



Remediation and Redevelopment Program January 2023

Guidance: Environmental Contamination & Your Real Estate

Wis. Stat. ch. 709

Purpose: The purpose of this guidance is to help property owners understand the impact contamination may have on the market value of their property and the legal obligations they have should the property be sold in the future.

Contamination may impact the market value of your home or property. The good news is that effects of environmental contamination – human-made or naturally occurring – can be managed. For example, in homes where radon gas is an issue, a special ventilation system can be installed to keep the gas from collecting inside the home. Such systems are widely used and generally viewed as an acceptable remedy to this naturally occurring toxic gas. Similar systems or other remedies exist to mitigate contaminants caused by human activity (e.g., vapors from petroleum or chlorinated solvents).

If contamination exists at a property, owners should know that if they sell their home or land in the future, they may be required by Wisconsin law to disclose certain conditions about the property.

As a seller, what am I required to disclose in Wisconsin?

If you own real estate in Wisconsin and are planning to sell, state law requires you to disclose any “defects,” as defined in Wis. Stat. ch. 709 that would:

- Have a significant adverse effect on the value of the property
• Significantly impair the health or safety of future occupants of the property
• Significantly shorten or adversely affect the expected normal life of the premises, if not repaired, removed or replaced

Market Value is the price at which a home will sell within a reasonable period of time and is determined by the buyers in the marketplace at the time a homeowner is offering to sell. When you’re ready to sell your home or property, consider working with a licensed real estate broker and/or lawyer to assist with selling any real property, including the process of setting a value.

How do I meet the disclosure requirement?

The disclosure process varies by property type (e.g., residential, commercial, vacant land). Standard real estate forms are available to help owners of residential property and vacant land comply with legal disclosure requirements. Pre-purchase investigations and broker disclosure duties in commercial real estate transactions are typically rigorous and should identify environmental issues.

1. The Residential Real Estate Condition Report Form includes questions regarding fuel storage tanks located on the property; unsafe concentrations of radon, radium, lead and other potentially hazardous substances on the premises; and unsafe concentrations or conditions related to hazardous or toxic substance on neighboring properties. See Wis. Stat. § 709.03.
2. The Vacant Land Disclosure Form includes questions regarding material violations of environmental rules; the presence of underground storage tanks; subsoil conditions that would increase the cost of development; and the presence of brownfields or other contaminated land on the property. See Wis. Stat. § 709.033.

What information is my real estate professional required to disclose to potential buyers?

State law requires listing brokers to inspect the property and to “make inquiries of the seller on the condition of the structure, mechanical systems and other relevant aspects of the property” (Wis. Admin. Code § REEB 24.07(1)(b)). State law also requires listing brokers to disclose all “material adverse facts” discovered in a broker’s inspection or disclosed by the owner, in writing, in a timely manner. *See* Wis. Admin. Code § REEB 24.07(2); Wis. Stat. § 452.133(1)(c). This requirement includes other property types in addition to residential and vacant land, such as commercial property.

Find contaminated properties online

Information about contaminated properties and other activities in Wisconsin is available on the DNR’s web-based mapping system (RR Sites Map) and online database (BRRTS on the Web) at

<https://dnr.wisconsin.gov/topic/Brownfields/WRRD.html>.

This database includes properties where contamination exists, but threats to public health, safety, welfare and the environment are controlled by requirements such as land use restrictions, vapor mitigation systems, engineered caps, asphalt covers, etc.

Registered tank database

The Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) maintains a list of registered storage tanks. Go to datcp.wi.gov and search “Storage Tank Database.”

For more information

Specific questions regarding Wisconsin real estate disclosure laws should be directed to independent legal counsel. This broad overview on real estate disclosure is not a substitute for receiving situation-specific professional advice. Sellers and buyers of real estate should obtain assistance from a licensed real estate broker and/or an attorney if they have questions about their legal rights and obligations in specific real estate transactions. Professional assistance with environmental investigation is also strongly recommended. Chapters 709 and 452 of the Wisconsin Statutes clarify disclosures by owners of real estate and real estate practice requirements. Chapters REEB 11-25 of the Wisconsin Administrative Code contain the Real Estate Examining Board’s rules related to real estate practice requirements.

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