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Much discussion has centered around the de-certification aspect of the energy reporting requirements of the new LEED guidelines. However, as I have been reading and commenting on the proposed energy reporting requirements found in the latest LEED certification guidelines, and looking at the issue through the eyes of Eeyore (my favorite A. A. Milne character), I realize that my biggest issue with the reporting requirement is a broken window problem.

No, not the Broken Window Fallacy first set out by Mr. Bastiat years ago. The problem I am talking about is not the illustration of an economic theory, but a practical issue I see with the use of long term energy reporting.

Once this energy data is out there (and it will be because what's the point of building a LEED Platinum building just to have it de-certified?), owners and governmental entities will use it and make it a part of their contracts or regulations. It is at this point that broken windows become a problem.

In short, what happens if a kid breaks a window or someone leaves a door open? Despite training and lectures, humans make mistakes. Who's fault is it when such a problem (totally unrelated to design or construction) causes the building to fail to meet an energy reporting standard a year or more after construction?

I feel that these sorts of relatively straightforward issues must be dealt with if sustainability and "green" construction is to take hold. I also feel that attorneys, architects and other construction professionals should work together to deal with them before the trouble occurs.

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Please check out my Construction Law Musings Blog for more on Virginia construction law and other topics.