

# THE WELL BUILDING STANDARD

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There's a new standard in town, and this time it's people-focused. Related to the [LEED building standard](#), the [WELL building standard](#) (the "**WELL Standard**") is the latest way for stakeholders in the commercial real estate industry (both owners and occupants) to maximize their returns and efficiencies through improvements to the physical environment. The main difference from LEED, however, is that with the WELL Standard the returns and efficiencies result from the investment in the "wellness" of those occupying the buildings.

## The Problem the WELL Standard Addresses

There has been a growing awareness of the impact that the built environment has on occupants' health and wellbeing. A number of negative impacts can be attributed, at least in part, to existing standard workplace designs, including chronic pain and fatigue, the epidemic of obesity, mental health impacts such as burn-out and negative moods, and decreased productivity. These psychological and physical impacts are apparently so prevalent that the most common clusters of them have been termed "Sick Building Syndrome" ("**SBS**").<sup>[1]</sup> Though there is no universal definition, SBS generally involves acute health symptoms that seem to have no specific cause other than their relation to spending time in a particular building, which disappear or improve on leaving the building.

While the health issues of tenants or employees may appear to be a remote worry for building owners, there is some evidence that tenants and employees will take these matters to court to seek damages arising from such issues.<sup>[2]</sup> Therefore, both owners and tenants have good reasons to provide premises that will support the occupants' wellbeing.

## Who Might Be Interested

While the WELL Standard can apply to a range of environments, including private dwellings and schools, it may be of particular interest to those in the commercial leasing context, where it is in the interest of owners to attract high quality tenants and of tenants to maximize their own or their employees' health, satisfaction and productivity. This becomes more obvious when one recognizes that "employee salaries are almost always a company's largest cost, representing typically 60 per cent to 70 per cent of overhead, whereas real estate accounts for only 10 per cent."<sup>[3]</sup> Proponents of the WELL Standard argue that its integration helps attract and

retain top talent; communicates and enhances culture, brand and corporate responsibility; establishes differentiation from competitors; and demonstrates an investment in human capital.<sup>[4]</sup>

### **What It Is (in brief)**

The intention of the WELL Standard is to provide a path for designing buildings that support wellness through a performance-based certification system that marries best practices in design and construction with evidence-based medical and scientific research. It focuses on seven specific areas where improvements can be made: light, comfort, air, mind, nourishment, fitness, and water. For example, better controls of light can minimize disruption to a person's circadian rhythm and result in an improvement in energy, mood and productivity.

Importantly, the WELL Standard is not meant only for new building projects – it applies to new construction, tenant improvements and core and shell developments – and can be implemented in stages, if need be.

The WELL Standard is [designed to complement and work harmoniously with LEED](#), as well as other international "green building systems."<sup>[5]</sup> As with LEED, buildings and people can become WELL certified by Green Business Certification Inc. For a building to become WELL certified, it must register, meet documentation requirements, receive performance verification, and obtain recertification every three years.

### **Costs**

It is difficult to accurately estimate the return on investment as a result of the relative newness of the WELL Standard. However, it is clear that implementation can be quite costly depending on the scope of the project, the age of the building and other factors.<sup>[6]</sup> Coming out of its WELL Standard renovation at 145 King Street West in Toronto, CBRE noted that any cost analysis intended to account for the use of the WELL Standard should consider that, among other factors: (1) lighting and HVAC requirements are the most capital intensive components (magnitude depends on base building design); (2) furniture must be Greenguard Gold Certified; and (3) there is potential for increased costs relating to the higher standards of compliance with respect to base building maintenance/cleaning protocols and corporate HR policies.

### **Benefits**

Despite the costs and the unavailability of evidence demonstrating claimed impacts, an apparent increase in popularity of WELL Standard projects (the International WELL Building Institute announced in July 2017 that it crossed the 100 million square foot mark for buildings registered and certified) indicates at least a perceived benefit. For example, WELL certification adds a marketable characteristic to a building owner's brand, and thus would likely give a commercial building an edge in attracting desirable tenants who are willing to pay higher rent to keep their employees healthy and happy (see, for example, the marketing information for CIBC

Square and 16 York Street in Toronto). Research has shown that the physical workspace plays a role in attracting and retaining talent, being "one of the top three factors affecting performance and job satisfaction,"<sup>[7]</sup> and so the WELL Standard "fills a void focused on health and well being that sustainability standards do not fully address."<sup>[8]</sup> Should the evidence of these benefits grow, one can anticipate that tenants and employees will increasingly seek to live and work in WELL certified premises.

## In Sum

It is becoming more of an expectation that owners and developers will spend money to achieve such accreditation as LEED certification. Further, owners and employers are looking to attract and retain high quality tenants and employees in this competitive market. In response, investments are being made in both environmental friendly initiatives, which can also provide cost savings, and the health and wellbeing of tenants and their employees that occupy the buildings. While the initial investment can be costly, the importance of demonstrating a commitment to the health, happiness and productivity of employees and tenants through the implementation of the WELL Standard may make such an investment worthwhile.

by David Ross and Kailey Sutton

[1] Designing Buildings Ltd., "Sick Building Syndrome" (November 10, 2016) online, Designing Buildings Wiki: <<https://www.designingbuildings.co.uk>> [Designing Buildings Ltd., "Sick Building Syndrome"]; See also

discussion in, for example, W. J. Fisk et al., (2015) "Effects of ventilation rate per person and per floor area on perceived air quality, sick building syndrome symptoms, and decision-making." *Indoor Air*, 25: 362-370; LeeAnn Jones and Nicole J. Wade, (1998) "Sick Building Syndrome: Who Foots the Bill." *Prac Real Est Law*, 14(3): 9-24.

[2] See, for example, *West American Ins. Co. v Band & Desenberg* (1996), 925 F Supp 758 (US MD Fla); *Stillman v Travellers Ins. Co.* (1996), 88 F.3d 911 (US CA 11th Cir Fla); there appear to be no Canadian cases that report damages awarded on the basis of SBS, although there are instances of related illnesses such as "chemical sensitivity" in, for example, *Mackenzie v Ward*, 2007 CarswellOnt 3034 (Ont SCJ).

[3] Ashley O'Neill, VP Corporate Strategy, CBRE: "The new frontier in health and wellness: the office," (November 30, 2016), online on The Globe and Mail at: <<http://www.theglobeandmail.com>>

[4] CBRE Canada, "WELL Played: How to Position the WELL Building Standard" PowerPoint Presentation (received from CBRE on November 21, 2016).

[5] Such as Three Star, Green Star and BREEAM, International WELL Building Institute, "IWBI™ Announces Alignments Between the WELL Building Standard™ and LEED®" (retrieved December 1, 2017) online at: < <https://www.wellcertified.com>>.

[6] The International WELL Building Institute provides a WELL Pricing Calculator online at: < <https://wellonline.wellcertified.com/node/add/pricing>>

[7] International WELL Building Institute, "FAQ" (retrieved January 6, 2017) online at:

<<https://www.wellcertified.com>>

[8] CoreNet Global, Canadian Chapter, "The WELL Building Standard for Your Well Being" (retrieved January 6, 2017) online at: <<http://canada.corenetglobal.org>>, quoting Rick Fedrizzi, CEO of GBCI (as he was then)

### **A Cautionary Note**

The foregoing provides only an overview and does not constitute legal advice. Readers are cautioned against making any decisions based on this material alone. Rather, specific legal advice should be obtained.

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