

KTJ

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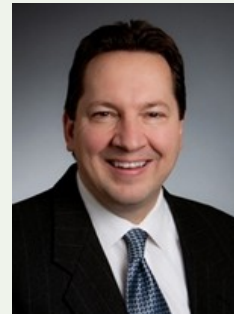
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MUNICIPAL LAW E-NOTE

Municipal Authority to Investigate and Remediate Abandoned and Unsafe Contaminated Property

The corporate authorities of each municipality may remove or cause the removal of, or otherwise environmentally remediate hazardous substances and petroleum products on, in, or under any abandoned and unsafe property within the territory of a municipality. In addition, where preliminary evidence indicates the presence or likely presence of a hazardous substance or a petroleum product or a release or a substantial threat of a release of a hazardous substance or a petroleum product on, in, or under the property, the corporate authorities of the municipality may inspect the property and test for the presence or release of hazardous substances and petroleum products. Property is considered "abandoned" if the property has been tax delinquent for 2 or more years and is unoccupied by persons with legal possession. "Unsafe" means property that presents an actual or imminent threat to public health and safety caused by the release of hazardous substances. Before entering the property, the municipality must obtain a court order. The hearing upon the application to the circuit court will be expedited by the court and will be given precedence over all other suits.



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The cost of the inspection, testing, or remediation incurred by the municipality including court costs, attorney's fees, and other related costs is a lien on the real estate; except that in any instances where a municipality incurs costs of inspection and testing but finds no hazardous substances or petroleum products on the property that present an actual or imminent threat to public health and safety, such costs are not recoverable from the owners nor are such costs a lien on the real estate. The lien is superior to prior existing liens and encumbrances except for taxes, for the demolition, repair, or enclosure of unsafe and dangerous buildings, and for the removal of unsafe substances from buildings, provided that a notice of the lien is properly filed within 180 days after completion of the inspection, testing, or remediation.