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Attorney Spotlight

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ATTORNEYS & COUNSELORS AT LAW

Construction Law

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FOCUS ON HOTELS
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NYSERDA

The New York State Energy Research and Development Authority (NYSERDA)

NYSERDA offers existing hotels a program that includes incentives for a variety of energy projects including Pre-Qualified Measures and Performance-Based Incentives.

With the pre-qualified measures a hotel can receive incentives (\$/unit) for pre-qualified energy-efficiency and conservation measures. Projects can receive up to \$30,000 through pre-qualified incentives.

The performance based incentives are broken down to five categories: (1) **Electric Incentives** are provided to customers or energy service companies (ESCOs) that implement energy-efficiency projects that deliver verifiable annual electrical energy savings. (2) **Industrial Process Efficiency Incentives** are provided to offset the costs of projects focused on increasing productivity, increasing process efficiency, reducing waste, and reducing energy consumption on a per unit of production basis. (3) **Gas Incentives** are provided to customers or ESCOs working on gas-efficiency projects that deliver verifiable annual gas savings. (4) **Demand Response Incentives** are provided to offset a portion of the technology costs that enable facilities to participate in Demand Response Programs. (5) **Combined Heat and Power (CHP) Incentives** are provided to offset the installation cost of clean, efficient, and commercially available CHP systems.

At a Hotel Engineers' Association of New York event this past year, NYSERDA's Brendan Millstein gave an update on how these programs work and a member of the audience was about to install new equipment in his hotel and at Brendan's suggestion switched to more energy efficient equipment and received almost \$30,000 from NYSERDA. www.nyserdera.org

Improving The Bottom Line With "Green" Hotel Renovations

Green initiatives are now becoming an integral part of hotel renovation and construction because they make economic sense. Sensitive to the benefits of public relations and pure economics, hotel owners have become proponents of environmentally friendly ("green") strategies when building or renovating. The Coalition for Environmentally Responsible Economies ("CERES") with its Green Hotel Initiative ("GHI") has become an ally of the hospitality industry rather than an economic thorn in its side.

Traditionally, adopting smart energy management practices simply drove up the cost of building. Now, the climate has changed, and it is clear that smart environmental stewardship is consistent with economic business goals. In addition, adopting and integrating green design principles from the outset is an excellent voluntary business initiative with a positive impact on the bottom line.

Defining "Green"

In light of the sheer size and number of hospitality properties in the United States, their construction, renovation and operation have a significant impact on the environment. A "green" hotel is one sited, designed, constructed, operated and maintained for the health and well-being of the guests, while minimizing the environmental impact.

Building "green" encompasses a wide range of considerations including land-use, building design and construction strategies to reduce environmental impacts. Benefits of building green include (1) reduced energy consumption, (2) protection of ecosystems and (3) protection of occupant health. Because there are so many different degrees of "greenness," it is necessary to strike a balance among available options.



Depending on the specific conditions of each property, the strategies for renovation will differ from that followed for "ground up" construction. To make savings a reality, overall environmental impact must be thoroughly assessed.

GHI: Setting the Standard for Good Environmental Behavior

The Green Hotel Initiative is a constitution for good environmental behavior. It sets guidelines for correlating "green" compliance with competitive advantage for hotels and corporate vendors who work together to increase demand for environmentally responsible hotels and services. A central goal of the program is to educate the consumer of hotel services on environmental performance that can be reasonably anticipated.

Corporate Consumers Demand "Green" Hotel Services

Major corporate consumers of hotel services are increasingly demanding an environmental commitment from the hotels they select. American Airlines and General Motors are

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among corporate consumers who have become accustomed to demanding green hotel services. Hyatt, Bass and Starwood have consistently met these demands by providing environmentally friendly properties, services and policies. In fact, the EPA has honored Starwood for the second year in a row with the coveted ENERGY STAR award for adopting smart energy practices and investments throughout their operations. ENERGY STAR seeks to improve a hotel company's bottom line and enhance its image, while helping the environment.

