

# HR Florida Review

SUMMER 2008

For Florida's Human Resources Professionals

## Are You Considering *Going Green?*

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# GREEN BUILDINGS

## “NOT EASY BEING GREEN” VERSUS SAVING HUMAN RESOURCES “GREENBACKS?”

By John Robinson, Employment and Labor Law Attorney and  
Meredith Sherman, Environmental and Land Use Attorney

**H**ave your employees asked you about “going green?” Talk around the water cooler has transitioned to a discussion of going green – even in the Human Resources circles. Employers around the country are discussing the benefits and pitfalls of going green. So, you might ask, “why go green?”

Green buildings offer a variety of benefits. These benefits including a savings in utilities, such as water and energy. Consider that today’s buildings account for 39 percent of total energy use, 12 percent of water consumption, 68 percent of electricity consumption, and 38 percent of carbon dioxide emissions. These emissions can impact those in human resources, since it can cause a potential human health risk, an employee morale problem, and an increase in employee benefits costs. Going green may mean an enhanced comfort and health for workers and heightened

aesthetics in workspaces. Additional benefits include incentives from local governments, insurance, decreasing health complications and absences for the employees, all while providing a great marketing opportunity for the company. In this regard, it appears that going green could make economic sense.

However, employers should also consider the potential pitfalls of going green. Going green has a financial price and it would be wise for an employer to consult with a professional who is well educated on the reputable green building standards, the green options available, the associated start up and maintenance costs, the foreseeable utility savings, and the benefits available to the particular company.

Incorporating these environmentally friendly measures into the workforce can be extraordinarily easy in some situations. For example, purchasing recycled

paper and using HEPA air filters. Other choices are financially straining. For example, renovating your building to obtain green building certification from a recognized independent entity.

Employers must also be careful when implementing their green improvement. They must do their research to ensure that any contractor performing work is doing so under a reputable and legitimate green building standard. An emerging trend employers should be aware of is a contractor who holds themselves out as a “green builder,” only to perform who that is not recognized by a reputable green building standard. Today’s reputable green building standards, like LEED, which are discussed further below, offer certifications for those professionals who oversee and certify green developments. Additionally, green buildings could become the law for many of Florida builders, property owners, and

tenants. Assessing green buildings now might just save greenbacks in the long run.

Despite the pitfalls, there are several reasons why employers might consider "going green." In today's heavily competitive employment market, employees are making job and relocation decisions based on their workplace environments, commitments to the environment,

are more productive, if they are working in a healthier workspace. One phenomenon to also consider is that employees want to work where they can make an environmental statement and contribution at work.

As stated above, a major human resource benefit of going green is having a healthier work environment for employees, especially as

pants, meaning workers. Other IEQ factors are the temperature, relative humidity, light, and sound. Good IEQ is an essential component of a green building. The Environmental Protection Agency (EPA) is hoping that companies will obtain "Acceptable Indoor Air Quality," which the EPA defines as having no known contaminants at harmful concentrations and a "substantial majority" (80 percent) of the occu-

pants "do not express dissatisfaction." Any alternative to this standard may be unacceptable: consider the possibility that if 80 percent of employees are unhappy with their workplace, employers may face a huge human resources challenge.

Employers today face the reality that current indoor air pollutants can cause employee absences, increased medical benefits, and morale issues. Many employers are already facing employment law compliance issues due to indoor workplace pollutants. One example is the asthmatic or hypersensitive employee, who suffers due to fumes, mold, dust, fragrances, and air quality at work. Under the Americans With Disabilities Act, the employer may need to accommodate any serious medical condition. Accommodations typically include leave, protective gear, trans-

ferees, breaks, and so on. Likewise, employee health episodes with their work environment can trigger intermittent leave.

