

## King & Spalding Dealmaker On Atlanta's Data Center Boom

By **Charlie Innis**

*Law360 (March 26, 2025, 7:35 PM EDT)* -- Readily accessible power and land have helped make the area surrounding Georgia's capital city a prime hub for data centers, but challenges are on the horizon, said a real estate transactions partner with Atlanta-founded King & Spalding LLP.

While the data center industry in Atlanta's greater metropolitan area is indisputably booming, the sector has faced some legislative efforts in the last couple of years to increase regulation or curb tax breaks.

King & Spalding partner Brent Gilfedder told Law360 Real Estate Authority that he hopes Georgia's pro-business environment will help keep the flow of data center development in the Atlanta area moving and prevent the market from facing the kind of roadblocks that northern Virginia — the country's biggest digital infrastructure market — has come up against.



Brent Gilfedder

Atlanta has emerged in the last year as one of the data center industry's hottest markets. Net absorption for data centers — a key metric for gauging demand — in Atlanta surpassed northern Virginia in 2024, according to CBRE. Net absorption is calculated by subtracting the amount of space that gets occupied from the amount of space that becomes vacant.

Gilfedder has worked in King & Spalding at the firm's flagship office in Atlanta for nearly two decades. Data centers weren't a huge part of his transactions practice until recently, when he started advising on some leasing deals for digital infrastructure facilities, he said.

Data center deals now comprise about 40% of his work, he noted.

"It's become a very big chunk in terms of what we are doing here at the firm," he said.

Gilfedder talked to Law360 Real Estate Authority about why Atlanta has been so attractive to data center developers and what kinds of hurdles might be ahead for the industry.

This conversation has been edited for length and clarity.

**Atlanta is considered to be one of the most thriving data center markets in the U.S. right now. What do you think is driving that?**

We have good infrastructure in Georgia. Power is the name of the game in this industry and for this asset class. There is power capacity in Georgia, and there is an appetite to fill that power capacity from the utility company. We have a good amount of land outside of urban areas available for that kind of development, good fiber network infrastructure, and decent water access. I think the resources that we offer are attractive to data center investors and developers right now as they look to kind of expand out from northern Virginia and from some of the other hot spots. It's just a good area with a large metropolitan community, but with a lot of land around that metropolitan area.

**How is there so much demand? When you look at northern Virginia, it's right next to Washington, D.C. The federal government's there, and obviously it's important for them to have quick cloud computing services. But what is it about Atlanta?**

Think about all the Fortune 500 companies that are in Atlanta. We've got good universities, like Georgia Tech. You've got some of the making that you have in D.C. and other places. But again, it goes back to where you have the infrastructure and the capacity to build these things.

These are massive investments with a very large power requirement. I think they would build them anywhere, where the necessary infrastructure things all line up. This is a race to build as many data centers as you possibly can, because while they're forecasting a ton of demand, there's a lot of current demand right now for data center storage space, with the artificial intelligence boom.

It's not just do you have those ample resources, but do they all come together in a quicker timeline than other jurisdictions or other places? Georgia has been benefiting from the power capacity, and on the flip side, the desire of utilities to fill that capacity. There are indications that they want to fill that as quickly as possible, so that helps put you at the front of the race.

**Have there been any challenges with power access? From the sounds of it, it's been pretty smooth sailing. Have you started seeing any challenges pop up?**

Certainly. Like anything, the early bird gets the worm. It has been rather smooth in connection with the early developments here, but as the demand and the race to get these online and the competition have increased, we are starting to see the same things as in other jurisdictions. There's certainly been some legislative pushes that could affect that landscape.

**What is the regulatory landscape like in terms of incentives and restrictions to build?**

There are sales tax and property tax abatement incentives, and those have made this an attractive site. There have been some legislative pushes to try to either end those incentives or cap them. That was last year. Gov. Brian Kemp vetoed that bill, which would have limited the sales tax exemption. It's a great exemption that brings a lot of this investment.

A big, hyper-scale data center is just a power bill. The millions and millions and billions of dollars that go into the equipment and paying for the power — which is also the equipment — that's subject to personal property tax. We have a good sales tax incentive for when you buy that equipment that's tied to the creation of jobs and other targets. It's not just "Here, you get a tax incentive, but you don't have to give back." That's made it attractive to investment.