The Best Practice Survey ("BPS") is part of the Green Hotel Initiative and provides environmental standards for hotel properties. Because the benefits of adopting the BPS have been widely publicized, properties that adhere to its "green" principles can increase occupancy levels. American Airlines, for example, has incorporated the BPS into its procurement process for crew accommodations. With an average booking of 6,500 hotel rooms per night - or more than two million rooms a year - American Airlines represents a significant source of revenue for those meeting green hotel criteria, which include: (1) commitment and awareness, (2) energy efficiency, (3) solid waste minimization, (4) air and water quality, (5) water conservation and (6) environmental purchasing. Each criterion is evaluated, and scores are provided to interested corporate and institutional purchasers who use it in their procurement process. By creating a direct link between purchasing decisions and environmental criteria, the GHI's economic impact cannot be overstated because it builds environmental responsibility right into the construction, renovation and budgeting process.

Next Issue: Top Ten Strategies for a Green Hotel Renovation

Business Travelers Go Green on the Road and Have Specific Expectations of Hotels

A recent survey by Deloitte has found that U.S. business travelers are increasingly making daily choices to reduce their environmental impact, and they have specific expectations about the green practices hotels should be adopting.

The survey shows business travelers have begun do some green practices routinely:

- Recycling (77 percent)



- Using energy-efficient lighting (74 percent)
- Using energy-efficient windows (59 percent)
- Placing cards in rooms to let guests request that sheets/towels not be changed (52 percent)
- Using environmentally safe cleaning products (49 percent)

According to the survey 34 percent of business travelers seek out "seek out hotels that are environmentally friendly," and 38 percent have researched for green lodging facilities. Roughly a third of travelers surveyed are keenly concerned about green travel.

Work Still Needs to be Done

While the survey shows an increasing interest in green, 71% of the people believe the lodging industry is only "somewhat" green and 23% say the lodging industry is "not at all green." One in five (20 percent) say they have stayed at a hotel that didn't allow them to be as green as they wanted to be, while approximately 30 percent say they have requested sheets and/or towels not be changed, but the hotel changed them anyway.

Upcoming Events:

October 23rd – "The Dollars and Sense of Designing Green" presented by John E. Osborn at NYU's Real Estate Institute 9:00am to 4:00pm

November 8th to 11th - AH&LA Fall Conference and the International Hotel/Motel & Restaurant Show Jacob K. Javits Convention Center New York, New York

Attorney Spotlight



John E. Osborn, Esq.
Partner

John E. Osborn has over 30 years of experience in practicing construction and environmental law.

He has tried multi-million dollar cases, has achieved successful jury verdicts and has handled arbitrations, administrative hearings and complex commercial litigation in federal and state courts. Mr. Osborn prepares and negotiates contracts, advises construction clients in resolving disputes during construction and renovation and resolves construction disputes through mediation, arbitration and litigation. He has litigated insurance coverage disputes, has defended mass toxic tort claims and has been retained by clients to oversee environmental assessments of their real estate and facilities.

Mr. Osborn teaches Planning, Design and Development as well as Hospitality and Tourism Law and Legal Issues in Hospitality at NYU's Preston Robert Tisch Center for Hospitality, Tourism and Sports Management.

John teaches a day long continuing education class for architects and engineers entitled "The Dollars and Sense of Designing Green" for NYU's Real Estate Institute and earlier this year he presented part of a CLE class for attorneys entitled "It's Not Easy Being Green."

Mr. Osborn has published over 80 articles on subjects relating to construction law, effective contract drafting, real estate litigation, dispute resolution environmental risk management and regulations. Publications include the *National Law Journal*, *New York Law Journal*, *Real Estate New York*, *New York Construction News*, and *The Metropolitan Corporate Counsel*, *The New York Real Estate Journal*. He has also been quoted in *The New York Times* and *New York Construction News*.

John is a member of the Hotel Association of New York City, the Hotel Engineers' Association of New York and the American Hotel and Lodging Association.