Employers are learning that a "sick" building, instead of a "green" building, can be a sickening compliance epidemic. The emerging "sick building syndrome" is a tough disease to cure. Prevention of this syndrome through green building

and sustainability policies. These Generation Y employees are more socially conscious than current employees. They value things like a work space that operates in a "green" or energy efficient manner and sustainable work practices, like using recycled toner cartridges and efficient light bulbs. Employers who are considering "going green" might consider that their employees

it relates to indoor air. Scientists are now recognizing and studying the indoor air quality environment. The new term "indoor environmental quality (IEQ)" has emerged. IEQ refers to the quality of the air and environment inside buildings. Factors affecting IEQ include pollutant concentrations and conditions that affect the health, comfort, and performance of building occu-



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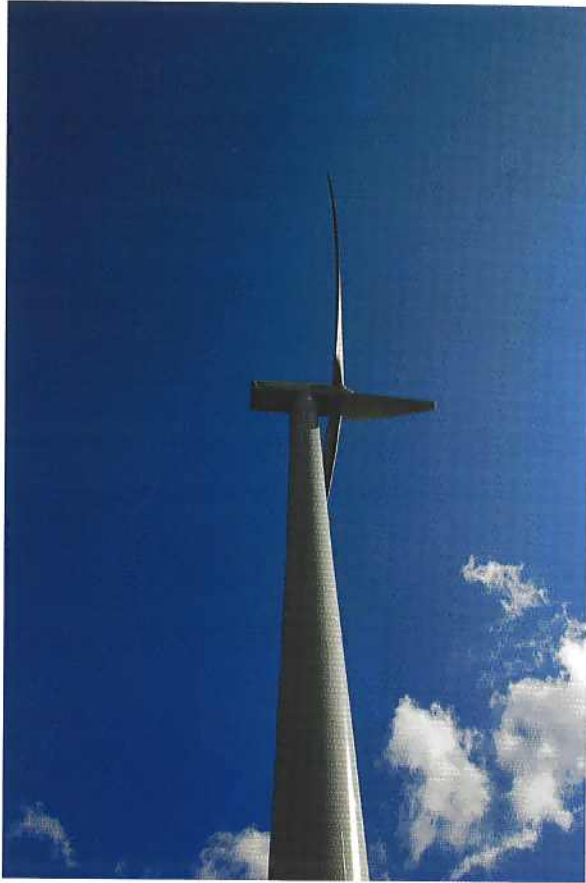
prevention makes economic sense. And no wonder, considering the EPA now recognizes “biological contaminants,” such as viruses, bacteria, fungi, and mammal and bird antigens, all of which may pollute the workplace. Medical problems may arise when employees inhale these contaminants, leading to allergic reactions, respiratory disorders, hypersensitivity diseases, and infectious diseases. Then there are “volatile organic compounds” (VOC’s), which are chemical compounds that evaporate from many housekeeping, maintenance, and building products also found in the workplace. These products release compounds during use and long afterwards in storage. VOC’s cause eye, nose, and throat irritations, headaches, dizziness, visual disorders, and memory impairment. Some compounds cause cancer in animals and scientists suspect they also trigger human cancer.

Meanwhile, employers are already living with inventorying and alerting employees to toxic and hazardous materials at work. The Occupational Health and Safety Administration (OSHA) requires a safe work environment: record-keeping, maintenance of injury logs, inspections, fines, and even prosecution in the event of noncompliance. (See: [www.osha.gov](http://www.osha.gov) (hazard communication and material safety data sheets).) Our experience is that during an OSHA inspection, an employer’s efforts and expenditures to protect employees and enforce safety standards make a real difference. So, it seems that a green building offers some mitigation against OSHA claims of an unsafe work environment.

Finally, consider the risks of a less than healthy work environment: workers’ compensation claims, missed work, medical leave, group medical health care benefits, and even disability claims. In contrast, investing in a “green” workplace may be fiscally advantageous against those claims, sort of an occupational “booster shot?” Some employers certainly learned the hard way. (See: [www.workerscompinsider.com/archives](http://www.workerscompinsider.com/archives) (2/22/04 -- 21 toxic mold claims from Sebastian, FL police station).)

With that said, if you have considered a green work space, you may be asking yourself “how do I make my building green?” There are myriad ways to consider a building “green.” In the construction industry, a building is “green” when an independent entity certifies a building as meeting its “green” building standards.

