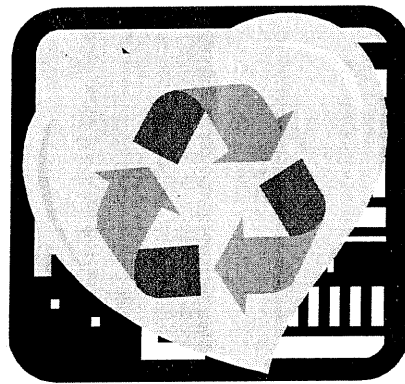


ABC/RTI
Handout

Environmental RE63RC10



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Environmental Issues

Handout

Objectives: Presented during a two hour session for the purpose of increasing the knowledge and understanding of Environmental Issues relative to the real estate industry.

Student will be able to help their clients by reducing the liabilities to proper disclosure

Student will be more informed on key environmental issues and be able to pass this valuable information to their clients and customers.

This course will be extremely valuable and interesting to all agents. Environmental issues are of extreme importance to all real estate professionals. This is a must see class.

The topics of discussion will be:

- 1) Lead paint and lead paint disclosure
- 2) Title 5 septic systems
- 3) Asbestos
- 4) Radon
- 5) 21-E residential (underground oil tanks)
- 6) Water Analysis and Filtering Systems
- 7) Mold issues and liabilities
- 8) Electro Magnetic waves (EMF's) High power lines
- 9) Wetland basics
- 10) Smoke detectors
- 11) carbon monoxide detector

1) LEAD PAINT:

- a) Explain the lead paint disclosure laws and procedures. Hand out the lead paint disclosure forms and teach students how to properly fill out forms. Sales, Rental, Short Term Rentals.
- b) Explain the new April 2110 lead paint renovator's law. Section 406(b) of Title IV of the toxic substances control act (TSCA) MGL.c.III

2) EXPLAIN THE BASICS OF TITLE V:

Title five was effective on March 31, 1995.

Certificates are good for 2 years and/or 3 years if professionally pumped.

The house can close with a failed Title V although the bank or buyer may have a problem with closing.

Closing is also allowed with no certificate if the weather does not allow inspection.

Shared septics require inspections every 3 years.

(310 CMR 15.00 and 314 CMR 5.00)

3) ASBESTOS- Explain the basics of Asbestos

Asbestos is a naturally occurring material, which is heat resistant. It is commonly used in building materials such as ceiling and floor tiles, insulation, pipe covering and outdoor shingles. Scientists and public health officials have determined that exposure to asbestos that is in an unsafe condition may increase a person's risk of developing lung cancer and asbestosis, a fibrotic scarring of the lung. The use of asbestos has been generally prohibited since 1978. However, even under the sanitary code, if asbestos is removed, an owner must submit an asbestos removal plan, which must be approved by the local board of health, prior to the commencement process.

4) RADON

Explain the basics of Radon:

All agents should be aware of the basics of environmental Issues relative to Real Estate.

Radon is an Odor Free Gas that comes from the earth.

It is the final stage from the breakdown of Uranium. Radon gas enters the house through cracks in the foundation and floor. It then attaches to dust and is breathed into the lungs, once in the lungs radon decomposes and damages the lungs.

Radon can be found in well water as well as in the air.

Radon can be reduced to acceptable levels in water and air by installing sub-slab ventilation systems and water aeration air stripper systems.

Note: NH radon in water levels according to EPA are acceptable below 2,000 pCi/L.

Radon should be tested in well water and air prior to closing and corrected ASAP.

Radon test results can fluctuate from day to day depending on weather conditions.

Never tell a buyer that a low acceptable radon report means radon results will always remain low. Recommend that they consult with radon experts.

The EPA considers radon levels below 4 pCi/L in air and below 10,000 in water acceptable. 2,000 for NH water.

The broker or salesperson is governed by the laws of disclosure, and if radon information that the buyer should be made aware of is known by the broker or salesperson, it should be disclosed..

5) 21-E: Underground Oil Tanks

Explain the basics of 21E laws:

Massachusetts General Law Chapter 21E (MGL c 21E), known as the state superfund law, was enacted in 1983 and rewritten in 1993 to expand the private sector's role in clean up activities.

Chapter 21E gives the Department of Environmental Protection (DEP) the task of ensuring permanent cleanup of oil and hazardous material releases, determining who is legally responsible for them and requiring those parties to do the work or reimburse the Commonwealth for cleanup costs.

To assist in this program, a new state license has been created, Licensed Site Professional (LSP). An LSP is an environmental expert, licensed by an independent Board of Registration, who is trained in hazardous material contamination and cleanup, and is utilized to manage cleanup operations.

Many parcels of residential and commercial property have underground storage tanks for storing heating oil. As these tanks age, they often corrode and develop leaks. Such leakage can result in significant damage to the environment as well as significant liability to the property owner. The safest course of action, if you have an underground storage tank is to have it removed, whether it is leaking or not, and have the soil tested. If there is a leak, you can fix the situation before it gets worse. Clean up costs can range from \$5,000.00 to \$200,000 +/-.

