



## **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)





# 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



## 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)



## Potentially Responsible Parties (PRP)

- Past or present owners
- Operators
- Transporters
- Generators
- Could be held responsible for expenses associate with contaminated site cleanup



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





# Environmental Hazards

## Environmental Due Diligence

- Phase 1
  - Investigate by reviewing records, maps, photos, etc.
- Phase 2
  - Soil & water testing
- Phase 3
  - Remediation
- Phase 4
  - Management prevention plan



# Environmental Hazards

## 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



## **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**





# 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





# 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



## 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



# Radon





# Radon Standards

## 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



## Radon Standards





## **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





# Lead-Based Paint

## 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 led 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







# Coffee Break

15 Minutes