Legislative efforts have tried to stop that, which was vetoed last year. There was a small push this year, but it never made it as far as it did last year, and so the sales tax exemption is in place. It sunsets in

2031, so there's going to be a lot of talk about whether the investment continues, given that there's currently a sunset on that.

There's also been legislative pushes on power. There's a bill currently in the Senate that's up for a vote that would try to pass all charges for any infrastructure that is being built to satisfy the data center needs only to data center customers. They're trying to protect residential and retail customers. The power companies are not actually for that, because they say that they've already got that covered, that the cost to build the infrastructure is already going to the data center users rather than the residential users, and so they say it's unnecessary, but it'll be interesting to see how that plays out. But that's where, earlier, the noise around data centers becomes more powerful.

From a land regulation standpoint, Atlanta passed a law that doesn't allow a data center to be built within an enclosed, urban area along the Beltline.

We will make it out of 2025 without a lot of legislative challenges to the data center development, but I suspect the fight will be renewed next year.

**The bill you mentioned on not passing power costs associated with data center development to residential customers is interesting because there was a similar bill in Virginia. The Virginia bill got amended, and the lawmakers there ultimately pointed to the state's regulatory agency for utilities and said, "they're supposed to handle this, so they'll look at this." Is there a similar situation in Georgia?**

There is a similar argument here, rather that the Georgia Public Service Commission is in charge of this, and they're mandating them to do certain things and they say it's already covered and already taking care of it, just on their own, in-house, and they're not passing on the cost of these additional power resources that need to be built to just the retailers.

Their argument is that this is creating investment in additional power resources that are going to benefit retail users. Like anything, it's the devil in the details and proof it in the pudding, and so we will wait and see whose argument wins out and who's right. Like any resource, power is a finite resource, unless you create more, so there's always going to be challenges to any asset class that requires such a massive use of resources.

**It sounds like you've been paying attention to northern Virginia. What is the pushback like in Atlanta vs. northern Virginia? There have been lawsuits in northern Virginia and a lot of pushback at the local level, but at the state level, a lot of the related bills haven't survived.**

To me, Atlanta is like how northern Virginia was five years ago. The question is, do we get to the same spot as northern Virginia in three to five years? It's hard to predict that.

Typically, you would say that the regulatory environment is a little bit more friendly to businesses and investment in Georgia than in Virginia. I've been down to the Capitol recently to discuss these bills and some other bills about real estate, and we tout ourselves as a pro-business state. The hope would be that we still do a better job of allowing the investment, but we do it in a responsible way so as not to impact our residents.

Even with the incentives, these projects bring a ton of revenue to the state in terms of utility revenue and property tax. These data centers are being built on wild areas of raw land, which maybe had some

purpose before, but are sometimes agricultural. A lot of these are being built outside metropolitan Atlanta, so you have a lot of municipalities that could benefit significantly from this increased tax base and really help their budgets in a way that helps grow the community in a way that would be beneficial. Like anything, it's got to be done responsibly.

My hope is that the pro-business environment in Georgia will allow us to continue to develop data centers and not hit as many roadblocks as they're potentially facing now in northern Virginia.

#### **What are some of the biggest barriers to building right now? Are tariffs a concern?**

Tariffs are going to impact developments that are being discussed and formulated now. Tariffs are going to impact people who are thinking about starting and have landed a contract to build data centers that are going to come online in 2029, 2030, because they don't have final construction costs. They don't have an assigned guaranteed maximum price. They don't have orders in for all their equipment. So tariffs are going to impact it. Tariffs on fuel, that's going to impact powered shell data centers. Tariffs on equipment, some of the equipment is coming from overseas. The majority of it is being built in the U.S. If the tariffs stay, they are going to impact development that comes online in three to five years.

However, the data center industry is going to be more receptive to increased cost, given the need and the amount of capital available for investing right now. Whereas tariffs are going to greatly impact multifamily development. If your lumber from Canada has got a significant increase in cost, those deals are tighter in terms of penciling out and making them good investments.

There's more room for error in these larger data center developments.

--Editing by Haylee Pearl.