Oil tanks can not be abandoned and must be removed if not used.

Insurance companies can have pollution exclusions and provide no coverage.

Buyers should be made aware of any contaminations.

The best protection for consumer is to have 21-E testing performed by an LSP on the property. "Prior to the closing."

Explain new oil tanks laws- Chapter 453 of acts of 2008 (An Act relative to home owner heating safety.)

6) Water Analysis ,Filtering Systems, ground water, Drinking water

All well water should be tested and made part of a contingency on an offer to purchase as well as tested annually.

The typical water test does not test for Arsenic, Lead, VOC's, Oils, PCB's, Petroleums, Gas, Radon, Gross Alfa, etc.....

Basic water test could be \$90-\$140.

Total inclusive testing could be \$800 +/-.

Never tell a buyer that a passing water test indicates no water problems.

Recommend that they consult a water quality expert.

Ground water: Massachusetts is one of only eight states to function under the absolute dominion rule. This rule permits a landowner to intercept groundwater that might otherwise have been available to a neighboring water user and even to monopolize the yield of an aquifer without incurring any liability. All other states have various limitations on groundwater use including some with liability for use and others under court supervision.

Drinking water: is regulated by MA (DEP) (310CMR22.00) Local public drinking water is required to be testing on a regular basis by the supplier. DEP does not regulate private wells, private well regulation is dictated by local boards of health.

Bottled Water: is regulated by the FDA and in Massachusetts it is also regulated by DEP of public health.

7) Mold is naturally occurring and found in every home.

Mold becomes a problem and multiplies when the humidity levels in the home rise above 60% Mold cause respiratory diseases, chronic fatigue and liver cancer, etc.... Within 48 hours Mold will grow on any wet organic material, e.g. Sheetrock, Carpets, Wood . Home owners must address the wet/moldy material immediately by thoroughly cleaning or removal. If you can smell or see mold you need to contact a mold testing company or preferably a Mycologist for proper mold remediation

Don't panic but don't take mold lightly either. Real Estate Agents should inform the clients and customers about any know mold issues and recommend mold experts.

8) Electro-Magnetic Waves

EMF's are electric currents from high power electric lines and known to cause cancers. When a house is close to power lines the buyers could contact the Utility companies or independent testing companies for EMF testing.

The tester will use a gauss meter and provide a milli gauss reading.

A milli gauss reading or more than 2 is considered to be a potential problem.

Have buyers consult with EMF Experts and Utility companies for expert advise.

EMF's are know to cause cancers

9) Wetlands Protection Act:

The Massachusetts Wetlands Protection Act (WPA), MGL c. 131, s 40, implemented by 310 CMR 10.00, sets forth a public review and decision making process, by which certain designated environmentally sensitive areas are to be regulated by local conservation commissions and the Massachusetts Department of Environmental Protection (DEP), in order to ensure maximum environmental protection for environmentally sensitive areas.

The following areas are subject to protection under the WPA: any a) bank, b) freshwater wetland, c) coastal wetland, d) beach, e) dune, f) flat, g) marsh or j) swamp that borders on the ocean, any estuary, creek, river, stream, pond or lake. Also included is land under any of the above listed water bodies, land subject to certain circumstances, this protected area may include and additional radius of 100 feet from the protected area (the so-called "Buffer Zone").

Any activity proposed or undertaken within an area listed above, that will remove, fill, dredge or alter that, is subject to regulation under the WPA and requires the filing of a Notice of Intent (NOI). In addition, activities located within 100 feet of one of the protected areas, which in the opinion of the local Conservation Commission will alter protected area, are subject to regulation under the WPA.

Once it is determined that the WPA applies to the applicants project, the applicant must submit a Notice of Intent (NOI) to the local conservation commission. The WPA statue and regulation proscribes a process and timetable which a project applicant and the local conservation commission must adhere to.

10) Smoke Detector Law:

Effective January 1, 2010, a new regulation relating to the installation and maintenance of certain smoke detectors take effect.

Under the new regulations, owners of certain residential buildings will be required to install and maintain both ionization and photoelectric smoke detectors. While the new regulation does not change the locations where smoke detectors are required, it does require the installation of both technologies in certain locations.

11) Carbon Monoxide Law:

Chapter 148: Section 26F1/2. Carbon monoxide alarms required in certain residential structures:

Section 26F1/2. (a) Every dwelling, building or structure, including those owned or operated by the commonwealth, occupied in whole or in part for residential purposes, that: (1) Contains fossil-fuel burning equipment including, but not limited to, a furnace, boiler, water heater, fireplace or any other apparatus, appliance or device that burns fossil fuel: or (2) incorporates enclosed parking within its structure shall be equipped by the owner with working, approved carbon monoxide alarms in conformance with the requirements of the board of fire prevention regulations.

References:

www.epa.gov

Massachusetts real estate principals and practices, edition 6.0 Author: Peter Regan and Arthur Neuner
Massachusetts Real Estate Principals, practices and law. Author: Robert Sayer
