
Environmental Due Diligence for Rhode Island Commercial Realtors

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Who is environmentally liable and why?

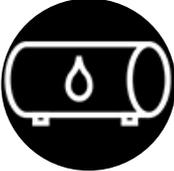


Comprehensive Environmental Response,
Compensation, and Liability Act
(CERCLA)

“Owner or Operator”



Site Remediation Regulations



UST/LUST Regulations



Emergency Response Regulations



Oil Pollution Control Regulations



As a realtor, why do I want to manage, or why do I care about, environmental anything?

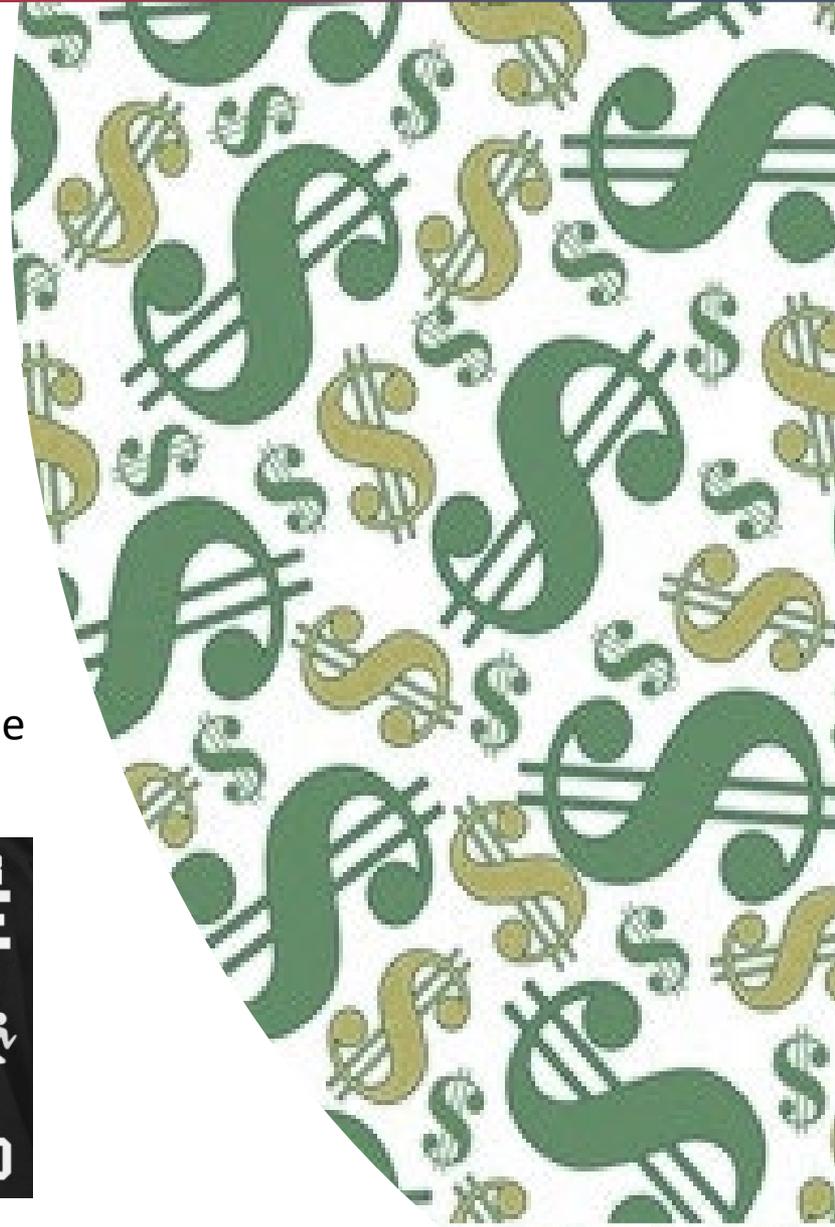
1. Duty to disclose...

DISCLOSURE

2. Environmental issues can be *deal killers* or deal makers



3. Where possible get your environmental house in order before going to market



What's a Phase I Environmental Assessment and what's a Phase II?

Phase I ESA ASTM E1527 - 13

Standard Practice for
Environmental Site Assessments:
Phase I Environmental Site
Assessment Process

All Appropriate Inquiries Rule:

Reporting Requirements and Suggestions on Report Content WHAT IS "ALL APPROPRIATE INQUIRIES"?

