

## Resources

### City of Chicago Proposes Energy Use Benchmarking Ordinance

July 1, 2013

Certain building owners, real estate asset managers and tenants should be aware of the Building Energy Use Benchmarking Ordinance (the “Ordinance”) which was introduced to the Chicago City Council on June 26, 2013. The Ordinance, which takes effect 10 days after passage and publication, requires owners of certain buildings to track and report a building’s energy consumption data. This new legislation will likely add cost and administrative burden to building ownership in the City of Chicago.

No later than June 1, 2014, and each June 1st thereafter, the owners of certain non-residential “Group 1 covered buildings” must “benchmark” their buildings for the previous calendar year. The Ordinance defines a Group 1 covered building as any building or group of buildings on the same tax lot containing 250,000 or more gross square feet. Benchmark means tracking and inputting the building’s energy consumption data for the previous calendar year, as required by the “benchmarking tool” in order to quantify the building’s energy use. The benchmarking tool is a website-based software developed and maintained by the United States Environmental Protection Agency. Building owners must also retain the inputted data for at least three years after the date benchmarking was required.

No later than June 1, 2015, and each June 1st thereafter, the owners of certain non-residential “Group 2 covered buildings” or residential Group 1 covered buildings must benchmark their buildings for the previous calendar year. A Group 2 covered building is any building or group of buildings on the same tax lot containing more than 50,000 and less than 250,000 gross square feet. Owners of residential Group 2 covered buildings have until June 1, 2016 to benchmark their buildings.

Tenants of covered buildings are also affected. Within 30 days of a request from a building owner, a tenant of a covered building must provide all information that cannot otherwise be acquired by the building owner in order to comply with the provisions of the Ordinance. A tenant’s failure to supply the information does not relieve the building owner of its compliance obligations under the Ordinance.

The Ordinance further requires owners of covered buildings to verify from time to time that the reported benchmarking information is accurate. Such verification must be in the form of a stamped, signed statement of a licensed architect or engineer.

The City of Chicago Commissioner of the Department of Business Affairs and Licensing has authority to exempt owners of covered buildings from the requirements of the Ordinance. For example, if an owner can show that a covered building is experiencing financial distress (e.g., in foreclosure or under control of a receiver), is less than 50% occupied or is new construction, the Commissioner may exempt the building owner from the benchmarking requirement.

It is expected that a hearing will be held in late July to consider this legislation and to receive testimony.

Dykema has extensive experience advising clients on land use, zoning and building code compliance matters in Illinois. If you are interested in additional information, please contact the author of this alert, **Andrew Scott**, in our Chicago office at 312-627-8325.

### Practice Areas

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## **Industries**

### Energy Industry Group

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