



Point of sale contamination awareness

What's the issue?

Contamination at former industrial and commercial properties can affect adjacent homes and businesses. This can happen when contaminated groundwater makes its way to a drinking water well or vapors from contaminated soil or groundwater travel through soil and make their way into a home or building (known as vapor intrusion). When contamination in soil or groundwater moves to adjacent properties, state or federal agencies will contact property owners requesting access to test in homes or businesses. The decision to grant access is the property owner's, but for various reasons not all of them grant access.

There are health risks from vapor intrusion or drinking water contamination, but a buyer is only aware of this request, and potential impact to their health, if the seller informs them. Currently there is no requirement to disclose to a buyer that a property has drinking water treatment or vapor mitigation systems installed. In addition, there is no requirement that a buyer be informed that testing for potential contamination of a property was requested but the owner did not grant access or do the testing.

Over the past few years a number of Minnesota residences or businesses have had mitigation or treatment systems installed. The property owner at the time of the investigation is aware these systems are installed to protect occupants from contaminated drinking water or vapor intrusion. In order to provide protection, these systems need to continue to be operated. New property owners with such systems must be informed why it's important to continue operating them. The best way for this to happen is for the seller to inform a buyer of the issue. If the new owner does not know of this requirement, the systems may stop operating and potentially expose people to contamination above protective health levels.

What we propose

We are proposing sellers of property be required to provide to buyers written disclosure of:

- 1) A drinking water treatment system installed on the property that must be maintained to remove environmental contaminants from the drinking water
- 2) A vapor mitigation system installed on the property that must be maintained to prevent environmental contaminants from entering air inside a building.

Left: Example of a vapor mitigation system.

Right: Demonstrates a properly functioning system.



The disclosure must include information pertaining to contaminant testing at the property and vapor mitigation or drinking water treatment systems, including system descriptions and documentation. This provision is needed to make sure future property owners are aware of the need to continue operating these systems to protect occupants of the building.

We are also proposing that when a property owner denies access for testing or to complete measures (mitigation or other environmental cleanup work) necessary to protect public health:

- 1) the seller provide written notice to the buyer of requests for access to conduct testing or complete necessary measures to protect public health
- 2) the state must file an affidavit with the county recorder or registrar of titles that access was requested and the testing, mitigation or other environmental cleanup work requested was not completed.

This provision is needed to make sure that future property owners are aware of potential unresolved environmental or health issues on the property. The affidavit would serve as a marker when title examiners review files before closing on a sale of a property. It provides an extra level of protection for a buyer.

For more information

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