"All appropriate inquiries" is a process of evaluating a property's environmental conditions and assessing potential liability for any contamination. All appropriate inquiries must be conducted to obtain certain protections from liability under the federal Superfund Law (CERCLA).

Phase II = ????



If a property is found to be contaminated, what is the RI regulatory process from assessment to site-closure?



Site Investigation / Remediation Process and Documents



Document Title	Sent to	By whom?
➤ Notification of Release (NOR)	RIDEM	SAGE on Clients behalf
➤ Site Investigation Work Plan (SIWP)	RIDEM	SAGE on Clients behalf
➤ Site Investigation Report (SIR)	RIDEM	SAGE on Clients behalf
➤ Program Letter	Client/SAGE	RIDEM
➤ Public Notice	Abutters	SAGE on Clients behalf
➤ Remedial Decision Letter (RDL)	Client/SAGE	RIDEM
➤ Remedial Action Work Plan (RAWP)	RIDEM	SAGE on Clients behalf
➤ Remedial Approval Letter	Client/SAGE	RIDEM
➤ Remedial Action Implementation		SAGE on Clients behalf
➤ Remedial Action Completion Report	RIDEM	SAGE on Clients behalf
➤ Interim Letter of Compliance (ILOC)	Client/SAGE	RIDEM
Or		
➤ Letter of Compliance (LOC)	Client/SAGE	RIDEM

“REMEDIAL AGREEMENTS” (RIDEM)



What are Remedial Agreements (formerly “Settlement Agreements” and often referred to as “Brownfields Agreements”) issued by RIDEM?



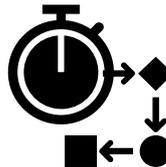
What protections do they provide?



Who is eligible?



Value in a sale, lease and/or financing transaction?



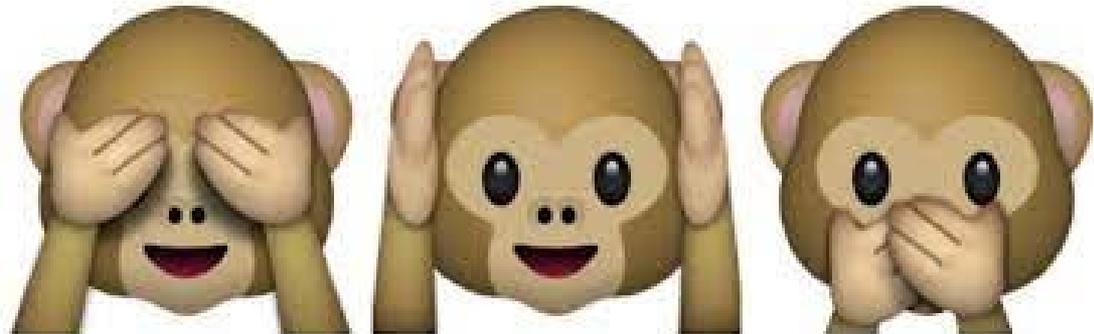
Timing and Process to obtain a Remedial Agreement

SAGE

ENVIRONMENTAL

Attorney-Client Privilege

Why do I want to have an attorney engage an environmental consultant to perform the environmental due diligence rather than my buy/seller directly?



Can't I just leave this contaminated stuff in the ground?

...Yes!



- ... If contained to the property



- ... If Contamination is not getting into a building



- ... Contamination is contained beneath a cap



- ... Environmental Land Use Restriction (ELUR)



Can you provide examples of an easy, modest, and difficult environmental site and discuss the different contaminants, costs, and time frames from discovery to through DEM closure.