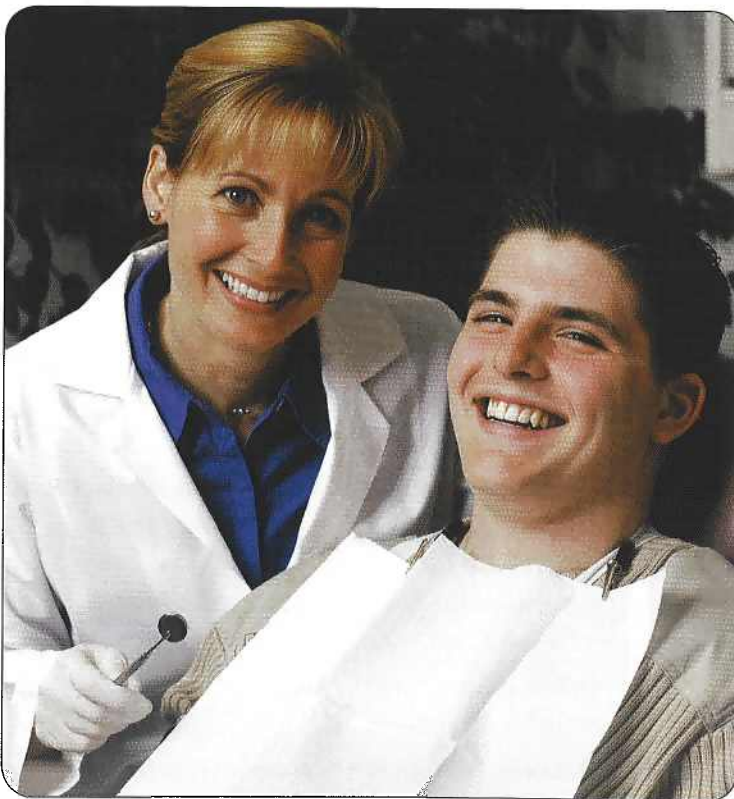
There are several entities that certify buildings or work spaces as green. The federal entity that certifies a building as “green” is the U.S. Green Building Council’s Leadership in Energy and Environmental Design (LEED). LEED is the national standard for the design,



construction, and operation of green buildings. Buildings that meet the LEED standards, by incorporating the "green" building improvements in LEED's Rating System, will earn LEED Certification. LEED has created a Rating System and Certification Programs for the following types of buildings or work spaces: 1) new commercial construction and major renovation projects; 2) guidelines for multiple buildings and on-campus building projects; 3) existing building operations and maintenance; 4) neighborhood development; 5) core and shell development projects; 6) homes; 7) commercial interiors; 8) retail; 9) health care; and 10) schools. Note that

some standards may require landlords and tenants to come to some agreement regarding a variety of issues, including lighting. For example, the core and shell standard focuses on landlords, not tenants. Likewise, the commercial interior standard allows tenants to create a green environment even if an entire building is not LEED certified as "green." (See: [www.green-homeguide.com](http://www.green-homeguide.com)).

On a state level, many states, including Florida, have entities like the Florida Green Building Coalition, Inc. (FGBC) which also certify a building as "green." Like LEED, the FGBC provides a certification program for buildings which meet the relevant FGBC criteria and



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standards. Specifically, the FGBC offers the Florida Green Home Standard, the Florida Commercial Building Standard, the Green High Rise Residential Standard, and the Green Development Standard. Through these programs, buildings, which incorporate the appropriate "green" improvements, will earn points to obtain their appropriate FGBC certification. The Florida Home Builders Association has endorsed FGBC's green building, design, and construction standards. (See: [www.floridagreenbuilding.org](http://www.floridagreenbuilding.org)).

In addition, the FGBC also offers a Florida Green Local Government Standard for Green Cities and Counties, which provides a comprehensive list of criteria which the local governments can implement in order to meet the minimum standards for certification.

Pinellas County was the first county to earn certification from the FGBC, on October 27, 2006. Currently, Indian River, Martin, Sarasota, and Orange Counties, and the Cities of St. Petersburg, Dunedin, Tallahassee, North Port, and Davie have all obtained green certification. Tampa is drafting a green ordinance. Some local governments, like the City of Gainesville and Sarasota County, have adopted ordinances, which give private builders incentives for utilizing the LEED standards. These incentives include fast-track building permitting, as well as a 50 percent reduction on the building permit fees for private contractors and builders who use the LEED standards. Other local governments could also utilize tax rebates, zoning allowances, impact fee reduction, and additional incentives to encourage the use of LEED and FGBC standards.

