

# Legislating Virtue: The Next Decade of Green Building and What it Means for Multi-Unit Retailers

By John Miologos, AIA, WD Partners

Why does a building in Germany use roughly a third less energy, on average, than a comparable one in the U.S.? And what exactly does the energy use of a building in Germany have to do with you – a retail executive in America?

Both questions offer counterintuitive answers as to how “green” building will evolve in the U.S. over the next decade – an evolution that will have a significant impact on how retailers expand in an oversaturated retail environment.

Long before the green wave swept America, Europe began tightening legal guidelines on what constituted environmentally sustainable design and building. Building efficient, green buildings isn’t a choice. It’s not about marketing and PR. In Europe, it isn’t a choice. Green is something you simply *have* to do.

## It’s the law.

Not so in the U.S. – at least for now. European lawmakers figured out decades ago something that is only now starting sinking in with U.S. lawmakers. The biggest culprits of climate change aren’t cars, but buildings.

The debate about global warming – dominated by rhetoric condemning cars and SUVs as carbon-spewing evils – often misses the point. It shifts the blame unfairly unto consumers when buildings use far more energy than industry and transportation combined, according to some estimates.

This fact upends the conventional wisdom and shifts responsibility to the building industry – especially retailers, the frontline of consumer sentiment, the one place where consumers can “vote” with their dollars and reward brands that reflect their values best. When the real carbon sinners get exposed and mainstream

consumers “get it,” the impetus on retailers to change will come fast. Already consumers are asking for change, even without a broad-based understanding of the disproportionate amount of greenhouse gases buildings emit.

Just consider that less than 7% of Americans understand that buildings contribute the greatest percentage of greenhouse gas emissions, according to a recent survey by the American Institute of Architects. The survey also showed 40% of voters believe cars and trucks are the highest contributors. In other words, you’re getting a free pass. But don’t count on it lasting. Building and operating with the delusion you’ve got some kind of environmental impunity is not a viable corporate strategy anymore for retailers.

As the debate about global warming evolves, the disparity between the energy use of U.S. buildings and those in Europe will serve as an indictment of retailers that refuse to make changes.

## Making Green the Law

Local municipalities and zoning officials can dictate site lines, brick color and even the brightness of neon signs. What makes you think they won’t start legislating how much greenhouse gas a retail building emits?

While lawmakers in the U.S. are starting to take action, and recently passed the Energy Independence and Security Act of 2007, it does little to drive sustainable commercial construction. The primary national efficiency standard for buildings, the American Society of Heating, Refrigerating

and Air-Conditioning Engineers (ASHRAE) Standard 90.1-1989, is outdated. Large metro areas, including Boston and San Francisco, have taken the unprecedented step of greening their own building codes, and not just for public development, but private development too.

Lawmakers are increasingly targeting commercial construction and demanding more environmentally sensitive design and construction. Call it the Green Legal Imperative. It’s coming soon to a zoning commission that must approve your next design, build out, and opening.

San Francisco is expanding green building standards to cover major new private construction projects and commercial buildings as small as 5,000 square feet. In Boston, private projects of 50,000 square feet or more must integrate green building standards into design. In Boulder, CO, the Green Points program has been in place for 12 years. Private builders must earn points for energy efficiency before blueprints get approved.

It’s not just the big cities in blue states greening up – smaller municipalities, from Chatham, NC to Babylon, NY, are passing similar legislation. Additionally, 300 communities have joined the International Council for Local Environmental Initiatives – a group that has created software that helps local municipalities measure greenhouse gas emissions. Some jurisdictions still rely on the carrot instead of wielding the stick. Locations such as Portland, OR, and Costa Mesa, CA, offer tax credits, permit fee waivers or expedited plan review for projects that can or expedited plan review for

projects that can demonstrate enhanced sustainable design features. (See [www.dsireusa.org](http://www.dsireusa.org).)

Federal regulations could soon be underway too. Just last month, the president of ASHRAE spoke to the Select Committee on Energy Independence and Global Warming of the U.S. House of Representatives. Despite the minimum requirements to save energy with the outdated Standard 90.1, ASHRAE wants to create a far more stringent and rigorous design standard with the goal of net-zero energy buildings. ASHRAE Standard 189p has been issued for public review.

ASHRAE has teamed up with the USGBC and the Illuminating Engineering Society of North America to create new green standards that can be easily integrated into existing building codes. Now being drafted, the standards will be released as early as first quarter 2009.

Today it seems almost outlandish to think a national green building standard could evolve out of a dozen or so regional and state-based legislative initiatives. But legislative trends rarely happen in a vacuum – especially when legislative trends run parallel with other forces, most notably, a dramatic shift in consumer sentiment. The vote-getting benefits of implementing a green building program haven't been lost on local and regional politicians.

What happens in California eventually happens in Ohio and West Virginia, Florida and Texas. It's time to take green seriously and not just the voluntary and minimum rating standards created by the U.S. Green Building Council and its Leadership in Energy and Environmental Design (LEED) rating system.

### The Competitive Advantage

Creating a prototype now that prepares for this change could potentially save you millions. As gaining zoning approval for retail projects get harder and harder, you can beat the competition to the best site locations by integrating green design and construction. Zoning and local officials will often fast-track approval for retail projects that integrate green design and construction.

The saturated retail marketplace is the No. 1 competitive threat to multi-unit retail brands.

Undoubtedly, the progressive forward-thinking cities adopting stringent environmental standards into building codes also happen to be the one you have to be in to grow. These big, high-dollar cities – places like Boston, Chicago, San Francisco – are critical to the success of any national retail brand.

### Rapid Innovation

If you are still dubious about the coming green legal imperative, you are underestimating the rapid pace of innovation. LEED was just an idea in the mid-90s. The U.S. Green Building Council issued its first rating standards just six years ago.

Today, a little more than five years on, almost a dozen jurisdictions now require developers meet the baseline standards for LEED certification. Innovation is rapid. In the next five years, where will you be and what will it cost you to play catch up? Taking a recalcitrant approach to the coming green legal imperative or doubting its onward march could prove downright costly.

### Case in point: ADA

A counterintuitive analogy, yes, and certainly no apples to apples comparison, but remember, the ADA overhauled the design and construction of every new building in the U.S. No one today disputes the ubiquitous impact on design of this law. Yet, the Americans with Disabilities Act passed just 16 years ago in January 1992.

Before the legal imperative, architects, designers and entire firms branded themselves as specialist in ADA design. Today everyone knows how to do it. It is simply part of the design process. Today, we see architects, designers and entire firms branding themselves as “green” building experts, touting the number of LEED certified architects and pitching their specialization in the marketplace.

This too will evolve and just like the ADA, green will morph into a standard part of the design process. The ADA started out as a federally mandated item. When passed, many states didn't know what they were doing. Inspectors didn't understand the standards. But it didn't take long. As we grow with sustainable design, it will become standard in building codes in every state and municipality. In California, stringent energy standards already dictate building codes.

Not following the ADA means getting sued; not adopting green building standards carries a less obvious liability for retailers – losing customers to competitors who do. Municipalities have created local energy standards, dictating how much power a certain building can use – based on HVAC, lighting, insulation, etc. The standards run the gamut.

So if government – from federal regulators to local municipalities – is heading in this direction, what is going to happen to the USGBC's LEED rating system? I think it will simply get tougher. Not just to silence critics, but to avoid obsolescence as government steps into its territory.

To abide by its mission “to make green buildings accessible to everyone within a generation,” the USGBC will drive further innovation and keep raising the bar.

It's time to get ready for these inevitable changes.



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