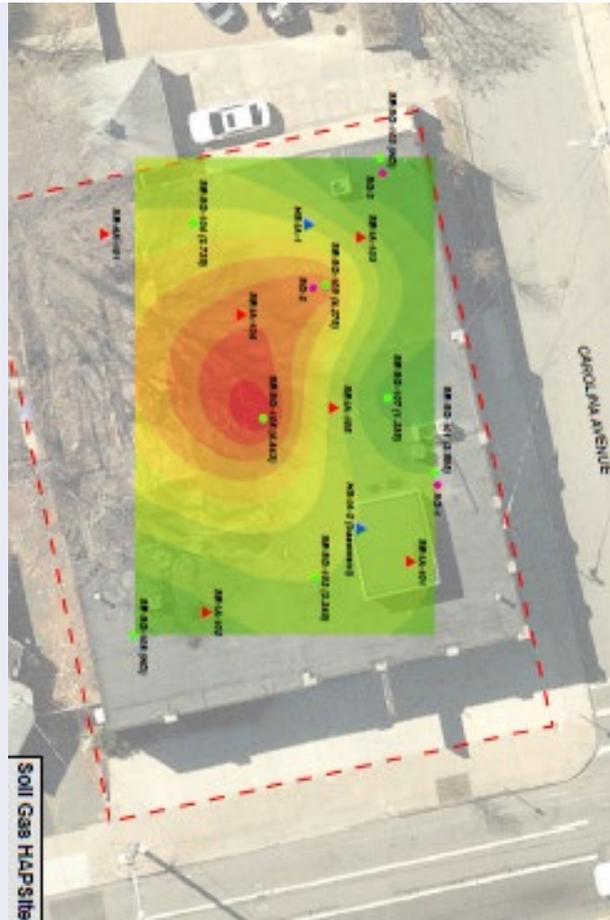
Site #1

Capping Site



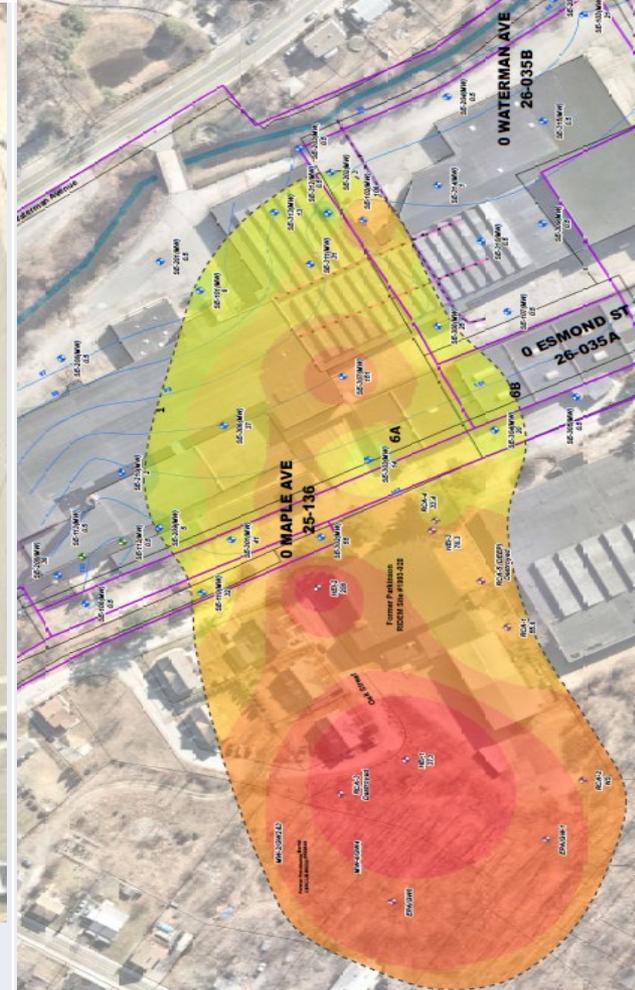
Site #2

Vapor Intrusion Site



Site #3

Mill building with TCE Plume



Okay – I understand “ground down” environmental issues, why should I care about “ground up” environmental issues? (What’s a PCA?)

Property Condition Assessment

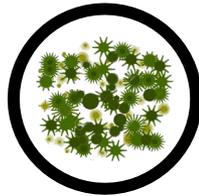
ASTM E2018-15

Standard Guide For Property Condition Assessments: Baseline Property Condition Assessment Process

1.1 Purpose—The purpose of this guide is to define good commercial practice in the United States of America for conducting a baseline property condition assessment (PCA) of the improvements located on a parcel of commercial real estate by performing a walk-through survey and conducting research as outlined within this guide.



