FOILED BY THE BANKS? HOW A LENDER’S DECISION MAY SUPPORT OR UNDERMINE A JURISDICTION’S ENVIRONMENTAL POLICIES THAT PROMOTE GREEN BUILDINGS

Michigan Journal of Environmental & Administrative Law, 2015, Forthcoming

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Abstract

In a report from the United Nations Environmental Program that addressed climate change, the authors point out that the built environment in both emerging and developed countries accounts for more than forty percent of the global energy usage while also emitting at least one third of the world’s greenhouse gases. They further assert that the built environment offers an unsurpassed opportunity to supply cost effective, lasting, and meaningful reductions in greenhouse gas emissions. In response to such a call to action, many state and local governments turned to a variety of policies to ensure that the real estate developments within their jurisdiction furthered their green building objectives. However, the availability of mortgages to provide long-term financing for the cost of construction or acquisition of a green building will either support or undermine the policymakers overarching environmental objectives. As a result, many lenders will fail to recognize that a green building differs from a traditional one and will undercut these important environmental policies by denying the loan because the underwriters inadvertently misunderstood the unique risks and opportunities associated with these structures. Accordingly, this article seeks to address the unique issues associated with a mortgage for a green building and provide solutions that can mitigate the exposures presented to acceptable levels so the lending community can also demonstrate its support to furthering a more ecologically friendly built environment.

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Key Takeaways:

- The risks presented to a lender for a green building are distinctly different than those associated with a traditional building.
- The risks presented to a lender for a green building will vary depending on the acquisition method (new construction or an existing building).
- All types of green buildings or sustainable construction projects will face lending risks based on their underwriting model and property insurance requirements.
- Some of the lending risks associated with a green building may emanate out of the specific attributes used in the construction of the building to make it environmentally friendly.
- A lender that wishes to manage the risks associated with a green building may vary its underwriting process through a supplemental application for such structures as well as fine tune its process for gathering and analyzing the data associated with these types of loan propositions.
- A lender that wishes to manage the risks associated with a green building may adjust the documents used in binding the parties through the collective documents called loan agreements to target specific issues with pre and post closing conditions.
- Lenders can support public policies that seek to grow the number of green buildings as a means of reducing greenhouse emissions from the built environment by adjusting their practices to manage the unique risks associated with these types of structures.

Key words:

Green Buildings, LEED, Green Globes, Mortgages, Banking, Public Policy, Construction