

Baltimore City tables green tax incentives

But councilman could revive some relief for developers

by Daniel J. Sernovitz, *Baltimore Business Journal*, April 10, 2009

Baltimore City is poised to impose one of the toughest environmental building requirements in the state come July 1 — one that will likely come without promised tax relief.

That's because legislation introduced in Baltimore City Council and designed to provide property tax breaks for a decade to landlords of new green buildings in the city never made it into law. The reason, city council members say, is because it would have cost cash-strapped Baltimore more than it can afford to dangle in front of developers who attain the U.S. Green Building Council's Leadership in Energy and Environmental Design silver certification.

The proposed green building tax credit would have cost the city about \$600 million through 2023, according to Baltimore's finance department, which does not support the incentives.

"I think it would be hard to approve something that has such an enormous fiscal note," said Councilman William Cole, who oversees the City Council committee considering the tax credit program.

Without the tax breaks, the city's looming green building requirement, which applies to all commercial buildings larger than 10,000 square feet, deals another blow to developers at a time when many are already crippled by limited financing and disinterested tenants. When the law was passed in 2007, developers were under the impression the tax breaks would help offset the increased cost of going green — typically 2 percent to 5 percent higher than normal construction costs. For a \$5 million project, meeting the new environmental standards could add between \$100,000 and \$250,000.

The measure also could affect some of Baltimore's biggest projects that do not receive a building permit by July 1 — a list that could include portions of Harbor Point, Westport, the redevelopment of 414 Light St. and bioscience research park buildings near the University of Maryland, Baltimore and Johns Hopkins Hospital. And leaders of Baltimore's development community say such stringent requirements for green building in the city could curtail new construction and drive builders to the counties, where guidelines are not as strict.

The situation is a Catch-22 for Baltimore city leaders, particularly Mayor Sheila Dixon, who has hitched many of her administration's goals to creating a cleaner, greener city. While Baltimore wants to encourage new projects and reap property taxes from them, it also cannot afford to cut off that revenue by restricting the incentive to build.

“A green building, and the mayor’s commitment to a greener Baltimore, are laudable goals,” said Jon M. Laria, a real estate lawyer with Ballard Spahr Andrews & Ingersoll LLP in Baltimore who co-chairs a lobbying group of developers, planners, architects active city development. “But, at the same time, there has to be a balance for the unintended consequences of proposed legislation.”

City Councilman James Kraft, a sponsor of the city’s green building law, plans to make a last-ditch effort to modify the requirements and mollify developers.

Kraft said April 9 that he will introduce legislation at a council meeting April 16 that would limit the tax breaks offered to landlords to five years for LEED platinum and three years for LEED gold projects.

Kraft said last month that changing the measure could reinforce the city’s desire to encourage green building while minimizing the drain on city revenue. Expecting developers to bear the cost alone, without a tax credit, could prolong the city’s commercial real estate slump by slowing the pace of new development, the councilman said.

Laria said he supports Kraft’s tax credit proposal as a way of helping developers meet the requirements. But he said it would not help those developers struggling to comply with the city’s new environmental regulations and could prompt some to build elsewhere.

In Baltimore County, for example, tax credits for new green buildings are available for five years on a tiered basis — an 80 percent property break for LEED platinum, 60 percent for LEED gold and 50 percent for LEED silver.

Howard County began offering incentives to developers who construct LEED silver buildings larger than 10,000 square feet and at least 30 percent publicly funded. Howard also extends breaks to developers who construct private buildings larger than 50,000 square feet and certified at LEED’s basic requirement, which is a notch below silver certification.

Howard’s incentives also are tiered — 75 percent property tax break for LEED platinum, 50 percent for LEED gold and 25 percent for LEED silver — for five years.

The City Council’s Taxation, Finance and Economic Development Committee is expected to consider the original and revised tax credit proposals at the April 16 hearing. It is unclear how much the city could save by adopting the revised tax credit plan because it has not been introduced yet.

Meanwhile, some developers and environmental advocates say the building industry is already heading toward more energy-efficient buildings, so development will go on.

Among those advocates is Baltimore developer Struever Bros. Eccles & Rouse Inc., which is constructing two commercial buildings in the city slated for silver certification.

And at least two nonprofit organizations in Baltimore are not counting on the incentives to help with the financing of their projects, said Chris Parts, a principal of Hord Coplan Macht, which is developing the projects.

“The incentives would have made financing for the projects much easier,” Parts said. “But we will proceed as if it won’t be there.”

Parts declined to name the organizations but said the work would begin after July 1.