

Sports Litigation Alert

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Green Sports Facilities Are Becoming The Gold Standard

By Robert A. Darwell and Huy Q. Nguyen

When it comes to traditional sports facilities, the only thing “green” is the playing field. Construction of conventional stadiums typically involve massive amounts of steel, timber, and other depleting raw materials, while facility operation and maintenance require tremendous volumes of water and electricity for purposes of irrigation, flushing, ventilation, lighting and heating. The sporting events themselves also add fuel to the fire by attracting millions of fans whose transport activities contribute to greenhouse gas emissions and who produce mountains of waste while enjoying the games. Further, the artificial turf installed on the playing fields has been recently subject to government scrutiny, including possible violation of California Proposition 65, for containing an unhealthy amount of lead. In other words, when it comes to sporting facilities and the environment, the grass hasn’t always been so green.

Currently, there are no regulatory schemes in place requiring the construction of “green” or sustainable sports facilities. While some states maintain environmental policy acts, such laws only mandate a state agency to publicly disclose an environmental impact report evaluating a governmental project’s potential harm to the environment, but do not force the state agency to implement any action. In fact, environmental statutes typically do not prohibit a state agency from approving a particular project even if it has adverse environmental effects. The California Environmental Quality Act (CEQA) [California Public Resources Code § 21000 et seq.], for instance, will still allow a project to proceed if reasonable alternatives and mitigation measures are not feasible, and the state agency concludes that the

benefits of the project outweigh the environmental damage it may cause.

Nonetheless, despite the lack of enforcement, a number of local communities are establishing green-building policies by primarily adopting the Leadership in Energy and Environmental Design (LEED) Green-Building Rating Systems with respect to construction of sports facilities. Developed by the U.S. Green Building Council, LEED is a certification system providing third-party verification that a building was designed, constructed, and/or renovated using green strategies. Specifically, LEED certification may be granted after submitting an application documenting compliance with its rating system, which evaluates a particular project based on the following five “environmental” categories: (1) sustainable sites, (2) water efficiency, (3) energy and atmosphere, (4) materials and resources and (5) indoor environmental quality. Additionally, a particular project can achieve bonus points with respect to the following “non-environmental” categories: (y) innovation in design, which rewards sustainable design features, and (z) regional bonus points for projects that acknowledge local conditions and address geographically-specific environmental concerns. Depending on whether prerequisites are achieved in each category and the overall number of points earned, a building may be awarded the following LEED status: certified, silver, gold or platinum.

For instance, this year’s Winter Olympic Games held in Vancouver included a LEED platinum-certified Olympic Athlete’s Village and a LEED silver-certified Richmond Olympic Oval, an environmentally conscious sports facility home to Olympic speed-skating events that has since been converted into a community recreation facility. Remarkably, the Oval’s ceiling was constructed using salvaged wood from trees killed by a pine beetle infestation, and its roof was designed to

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collect and reuse rainwater to supplement irrigation and to flush toilets. Additionally, waste heat generated by the creation of ice within the Oval's rink is used to heat other parts of the building, while materials used for construction (e.g., paint, adhesives, sealants) contain low volatile organic compounds and less hazardous chemicals than industry standard.

Similarly, it is undeniable that Rio de Janeiro's "Green Games for a Blue Planet" slogan helped slide its bid into winning position with respect to the 2016 Summer Olympic Games. Although commencement of the Games is still six years away, the environmentally-committed city has already publicly announced plans to construct sports facilities utilizing energy-efficient and water conservation designs, develop hybrid buses as shuttles to and from the sports facilities, and plant at least three million trees in nearby areas between now and the opening ceremonies to offset carbon emissions.

Eco-friendly initiatives in the sports world are also not limited to the Olympics—a number of sports leagues and teams are also playing a whole new ballgame. For instance, Major League Baseball has partnered with the National Resource Defense Council to create a Team Greening Program, which seeks to bolster team commitment in implementing more environmentally-friendly practices. The Team Greening Program, in fact, goes beyond addressing the design and construction of sports facilities and further aims to incorporate environmental policies and language into various team contracts, purchasing policies, and requests for proposals.

Notably, today's sports facilities' development strategies currently integrate green design and sustainability features without governmental pressure. There are, of course, a number of reasons why stadium owners and municipalities are taking proactive measures themselves. First, green buildings may be eligible for

certain tax breaks and incentives. For instance, a number of cities and states provide tax credits depending on the level of LEED certification attained. Second, several municipalities expedite entitlements and permits for projects that commit to LEED certification. For example, the City of Los Angeles provides priority processing for projects that will obtain LEED silver certification or higher. Third, energy-efficient buildings and water-conservation techniques may result in significant operational cost savings. The lifetime cost of maintaining a green building is generally reduced, and any additional up-front costs associated with designing such building may be recouped over time. Finally, sports are of symbolic significance, and the development of a premier green sports facility illustrates a community's commitment to environmental initiatives; therefore possibly leading to increased media visibility, sponsorship opportunities, and tourism. In other words, cities are acknowledging that efforts to make improvements in one sector may trickle and result in greater returns in other areas. For these reasons, the relationship between sports facilities and the environment has dramatically improved in recent years, and the grass has never been greener. But all involved must carefully navigate the complex set of laws and qualifying regulations to ensure compliance and avoid winding up in the penalty box.

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