

Purchasing and Owning Contaminated Property: A Primer for Property Owners

It was not that many years ago that the idea of deliberately purchasing contaminated property would have been viewed as conclusive proof of some strange form of dementia. The range of problems associated with contaminated property was both formidable and self-evident: potentially devastating cleanup costs; tort liability to residents and owners of nearby property; unpredictable restrictions on use and development of the property; and interminable legal headaches and regulatory distractions. Not only that, any competent attorney or consultant would have emphasized that there were simply no available means to quantify or limit any of these exposures.

It would be too much to say that the conventional wisdom of years ago has been completely negated. There are still potential pitfalls in purchasing and owning contaminated property, and careful planning accompanied by informed advice is required. But it is not too much to say that there are now legal, technical, and economic means available to overcome nearly all of what were formerly considered insurmountable obstacles. To be sure, these solutions come at a cost, and it may well be that the costs to implement these solutions simply outweigh the potential profitability of any given real estate deal, but one can now at least safely consider a purchase of contaminated property without fear that one will inevitably end up institutionalized for having entertained the prospect.

This paper provides a very brief overview of the sorts of issues one should think about in purchasing and owning contaminated property. In that regard, the purpose of this paper is two-fold: (1) To summarize briefly the range of potential issues to be considered in purchasing or owning contaminated property and (2) to survey the range of methods available to address these issues.

Risks in Purchasing and Owning Contaminated Property

Broadly speaking, there are four categories of potential problems whenever a person owns contaminated property: (1) cleanup obligations; (2) liabilities to third parties; (3) obstacles in selling or financing the property; and (4) limitations on the property's use.

Before addressing these risks, however, it is also important to acknowledge that it is not only the existence of environmental risks that complicates contaminated

Contact Info

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