



DESAUTEL LAW

## **ENVIRONMENTAL DUE DILIGENCE CHECKLIST: YOUR FIRST FEW STEPS**

Environmental due diligence is the process used by parties to a property purchase and sale. Its role is to ensure that liability for environmental risk is not incurred as an unwanted byproduct of the sale. The following is a basic description of the first few steps a purchaser might use to effectively protect itself.

1. CONFIDENTIALITY AGREEMENT
2. REQUEST RECORDS FROM THE APPROPRIATE STATE AGENCY
3. ENGAGE AN ENVIRONMENTAL CONSULTANT

### **Negotiate a Confidentiality Agreement**

- >> The agreement protects the parties prior to exchange of records and due diligence.
- >> The agreement should cover necessary actions if the transaction fails.
- >> The agreement creates a procedure for reporting the discovery of an environmental condition at the property.

### **Request Records from the Appropriate State Agency**

- >> Agencies like the RI Department of Environmental Management and the RI Coastal Resources Management Council maintain public records.
- >> Anyone can request copies and/or to review these records.
- >> Each agency has a simple process for setting up a file review on their respective websites.

### **Hire a Qualified Environmental Consultant**

- >> Ask your attorney to hire a qualified and experienced environmental consultant to conduct an Environmental Site Assessment on your behalf.
- >> This arrangement can create attorney-client confidentiality.
- >> The attorney should select a consultant that has not worked on the property previously.

Following these first few steps develops a strategy for environmental due diligence. There are additional steps to follow and no two properties are the same. Working with a qualified attorney can protect your interests and cut off liability before it attaches. Call or email me today for more information.