

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)

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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 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

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



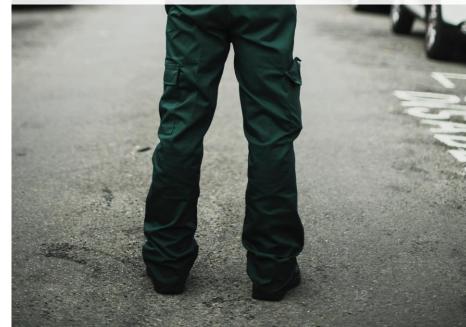
Asbestos Remediation

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

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 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



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 leadbased 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 leadbased paint

Coffee Break

15 Minutes

