

## Carter Ledyard & Milburn Moves and Assesses Its New Carbon Footprint: Local Law 97

August 11, 2022

Carter Ledyard & Milburn recently concluded its 168-year run on Wall Street. Our new office, a few blocks away at 28 Liberty Street, is beautiful, with stunning views of New York harbor. But some – especially, the Environmental Practice Group – are asking: what has happened to the firm's carbon footprint and will the firm's new office building be ready to comply with New York City's Local law 97's greenhouse gas emissions standards when they take effect in 2024? Although we've barely finished unpacking and some are still looking for the right place to hang school diplomas, the message we have for our clients is that it is never too early to prepare for LL97 compliance.

**The Law.** The 2019 Climate Mobilization Act, also known as Local Law 97, requires owners of most buildings over 25,000 square feet to dramatically reduce their building emissions in phases over the coming decade and beyond or face progressively steeper penalties. The law sets emissions limits based on square footage and occupancy category (i.e., commercial, residential, etc.) and ratchets those limits down over time.

For example, a typical commercial office building under occupancy group B, may emit no more than .00846 metric tons of carbon dioxide per square foot (tCO<sub>2</sub>e/sf) between 2024 and 2029, and no more than .00453 per square foot between 2030-2034. Likewise, a typical apartment building under occupancy group R-2 (residential) may emit no more than .00675 metric tons of carbon dioxide per square foot between 2024 and 2029 and no more than .00407 per square foot between 2030-2034.

**28 Liberty.** The good news for Carter Ledyard is that our new office building at 28 Liberty Street is currently in compliance with the 2024-2029 limits, with a GHG intensity of .00775 tCO<sub>2</sub>e/sf. Our former office building at 2 Wall Street is also in compliance, with a GHG intensity of .00788 tCO<sub>2</sub>e/sf. However, neither building is in compliance with the 2030 standard of .00453 tCO<sub>2</sub>e/sf. And neither are the vast majority of buildings in the City that are subject to the law. NYC estimates that about 20-25% of buildings will exceed their emissions limits in 2024, if they take no action to improve their building's performance. That figure rises to 75-80% of buildings for the 2030 emission limits without further action.

**Energy Challenges.** The Department of Buildings and the LL97 Advisory Board are developing guidance for building owners to help them comply with the law's mandates. But this guidance is not expected until January 2023 and regulated buildings do not have time to wait before beginning to take action. Saving energy is likely to be the most effective way to reduce carbon emissions. Changing fuel sources (e.g., from an oil-fired boiler to gas-fired boiler or—potentially even better—to an electric heating system) will be part of the solution too. Energy savings can be realized through operational changes (e.g., adjusting the temperature set points, installing timers on lights). But by 2029, most buildings will require more intensive interventions with changes to heating, cooling and lighting systems. Building owners are advised to commission an energy assessment now and outline changes that will be made before 2024 and 2029 (and line up financing) to ensure compliance.

**Legal Challenges.** Beyond the technical and financial challenges imposed by LL97, the law presents legal ones too, particularly in the case of residential and commercial landlords who must change tenant behavior within the confines of fixed cooperative proprietary leases or long-term commercial leases that cannot be modified in the short term. The terms of these relationships in most cases predate LL97 and even newer

documents rarely allocate responsibility for LL97 compliance. Finally, we would be remiss if we did not mention that a small group of building owners and individuals has filed a lawsuit challenging LL97, which the City has asked the court to dismiss. The case is pending.

Carter Ledyard routinely advises clients on compliance with this and other green building laws, including on how to account for such compliance in leasing arrangements. We will be tracking both legislative and legal developments, including the work of DOB and the LL97 Advisory Board as they develop guidance on LL97 compliance and implementation. For more information, contact this advisory's author, Nick Tapert, or other members of the Environmental and Land Use Group or Real Estate Group.

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#### **related professionals**

**Christopher Rizzo** / Partner

D 212-238-8677

[rizzo@clm.com](mailto:rizzo@clm.com)

**Karen E. Meara** / Partner

D 212-238-8757

[meara@clm.com](mailto:meara@clm.com)

**Nicholas W. Tapert** / Counsel

D 212-238-8703

[tapert@clm.com](mailto:tapert@clm.com)