow-up study is examining why the buildings’ performances varied so widely.

Brendan Owens, vice president of LEED technical development for the U.S. Green Building Council, said in a phone interview Friday that the study will be the impetus for a revamped certification process.

“We’re going to dramatically shift toward a focus on existing building operations and get away from concentrating on the design and construction,” he said. “The real [green] footprint of a building lies in the maintenance and operations.”

The current LEED ratings aren’t misleading but “there may be a more direct route for buildings to go than the route we’re on,” he said.

Added engineer Rob Hink of the Spinnaker Group in Weston: “Let’s not forget that LEED is still pretty new.”

Hink, president of the U.S. Green Building Council’s South Florida chapter, said that up to a year ago, LEED ratings didn’t require a building to be more efficient than the state’s energy code. Buildings now have to be at least 14 percent more efficient than the code.

“We expect to see a great impact from that when those buildings come to the marketplace,” he said.

Maybe, but D’Arelli and other attorneys are taking care in writing leases for space in buildings claiming green status.

Though D’Arelli wouldn’t identify the building, he’s drafting language that makes clear the owner won’t guarantee a particular LEED certification or energy performance, despite marketing claims of the owner’s intent.

“That’s because the design element and delivery of the building to the marketplace is a multiparty process where there is substantial opportunity for actions by any party in that chain … that could impair the ability to secure the rating,” he said.

Developers increasingly are being pushed to build sustainable buildings by local governments and big tenants whose corporate policies call for green space.

An executive order by Gov. Charlie Crist in July outlined measures needed to reduce greenhouse gas emissions statewide, including a mandate to increase the energy performance of new buildings by at least 15 percent.

In Miami, the city’s climate action plan, called MiPlan, released in June calls for a reduction of energy use in new and existing buildings in the city. New buildings larger than 50,000 square feet are to be certified as the LEED silver level.

LEED awards range from a basic “certified” to silver, gold and platinum levels. The ratings are available for nine categories: houses, retail, new construction, existing buildings, commercial interiors, neighborhood development, health care, schools and cores and shells of buildings.

Projects in those categories earn points based on criteria specific to the rating being sought. But certifications can take at least a year to complete. And it can take years more to gauge how a building’s energy-saving features actually perform and presumably save money and resources.

Calculating cost benefits

Most developers say green features add 2 percent to 10 percent to their construction costs. But they shy away from estimates on energy savings because “none of us have hard data,” said Jack Lowell, managing director of Flagler Real Estate Services Oncor International in Miami.

“This whole movement came out of the academic and government worlds, and those two universes aren’t concerned about cost containment,” Lowell said.

He handles leasing at MDM Development’s 47-story Met 2 office-hotel project, part of a four-building, mixed-use complex a block north of the Miami River between Biscayne Boulevard and Miami Avenue. Met 2 will seek a silver or gold LEED rating.

“Now it’s come into the private sector, and if you’re not doing a green building, you’re way behind the eight ball,” he said.

That increases the need for marketing.

Promotions often tout a building’s energy-saving, carbon-reducing goal with references to its registration or pre-certification for a LEED rating. But that’s far from guaranteeing savings. And that’s the concern for tenants, and the brokers and attorneys who represent them.

Green-building construction is full of questions that make calculating its benefits less than an exact science.

Unless a building is occupied by a single user, for example, energy use will be determined by each tenant’s operating habits.

How long a building owner intends to hold the property also plays a role in whether costlier green components will be installed.

“Most green initiatives are designed to reduce operating costs by putting in more capital investments upfront,” Lowell said. “But we don’t have enough factual experience to say what the cost benefit looks like.”

Institutional owners of buildings who typically hold their assets longer may opt for the added expense. But developers of office condos are likely to sell the units within two or three years. The temptation in that case is to avoid investments in costlier green equipment and technology, Lowell said.

Many developers have begun seeking a LEED core-and-shell rating. That allows them to plan green structural elements like a reflective roof and water-collection system but allows tenants to decide if their interior space build-out is green, said architect Jonathan Cardello, a principal in Miami’s ADD Inc. whose projects include the redevelopment of the former Fashion Mall in Plantation into the mixed-use 321 North complex.

