

Environmental Property Transfer

CLEAN's Commitment

Have you ever heard of the "Seven Year Itch"? That has been CLEAN's Commitment to the people of the Conrail/CR I Superfund Site. Well to be truthful it's been a little longer than that. But what I want to say is that we plan to be here for you for another seven years if necessary. Yes, we've accomplished a lot, but you know we still have a lot to do here.

We are still waiting for a Consent Decree or Unilateral Order. For the Final Phase of the Record of Decision. That means clean up of the railyards, checking of basements to make sure no vapors are present, continued monitoring for seven years (or fifty) of wells, at least studies of the impact of pollution going into the St. Joseph River to make sure animal, fowl and fishlife is not harmfully affected. But most important of all is the effect on the

health and lives of the people here. I would be willing to bet "the store" that everyone knows of someone, a relative, neighbor, friend, enemy?, who has had a serious disease and perhaps lost their life. Should we not be concerned that this has been due to heavily polluted water used for drinking, cooking, bathing, etc. There have been many cancer problems, new diseases such as polyneuropathy and fibromyalgia, and the list goes on and on. That to me means we will continue to fight until this mess is cleaned up. CLEAN thanks everyone for your past and continued support. God Bless You!

Lorna Rickard, Editor

I Hear Bells!

I have been trying to think about how to start out the issue of damaged property, on a more personal level. So, I've come up with this scenario; In '95 I bought a new truck...It's got a foreign name on it...This foreign company was bought by an American car manufacturer...in the past, I've had problems with cars produced by this American company...mostly electrical...but the engines seem to run for ever...I

figured, these two big name companies should be able to make the perfect vehicle. You know all new cars got bells and whistles...Specifically a bell that goes off when your door is a jar...Well my truck does that...When the sun is shining my American made foreign car rings its bell even when the doors are not ajar...and it rings...and rings...It quits ringing when the sun goes down, or when its raining. This is an extra, of course.

The moral being; As mad as I am at the car manufacturer, and the dealer who has hooked it up to a computer analysis devise and still can't figure it out...I got nobody to blame but myself...It is still the same car manufacturer...and I'm still the same idiot who buys their cars. When it comes to buying anything, you tend to rely on your experience. A rule I will try and live by. But you also rely on the word of the person or company offering the item you wish to purchase. You would hope that this person or company you are buying from will disclose to you any defects or known problems. In the state of Indiana, as well as most other states, we have a Responsible Property Transfer Law

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(RPTL) for the sale or transfer of commercial and/or industrial property. This is for the disclosure of any environmental defects that may be associated with the property, or preexisting conditions that may or may not have an impact on the value of that property.

In the state of Illinois, and others, a similar disclosure is made at the time of sale for residential real estate. A trend that seems to be catching on, and soon to be here. Those of you who receive this newsletter, would be required to disclose, should you offer your property for sale, that you are located within a Superfund Site. This is a preexisting condition that you have knowledge of. The fact that you may not drill a well at your property, according to the EPA, and what is called the Plumber's Code, will also need to be disclosed.

Yeah but, what about my rights? What happened to "caveat emptor" or "buyer beware?"

Yeah but, what if you were to buy a home in this area?

In this case the government seems to think the buyer needs some added protection. For example this is from the RPTL; Section 13-7-22.5-16(a) No more than thirty days after the effective date of a transfer of property that requires the preparation of a disclosure document under this chapter...

Section 13-7-22.5-17A transferor who fails to deliver a disclosure document to a party in violation of section 10 of this chapter commits a Class B infraction...

Section 13-7-22.5-18 A transferor who knowingly makes a false statement in a disclosure document delivered under this chapter commits a Class A infraction. Each day that the transferor knows of the falsity of the statement made in the disclosure document but fails to correct that statement through the filing, recording, and delivery of a corrected disclosure statement constitutes a separate infraction...

Section 13-7-22.5-19 A person who is responsible for filing a disclosure document in the office of the county recorder under section 16(a)(1) and 16(c) of this chapter and who fails to record the disclosure document commits a Class A infraction.

I am not a lawyer, However, disclosure of environmental defects has become a serious issue. Disclosure just may make it difficult to sell your property. The law further states, "defects in the property that were previously unknown to the other party (buyer), the other party is relieved of any obligation."

Remember, for now, in the State of Indiana, this law only covers commercial and/or industrial property. Since our Responsible Party Transfer Law was modeled after the state of Illinois' transfer law, it should not be too far off before residential disclosure happens here. Unless of course you think our State Legislature is "asleep at the wheel."

This brings us back to my truck. Now as to what comparison can be made to a truck with a door

ajar bell constantly ringing, only in sunlight of course, and disclosure of environmental defects during the sale of real estate, maybe there really isn't one...or, maybe...you know I was thinking I could sell the truck to someone on some rainy day. But you know rainy weather can be quite severe around here. And the way some folks drive! I would hate to think my truck could be Found On the Road Dead.

John Wallace

CLEAN, Inc.

Yes, I'd like to become a member of the Citizens League For Environmental Action Now (CLEAN Inc.) A non-profit organization

Mail to:
CLEAN, Inc.
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