

AC 682  
8-29-05

**FAIRVIEW PLAZA OF SHAWANO LLC**

1444 E. GREEN BAY STREET  
SHAWANO, WI 54166

Phone – 715-524-7040

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August 25, 2005

Mr. Tom Sturm  
Hydrogeologist – Northeast Region  
Remediation & Redevelopment Program  
Wisconsin Dept of Natural Resources  
647 Lakeland Road  
Shawano, WI 54166

RE: Fairview Mall, 700 – 750 E. Green Bay Street

Dear Tom,

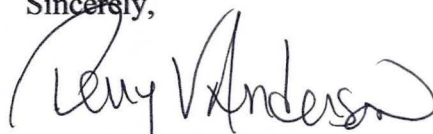
Thank you for meeting with me to discuss the environmental concerns on the above named property. Based on this meeting and subsequent phone calls we are formally requesting from your office a General Liability Clarification Letter relative to this property.

We have an accepted offer to purchase this property and both us and the Bank that is financing the purchase would like to know the following:

1. Based on the existing reports, tests done to date and your knowledge of this general area what the most likely resolution of this problem will be. If you could include estimated costs it would be appreciated.
2. What is the liability of the Bank financing the purchase?
3. What is our liability as purchaser versus the current owner till the case is closed?

Enclosed is a check for \$500.00 for this letter. Thank you for your assistance in this matter.

Sincerely,



Terry V, Anderson, Agent

**S Sturm, Thomas J**

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**From:** Sturm, Thomas J  
**Sent:** Friday, March 05, 2004 10:44 AM  
**To:** Renville, Joe W  
**Subject:** RE: Liability Question

Thanks--I will let him know.

-----Original Message-----

**From:** Renville, Joe W  
**Sent:** Friday, March 05, 2004 10:40 AM  
**To:** Urben, Bruce G; Sturm, Thomas J  
**Subject:** RE: Liability Question

*spill reported*

Yes, the new owner is the rp by possession of the property. Does not matter that the contamination was present - as Bruce says, we do not know who the causer is. *- What would it take to know who*

*- Beyond a reasonable doubt -* *causer is!*

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-----Original Message-----

**From:** Urben, Bruce G  
**Sent:** Friday, March 05, 2004 10:28 AM  
**To:** Sturm, Thomas J; Renville, Joe W  
**Subject:** RE: Liability Question

Help me here Joe.....I think the answer is yes.....unless we know who the causer was!  
Urbs-

-----Original Message-----

**From:** Sturm, Thomas J  
**Sent:** Friday, March 05, 2004 10:26 AM  
**To:** Urben, Bruce G; Renville, Joe W  
**Subject:** RE: Liability Question

Even if we know that the contamination was present before the transaction took place, i.e that the new owner did not cause it?

-----Original Message-----

**From:** Urben, Bruce G  
**Sent:** Friday, March 05, 2004 10:21 AM  
**To:** Sturm, Thomas J; Renville, Joe W  
**Subject:** RE: Liability Question

OK..Here is my counsel.....Yes the purchaser would be responsible according to DNR Statutes....because we (DNR) do not have any knowledge that the release was caused by the previous owner or the one before that or...etc.all we know is that it is contaminated now...so...we would need to hold the person, firm or Corp who possess the property as responsible.

The letter the attorney drafted is only as good as the agreement between the purchaser and the seller. DNR would NOT enforce the agreement between purchaser and seller!

Urbs-

-----Original Message-----

**From:** Sturm, Thomas J  
**Sent:** Friday, March 05, 2004 10:06 AM  
**To:** Renville, Joe W; Urban, Bruce G  
**Subject:** Liability Question


Joe and Bruce:

I recieved a call from a potential buyer of a property in Shawano that tetrachlorethylene was discovered in the groundwater believed to be a result of a drycleaner that was on the property (late 80's) prior to the current owner purchasing. His attorney has drafted a letter that indicted that the seller would be liable for the cleanup after the sale.

He asked if that letter would also relieve him from liability regarding the DNR. I told him probably not because he would be in possession and control of the substance and would need to take civil action if the seller would refuse to do the cleanup. Please verify that this is correct. I told him I would run this by you as I am always uncomfortable in making these determinations.

I suggested that perhaps an escrow would be something to consider. It does not appear that the seller or buyer would be eligible for DERF money. I also told him if he wants something in writing he would need to submit the required fee for a liability clarification letter.

--Tom

 **Tom Sturm**  
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Remediation and Redevelopment Program  
Wisconsin Department of Natural Resources  
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"We abuse land because we regard it as a commodity belonging to us. When we see land as a community to which we belong, we may begin to use it with love and respect." --Aldo Leopold