The U.S. Green Building Council in May announced a core-and-shell pre-certification. For a $2,500 to $3,500 fee, a developer can be pre-certified by the council within about a month.

“We can do a pre-certification to assure tenants until the certification is final,” Cardello said. “This is a new thing, and it gives us the flexibility to use that for marketing. Otherwise, you don’t have anything to go to market with at that point.”

Developer William Holly doesn’t buy it.

He says only that he is seeking LEED certification for his Miami Green office-condo building at 3150 SW 38th Ave. in Miami. Anything more than that is misleading, he said.

Despite other buildings in Miami seeking LEED certification, Holly does say his 13-story building will be the first LEED-certified office building in Miami.

Expected to be complete by January, Miami Green’s features include a hurricane-resistant glass exterior that repels ultraviolet rays and heat, energy efficient air conditioners with less polluting coolant, water-conserving restroom fixtures including waterless urinals and reserved hybrid-car parking — all on less than an acre across from a Metrorail stop and near a bus stop and the Coral Gables trolley.

Holly declined to discuss costs or expected energy savings, but said the initial construction cost estimate of more than $400 per square foot remains accurate.

Because his effort was one of the first in Miami, the green elements added about 10 percent to the construction cost, he said. Costs of green components have declined since the project began, he said.

“The key is this: We’re not a hype group. Until a building is delivered, you can’t get your rating. As soon as I say we’re going for a certain rating, and for some reason we miss a point here or there — and you never know about that until after the inspection — someone will point to this article and say that we were supposed to get a certain rating.”

Energy efficiencies

In Sunrise, Stiles Corp. has taken the opposite view in marketing the pre-certification of its Lake Shore Plaza II office building at 1300 Concord Terrace in the Sawgrass International Corporate Park.

The Fort Lauderdale-based developer intends to get a LEED silver core-and-shell rating for the five-story, 128,470-square-foot building. Although the certification isn’t yet in hand, the company’s Web site touts the project as Broward County’s first LEED-certified multi-tenant office building.

“We didn’t want to just say we’re striving to become certified,” said project manager David Siegel, Stiles’ president of asset services.

“It can take a long period of time. We’ve been warned that [the building council] is having a tough time keeping up with submittals.”

The Lake Shore II building’s shell cost of $13 million is about 2.4 percent more because it will feature a reflective roof coating to reduce heat gain and air conditioning use, rainwater collection for irrigation, bathrooms that include waterless urinals, dual-flush toilets and automatic shut-off faucets; high-efficiency lighting and motion detectors that turn lights off after a period of inactivity.

The developer also has targeted improved air quality by banning volatile organic compounds (VOCs) such as urea formaldehyde in paints, carpeting, adhesives and wood stains.

But it’s tough to gauge how much the building’s energy efficiencies could save tenants.

“We’ve attempted to quantify that but it’s easier said than done,” Siegel said.

Conservation measures should cut water use 47 percent, a saving of about $10,000 annually. Compared with similar buildings, electricity use should be about 5 percent to 10 percent lower, saving about $15,000 to $25,000, he said.

“We’re not representing that you’ll come in and save 50 percent of your electricity costs,” Siegel said. “We’re trying to be very pragmatic, knowing it also requires the support from tenants to change their behavior.”

Tenants who operate 24 hours daily won’t see the same savings compared with a 9-to-5 business. But they’ll be operating in a more efficient building, he said.

Meters will gauge each tenant's electricity consumption. Depending on their lease terms, tenants can be charged for extra usage if they exceed established operating hours. Tenants are encouraged to build out their office space in a green fashion but are only required to recycle and avoid VOCs. Violators won't be fined, Siegel said.

"We're trying to be part of the educational process," he said. "It's not that tenants aren't sophisticated. But they aren't knowledgeable."

To be competitive against older office buildings in a tough leasing market, Stiles won't boost lease rates to reflect the building's added costs, Siegel said.

What are actual savings?

