



KIDDIE COLLEGE CASE - NJ COURT ASSESSES MAJOR DAMAGES AGAINST PRIOR OWNER AND REALTOR

A manufacturer abandoned a contaminated thermometer plant in New Jersey, and a Realtor later bought the property at tax sale and then sold the site, after not following his lawyer's recommendation to complete professional environmental due diligence. Last week, the manufacturer was ordered to pay four million dollars in damages, and, to share in the two million dollar remediation of the site which became a day care center called Kiddie College, in Gloucester County, New Jersey.

The Realtor, who had previously settled the case for one million dollars, now is seeking to recoup legal fees from the Township involved, saying the municipality failed to warn that the building was contaminated before selling it at a tax sale. The Realtor was recently ordered to pay more as well. Previously, the New Jersey Department of Environmental Protection and the Township were ordered by a court to pay for children's health monitoring.

This is the second major case in New Jersey, where contamination left behind has resulted in parties being required to pay major cleanup costs, many years later. Last month, there was a settlement related to a Gloucester City site where radium materials, from historic production of lantern mantles, were left in the ground in southern Camden City and Gloucester City. Cleanup is being undertaken by EPA. A company had tried to avoid liability by moving assets and going through bankruptcy. It did not work.

The Kiddie College case received national attention, as a child care center had opened in a known thermometer factory where mercury was used, during thermometer production. The trend continues to be that those purchasing property and Realtors, should follow appropriate due diligence procedures, otherwise, there can be substantial penalties later, plus the cost of cleanup. Those avoiding cleanup of contaminated sites are almost always found liable.

Let's all hope that parties involved in industrial real estate transactions follow the advice of their attorneys, and deal with obvious liabilities, when buying or selling properties which have a known industrial past.

- Gary Brown

(Excerpts from article by Jan Heffler - *Philadelphia Inquirer* - June 2, 2014)



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