Asbestos



Mold



PCBs FREE



Lead

Appendix A – Table III – Long-term Capital Improvements/Replacement Reserves

Section Number	Section Name	Recommended Work	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10	Year 11	Year 12	Recommended Total
Site Conditions															
2.1	Topography	None													
2.2	Parking & Pav	None													
2.3	Amenities & Landscape	None													
2.4	Utilities	None													
Building Conditions															
3.1	Substructure	None													
3.2	Superstructure	None													
3.3	Facades	None													
3.4	Facades windows and doors	None													
3.5	Roof	None													
3.6	Basement/Attic	None													
3.7	ADA	None													
Interior Finishes and Components															
3.8	Interior Finishes & Comp	Flooring replacements			\$10,000			\$10,000			\$10,000			\$10,000	\$ 40,000
3.9	Mold	None													
Building Systems															
4.1	Plumbing	None													
4.2	HVAC	Air handler replacements		\$10,000		\$10,000		\$10,000		\$10,000		\$10,000			\$ 50,000
4.3	Electric	None													
4.4	F/L Safety	None													
4.5	Elevators	None													
Material Code Violations															
5	Codes														\$ -
	Subtotal		\$ -	\$10,000	\$10,000	\$10,000	\$ -	\$20,000	\$ -	\$10,000	\$10,000	\$10,000	\$ -	\$10,000	\$90,000
	1.025 Multiplier for inflation		1.025	1.05	1.075	1.1	1.125	1.15	1.175	1.2	1.225	1.25	1.275	1.3	
	Total with Multiplier		\$ -	\$10,500	\$10,750	\$11,000	\$ -	\$23,000	\$ -	\$12,000	\$12,250	\$12,500	\$ -	\$13,000	\$105,000

Appendix A – Table II – Short-term Repairs

Section Number	Section Name	Quantity	Unit Cost	Estimated Short-term Cost	Recommended Work	Comments or Additional Description
Site Conditions						
2.1	Topography	None				
2.2	Parking & Pavement	None				
2.3	Amenities & Landscape	None				
2.4	Utilities	None				
Building Conditions						
3.1	Substructure	None				
3.2	Superstructure	None				
3.3	Facades	None				
3.4	Facades windows and doors	Door maintenance/repairs	1	\$ 2,000	\$ 2,000	Perform maintenance/repairs on entry doors (re-weather strip)
3.5	Roof	None				
3.5	Roof (metal)	Roof replacement	1	\$ 112,000	\$ 112,000	Roof replacement
3.6	Basement/Attic	None				
3.7	ADA	None				
Interior Finishes and Components						
3.8	Interior Finishes & Comp	None				
3.9	Mold	None				
Building Systems						
4.1	Plumbing	None				
4.2	HVAC	None				
4.3	Electric	None				
4.4	F/L Safety (electrical/lighting/controls)	None				
4.4	F/L Safety (sprinkler system)	None				
4.5	Elevators	None				
Material Code Violations						
5.0	Codes	None				
	Other	None				
Total				\$ 114,000		

I've heard DEM's rules, regs, and staff are unreasonably onerous?
Is that true?

... Compared to other states?



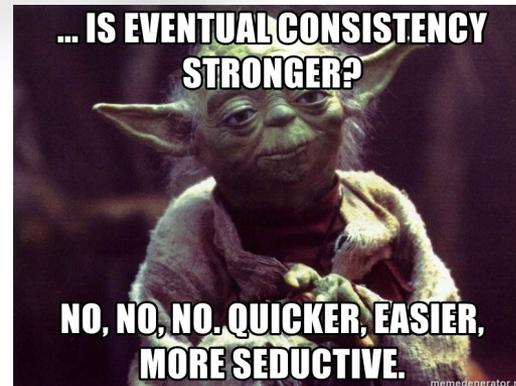
... Funding and Budget



... As the baton gets passed?



... "Consistency" or Consistency?



THE GREAT THING ABOUT ME



IS MY MODESTY

Rick, I understand that SAGE is the largest Rhode Island-headquartered, 26 year-young consulting firm, and that you are the chairman of the EBC, a prominent member of RISEP and the ACEC, are asked to speak on behalf of the governor and DEM in front of the legislature, and recently received a Silver Medal in 2020 for Small Environmental Business from the EBJ – why should this matter to me and my clients?





How can Rick and Mike help YOU?

Contact Info



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