Developer Frank Navarro of Navarro Lowrey isn't shy about telling prospective tenants they'll save 30 percent on "variable operating costs" such as water and energy at his EcoPlex at Centrepark West at 1641 Worthington Road, West Palm Beach.

Marketed as LEED-registered and expecting a silver rating, the four-story, 100,000-square-foot EcoPlex near Palm Beach International Airport will cost about $27 million — 5 percent more because of its green features, Navarro said.

Those include a natural water filtration system that helps fuel the air conditioning system, nontoxic interior finishes and a floor raised 16 inches above the concrete foundation. That space contains cabling and piping for the building's utilities, and air conditioning costs will be lower because it takes less energy to deliver chilled air at floor level than through ceiling ductwork, Navarro said.

He calculates the green components improve air quality and the work environment enough to increase worker productivity 3 percent to 5 percent, or $10 to $15 per square foot, annually.

"We think that's huge," he said.

When tenants doubt his claims of 30 percent savings in some operating costs, "we tell them we'll do a gross lease" to prove the point, Navarro said. Gross, or full-service leases, include operating expenses instead of breaking them out separately as net leases do.

"By offering gross leases, that basically guarantees operating expenses," Navarro said. "It exposes our competitors who have uncertain cost structures."

So far, however, tenants have been reluctant to take up the offer, he said.

That's no surprise to tenant broker Barbara Liberatore Black, principal and vice chairman of CresaPartner's Florida operations. Tenants everywhere have been leery of green claims, largely because no one's cost estimates have been proven yet, she said.

Developers who quote electrical cost savings on gross leases, for example, typically don't pass the savings on to tenants, she said.

"There could be an argument made if landlords said their energy costs are 20 percent less so they can charge 20 percent less in market rates, but it never works that way," she said. "It might work best if all tenants complied with certain standards."

That's not likely to happen.

Though a LEED-commercial interior rating is available to tenants who want to make their space green, the estimated $1.60 per square foot for the necessary elements is too pricey, Liberatore Black said.

Most tenants will agree with a landlord's demand to recycle. Otherwise, "they'll go with the nongreen elements [in their office space] unless they are mandated — and they're not," she said.

If a tenant pursues green office space, how does a landlord ensure that doesn't jeopardize the core-and-shell certification, asks real estate attorney **George Pincus** of **Stearns Weaver in Fort Lauderdale**.

"If you have a tenant with a large data center that requires installation of supplemental [air-handling systems] to cool the servers off, does that affect the core and shell?" he asked.

The commercial real estate industry is beginning to realize green building standardization is crucial, said Pincus, former president of the Florida chapter of the National Association of Office Industrial Properties.

“This is not static; it evolves,” he said. “What happens two years, five years, 10 years from now? What if the [green building council] changes its standards? Does your building still have the same rating?”

The building council is addressing those worries, said Owens, who compared the situation with changes in building codes, which periodically are updated by national and regional commissions.

“You don’t take away a building’s certificate of occupancy because it was built in 2004 and the new version of the code came out in 2007,” Owens said. “We aren’t going to be taking any plaques away.”

Owens said the council’s next step is to better plan for continuous improvements to buildings.

“This is the property managers’ dilemma,” he said. “You can have a high-performance core-and-shell design. But everyone moves in and puts bookshelves in front of thermostats, cover vents, puts walls where there shouldn’t be walls, and the building performance degrades.”

Developers’ attitudes also need to change, said Jason Biondi, operations manager at the Spinnaker Group in Weston, the engineering firm that specializes in designing environmentally friendly buildings.

South Florida’s typical development model is “build as cheap as you can, up-sell it through marketing that may not be truthful and doesn’t reflect the quality of the product but allows them to get better rates, and flip it as soon as possible,” he said. “Financially, that’s successful.”

The next big step developers must take is to include the social and environmental benefits of green buildings in that economic model, Biondi said.

“They’ve let us into the room now to talk to them,” he said. “But in order to get the kind of projects in [South Florida] that we see in other more progressive parts of the country, they need to drink the Kool-Aid. They need to build for those other reasons.”

Terry Sheridan can be reached at (954) 468-2614.