

SECTION

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The Record BUSINESS

TUESDAY, JUNE 17, 2008

THE MARKET

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B-4 THE RECORD

BUSINESS

TUESDAY, JUNE 17, 2008

ASK A LAWYER

Gasoline in the soil: two long-term worries

Q. My property was contaminated by spills from a neighboring gasoline station. Am I liable for cleanup, and what concerns should I have?

It is common for underground storage tanks at gasoline service stations to leak and contaminate the soil and groundwater beneath a property. The contamination could migrate underground onto your property. Under federal and New Jersey law, a property owner is not held liable for contamination that "mi-

grates" from an off-site source. Despite the property owner's not being liable for cleanup costs, there are two issues that should be considered: (1) the incremental costs incurred to manage the contaminated soil/groundwater during any future site development and (2) vapor intrusion.

Site development typically calls for subsurface construction work such as the installation of footings and excavation of soils for basements or utilities. To construct these features, excava-

tion often extends to a depth of 5 to 15 feet below ground. If contaminated soil is encountered, it may need to be disposed of off-site at a greater cost than if the soil was not affected.

Further, if the groundwater table is high and dewatering the excavation is necessary, the conventional dewatering equipment may need to be supplemented with a remedial system that treats the contaminated groundwater.

Vapor intrusion is another

commonly encountered problem arising from subsurface contamination. Vapor intrusion is the process by which chemical compounds enter a building's indoor air space after evaporating from underlying contaminated soil or groundwater. The vapor typically migrates through utilities, sump pumps or cracks in the foundation.

The main concerns with toxic vapor are the long-term health effects from exposure. Any one of a number of venting systems

can be installed in existing residences or as part of the development to help address this concern.

If you believe your property may have been or is being adversely impacted by an adjacent property, you should consult your legal adviser to assess the situation and make an informed decision as to whether it is appropriate to seek legal recourse.

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ment of Cole, Schotz, Meisel, Forman & Leonard PA, the largest law firm in Bergen County. He can be reached at deilender@cole.schotz.com or 201-525-6205. This column is not intended to be legal advice, which can only be given after the attorney understands the facts of a particular matter and the goals of a client.

Do you have a business question for a lawyer? Send it to BusinessNews@northjersey.com.