

Property Transfers

It's a new property owner's nightmare: discovering that the land you just purchased is contaminated with a large plume slowly but steadily migrating offsite—and, as the property owner, you're responsible for the clean-up.

ELG attorneys have the requisite knowledge and experience to help avoid this situation. We regularly advise clients on ways to minimize exposure to environmental problems associated with business transactions, whether it is a land purchase or the purchase of a company that operates on a piece of property.

Environmental laws frequently hold property owners liable for cleaning up contamination on their property—in some cases, even when the owner played no role in causing the contamination. Accordingly, proper due diligence is a key focus of the advice we provide to clients looking to acquire property, particularly where brownfields are involved.

OUR WORK IN THESE AREAS INCLUDES THE FOLLOWING:

- » Development of comprehensive, strategic approaches to buyer/seller agreements, funding, investigating, cleaning up and redeveloping contaminated property, with the overriding goal of avoiding or addressing potential state and federal Superfund liability and costs
- » Negotiation of real estate purchase and sale contracts in connection with contaminated property
- » Advice regarding preferred and obtainable legal clearances and assurances and determinations from state governmental authorities and the USEPA, including securing these documents in reasonable time frames
- » Assistance with the preparation, review and processing of the environmental reports, plans, applications, and other documents associated with environmental clearances, including consultant plans, state submissions, grant applications, legal analyses and descriptions, real estate documents and environmental insurance
- » Assessing the compliance status of ongoing operations that are the subject of an acquisition and crafting strategies to minimize the risk to the new owner of any noncompliance associated with the ongoing operations while the facility is resolving its compliance issues
- » Assistance with identifying and securing investigation, cleanup and remediation grants awarded by local and state agencies—including state "petrofund"—as well as the USEPA
- » Supervision and management of brownfield investigation and remediation assessments regarding the scope and cost of proposed investigations
- » Preparation of liability, responsibility and recovery analyses relating to contaminated sites

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We have represented clients on a wide variety of transactions involving contaminated property, including multiple property acquisitions, asset and stock purchases and state voluntary cleanup-driven purchases.

IN PARTICULAR, ELG ATTORNEYS HAVE BEEN INVOLVED IN THE FOLLOWING PROJECTS:

- » Providing due diligence assistance for hundreds of transactions
- » Coordinating environmental due diligence for an asset purchase involving over 50 properties located throughout the United States
- » Coordinating environmental due diligence and subsequent purchase agreement terms for a client's purchase of a major company with facilities located in several countries, including a site on the National Priorities List
- » Advising on regulatory requirements for a state cleanup of a contaminated site involving a plume extending over three miles into a residential area
- » Advising numerous clients on state property transfer clean-up programs to facilitate the sale of properties
- » Helping clients with properties that are being sold or shut down to develop exit strategies and proper documentation in order to address potential contamination concerns and protect against successor liabilities
- » Advising clients on how best to approach federal and state regulatory agencies prior to any ownership change to reduce the risk of assuming responsibilities for historic noncompliance issues



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