CHAPTER 17
Environmental Issues Affecting Real Estate Transactions
CERCLA

• Established requirements concerning closed hazardous waste sites
• Liability of persons responsible for releasing hazardous waste
• Established a trust fund for cleanup when no responsible party is identified

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
CERCLA
- Short-term removal
  - Address releases requiring immediate response
- Long-term remedial response action
  - Permanently reduces dangers of hazardous substances
  - Serious but not life threatening
- National Priorities List (NPL)
  - Above actions only conducted at NPL sites

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
CERCLA

- Priority list of Hazardous substances
  - Requires EPA to prepare a list of hazardous material found at NPL sites
  - List should prioritize hazardous substances based on toxicity, potential for human exposure

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA)
Asbestos

- Used for fire resistance, insulation and soundproofing
- Asbestos does not burn and resists corrosion
- Used in construction products:
  - Sealants
  - Cement pipe,
  - Cement sheets
  - Ceiling tile flooring
  - Insulation

Environmental Hazards
Asbestos
• Breaks up into microscopic fibers
• Long lasting in the atmosphere

Friable
• Asbestos becomes dry or crumbling
• Likely to release fibers
• Insulation

Nonfriable
• Not likely to release fibers (unless disturbed)
• Floor tiles
Environmental Hazards

Asbestos

- Fibers are inhaled into body tissues and lungs
- Fibers remain in body
- Asbestos related diseases difficult to trace
- Diseases due to asbestos exposure can occur years later
- No safe threshold of airborne asbestos has been determined
Regulation of Asbestos by Occupational Safety and Health Administration (OSHA)

- OSHA is responsible to:
  - protect workers from asbestos exposure
  - Protect general public
- Removal of asbestos from buildings
  - Must notify federal, state and local agencies
  - Must follow requirements for removal and disposal
- Asbestos use banned in U.S. by 1997

Environmental Hazards
Asbestos Remediation

• EPA recommendations:
  • Neither to remove or ignore
  • Locate asbestos in buildings
  • Manage appropriately
  • Only trained and property protected persons should disturb or remove it

Environmental Hazards
Naturally occurring colorless odorless radioactive gas

- Gas produced by uranium breaking down in soil, rock and water
- Radon gas seeps through small cracks in:
  - Floors, crawl spaces, hollow concrete blocks, etc.
  - Responsible for planning in cities and counties
- Radon is found in every State
- 1 in 15 homes us the U.S. has high radon levels
Measured in picocuries per liter (pCi/L)
• 4 pCi/L is the threshold for remediation
• Radon test kits available at hardware stores

Radon Health Risks
• EPA states radon is 2nd leading cause of lung cancer in U.S.
• Exposure and onset of disease may be years

Remediation
• Fan attached to vent pipe draws radon from below slab or foundation
Radon Disclosure in Florida

- Testing not required
- Sale and Purchase Contract defines radon gas
- Advises buyers to find more information from the county health department
- Does not apply to residential transient occupancy (hotels)
- Occupancy must be 45 days or less
- Occupancy more than 45 days must disclose radon precautions
Lead-Based Paint

Use was banned in the U.S. in 1978

- EPA estimates 1 out of 8 homes have unhealthy levels
- Paint chips are harmful if ingested
- Lead paint dust from remodeling can caused lead to be ingested
Health Risks

- Especially in children:
- Permanent brain damage
- Reduced intelligence
- Behavioral problems
- Effect pregnant women

Removal of lead-based paint

- Refer to abatement specialists
Lead-Based Paint

Sellers Disclosures to Buyers of Residential Housing Built before 1978

• Provide EPA lead hazard information brochure
  • “Protect Your Family from Lead in Your Home”
• Disclose presence of known lead-based paint hazards
• Include lead-based paint warning (clause in Sales contract)
• Allow buyer 10 days to conduct inspection for lead-based paint (tenants receive disclosures, but don’t have the right to conduct inspections)
• Include statement that buyer or tenant has been provided with all of the above
• Sellers or landlords do not have to remove lead-based paint