



The biggest environmental property mistake ever made, and made and made again

November 11, 2014 - Design / Build

If you are like most of my clients you're involved with "property" - buying, selling, managing or all of the above. Regardless of the property role you serve, the single biggest environmental property mistake I see being made over and over and over again is not enough time and resources are devoted to environmental due diligence and environmental risk management! Today is not yesterday and tomorrow will be different than today. Today property-oriented environmental concerns are regulatory and media hot! This means before you own, during your management and prior to getting involved in a regulatory enforcement action or suit over the concern, be more aware of your environmental surroundings. When you do something for over 20 years you have to learn something! One of the many things I have learned over my 20 years as a nationally respected environmental subject expert is - too little and too late and property oriented environmental concerns (POEC's) never work out well for people involved with real property.

POEC's from little to big can and will make or break a good real estate deal - and I mean make it or break it. But they don't have to if you just accept the world is the world, environmental issues are part of it, we are not going to change it so we will just have to "manage it." As one of my favorite figures Sir Richard Branson shares, if you want to make a billionaire a millionaire have them buy an airline. Well the same concept applies to real estate if you don't thoroughly evaluate, understand and manage existing POEC's. I have literally seen, environmental issues can and will quickly change your situation by sucking up your resources (time, money and energy) if not properly assessed and managed prior to an unfortunate event or a lack of knowledge.

POEC's (lead, asbestos, mold, underground storage tanks, radon, vapor intrusion, IAQ...) are very regulated, typically a public health concern, commonly publicized via media, and as we all fear, highly litigious. If you don't exercise your rights to full due diligence and turning over as many stones as you can and the second you are suspect of POEC's immediately devoting the appropriate resources to address the environmental risk prior to it becoming a problem, you deserve what you get! All too often, I see and share with property owners, by trying to save a few dollars you truly end up spending, wasting and stressing substantially more. It has also been shared for numerous years as, "Penny wise but pound foolish!"

Not to sound like a perfect individual, but I frequently get called to assist property where they had the opportunity to address their POEC's and didn't or don't! As another old expression goes, "There is another fool born every day." Don't be the fool, don't buy or accept responsibility for someone else's environmental problems (unless you are sure it is part of a good deal). Don't be the nice guy. Don't waste your opportunity to decide if this is truly the property you perceived it to be, and if not, how it might impact your success. Unfortunately, and all too often, on all size deals, I see people trying to save a few and it ends up costing a lot. (Penny wise, but very pound foolish).

Don't believe, "What you don't know, cannot hurt you." I know many property related people who did not know, but they still got sued for lead poisoning of a child, had abandoned leaking underground storage tanks on site that eventually started bubbling up free product on an adjoining property. I have seen disgruntled staff and co-workers complain to OSHA and other government agencies about asbestos and mold disturbances when performing their jobs that their employers expressed they had no idea it existed. I have seen real-estate deals go down with huge environmental concerns not properly addressed because it was a really good deal, because it was part of the package, because how bad can it be, because they did not exercise their due diligence and it cost them big time - when it didn't have to! Well guess what? It can be really bad, not always, but environmental concerns if not properly managed are not inexpensive nor a fun learning experience!

If you want to participate with property that has a POEC, just know what you are dealing with and make sure you continually manage the POEC/risk. Often, I see people associated with property get casual or over busy with many responsibilities including their POEC's. They know they exist, they just don't appreciate or understand the significance and consequences of not continually being vigilant and continually exercising their due diligence before, during and after. Another old favorite of mine as Murphy puts it, "When you least expect it, expect it."

A few words to related and important to remember; occupants believe they know more than we do especially when it comes to rights and health. Even if you don't believe they do, believe they do.

The best offense is a great defense and never believe a property is perfectly environmentally clean, because nothing lasts forever.

Take my advice and emulate the actions of my most successful clients and don't make the same environmental mistake over and over and over again, "fool me once, shame on you, fool me twice shame on me" and make POEC's a significant and mandatory part of your property due diligence and ongoing risk management!

Lee Wasserman is the president of LEW Corp., Mountainside, N.J.

New York Real Estate Journal - 17 Accord Park Drive #207, Norwell MA 02061 - (781) 878-4540