

Future Challenges for Consideration in Real Estate

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Following a pandemic, dealing with sustained increased materials costs and interest rates, and experiencing firsthand the impacts of the implementation of New York State's Climate Leadership and Community Protection Act, the real estate industry continues to navigate and adapt to an uncertain landscape. As we detail below, developers operate in an increasingly complex regulatory environment, with emerging — and in some instances, unanticipated — challenges that require attention.



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Insurance Costs

After commercial property insurance premiums rose at historic rates in 2023, projections for 2024 indicate that rates will continue to rise, albeit at a slower pace, due to extreme weather events and lingering inflation. Despite the overall easing of inflationary pressures, inflation continues to be an issue for commercial property premiums. Construction materials and labor costs, in particular, remain significantly higher than pre-pandemic levels.

The volatility in building costs may be leaving many properties undervalued with substantial gaps in coverage.

Switchgear Delays

Of all the supply chain disruptions that continue to hamper the industry, the ongoing shortage of electrical components is perhaps most critical, especially in light of building electrification requirements. Developers have been experiencing massive delays in obtaining switchgear, with lead times as high as 60 weeks. Some are taking the calculated risk of ordering switchgear prior to even securing financing commitments on a project.

Embodied Carbon Considerations

While State laws targeting emissions from building energy systems have captured headlines, efforts to address upfront emissions from construction materials are also gaining momentum. New York has been at the forefront of tackling embodied carbon (the emissions associated with the entire lifecycle of a building product) from extraction of raw materials to manufacturing, transportation, construction and disposal.

Most recently, New York announced its Buy Clean Concrete guidelines. Starting January 1, 2025, contractors for qualifying State construction projects will be required to submit Environmental Production Declarations (EPDs) verifying that the Global Warming Potential (GWP) of all concrete mixes used in a project meet new State-mandated limits. Construction costs are expected to rise as concrete producers invest in the technology needed to produce EPDs.

Meanwhile, the State is engaged in ongoing efforts to collect data on construction materials in order to set future GWP limits. It remains to be seen if this data will ultimately be used to implement GWP limits for all in-state construction projects.

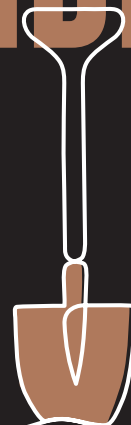
Phillips Lytle continues to monitor these key challenges and stands ready to counsel Western New York's real estate community on the latest updates in this dynamic legal environment.

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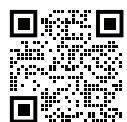
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