It is important for an employer to be aware of these standards because the local governments are embracing them. The local governments may change these green building standards from mere incentives to requirements for any building to obtain a certificate of occupancy or other local government approvals.

How relevant is the green building movement for those in Human Resources? Consider that Florida now prohibits virtually all smoking in the workplace and public places. Florida legislators wanted to provide a healthy workplace by removing the most recognizable and heavily-regulated health risks--smoking at work and second-hand smoke. (See: Chapter 386, Florida Statutes and [www.doh.state.fl.us/tobacco](http://www.doh.state.fl.us/tobacco)). The Florida Clean Indoor Air Act (FCIAA) has been relatively problem free.



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It may not stop with the FCIAA either. Green building may be the next generation in occupational health. Green building is more than just removing something unhealthy from the workplace. The green goal is a better designed and constructed workplace that will protect and, even enhance, good health. At heart, the green building movement is a largely voluntary movement. Governmentally mandated green building improvements may be next. Green buildings are a reality in some government construction and jurisdictions, already. It is foreseeable that green construction could creep further into building codes, zoning ordinances, land use, and density rules in the near future. So, whether you consider yourself "green" or not, it looks like green buildings are growing like weeds in the Sunshine State.

Back to our beginning: are you considering "going green?" Going green may not be so odd, after all. Green buildings may be good for you. Human resources professionals are steadily giving a green light to "green" buildings. (And, maybe you won't get sick, too.) **HR**

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*Meredith Sherman has experience in environmental, land use and zoning matters, eminent domain, land use litigation matters, including Bert J. Harris Jr., Section 163, Florida Statutes challenges and writs of certiorari, environmental permitting, and state and federal environmental regulation, including Brownsfield permitting. She has close inter-governmental relationships with local governments, including Hillsborough County and the City of Tampa, State agencies, including the DEP and water management districts. Meredith has a particular focus and practice in the area of green development and building, including LEED certification issues.*



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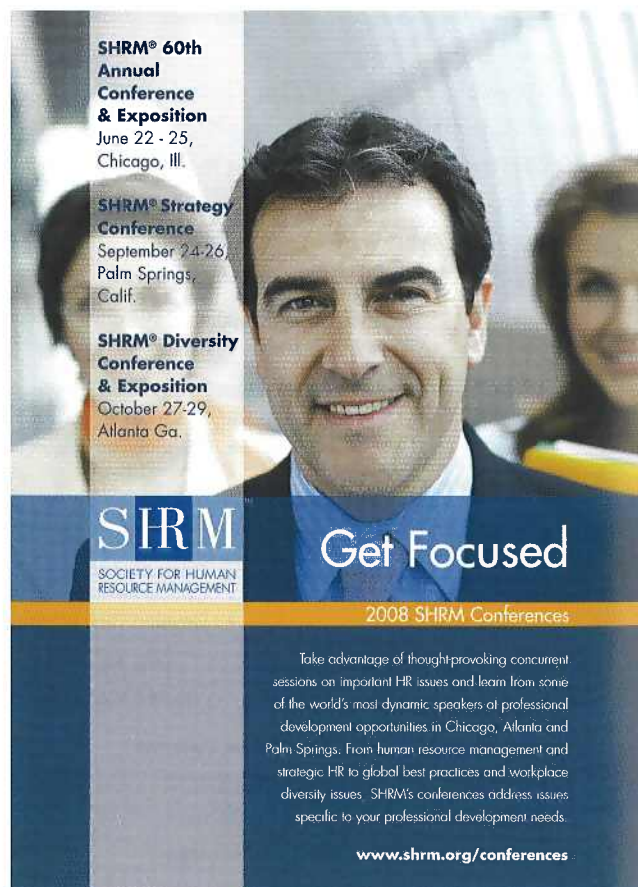
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