

HB 485 – Residential Property – Sales Contract - with Disclosures

I support bill SB 485 and its companion bill HB

281. These bills will ensure fairness and transparency for the home buyer who may be choosing a home within a half mile limit of a Superfund National Priorities List Superfund Site.

When scientists have determined that a toxic site is hazardous enough to public health the site attains National Priorities List (NPL) status beyond “Superfund Site Status”. NPL status creates government funding for the cleanup of the site and for continuing investigation and monitoring to determine if contamination has extended beyond the site.

There are 26 Superfund NPL Sites in Maryland which can be found by simply typing in Google: “Search for Superfund Sites Where You Live”.

Due to housing shortages developers are building ever closer to these Superfund Sites including in Frederick County, the impetus for these bills. From World War II through the Vietnam era, Ft. Detrick conducted research in biological and chemical weapons. Debris from the experiments were deposited in unlined pits in an area called “Area B”.

Incomplete if any records were kept. Eventually when mitigation was initiated it was determined to be too dangerous to remove most of the contamination. The pits were merely capped and thereafter monitored. Eventually, water leaching from the unlined pits contaminated the groundwater.

It is the contaminated groundwater that is the EPA Superfund NPL Site. As with many landfills, the groundwater (or “plume”) flowed beyond the fort boundaries and into existing neighborhoods and Carroll Creek as well as open land being developed. Currently a developer wishes to build townhouses where the Army Corps of Engineers has found contaminated groundwater beyond acceptable measures for human safety.

This is a situation that is not covered by current disclosure requirements. Isn't it serious enough to warrant notification to the people who wish to buy these townhouses that their home is in proximity to an EPA NPL Superfund Site? Isn't it fair to give sufficient time for the buyer to consider this information so that a decision can be made based on facts?

Inadequacies of Current Disclosure Requirements

THE MARYLAND RESIDENTIAL PROPERTY DISCLOSURE AND DISCLAIMER STATEMENT (MD 10-702), is inadequate to properly inform a buyer that a National Priorities List Superfund Site is within one-half mile of their chosen property. This document only describes hazards on the property but not in the vicinity. Superfund NPL Sites have toxic materials that can spread beyond the Superfund Site boundary via contaminated groundwater (called plumes). This spread may continue outward over time.

Moreover, the current method of disclosing is lacking in transparency because it is provided at the time of closing on the sale for contract. It is easy to miss this information during the flurry of

papers during closing on the contract. Currently there is no requirement that the realtor or seller highlight the presence of a Superfund NPL Site with an addendum and EPA website address.

The current practice can obfuscate the facts. How easy is it for the seller to misrepresent intentionally or unintentionally the level of environmental hazard? What is the enforcement or oversight to ensure that these few lines are even completed? This is unethical.

The purpose of Bills SB 0485 and HB 0281 is to improve the process by increasing transparency by providing notice to the homebuyer that gives the buyer time to digest the information, go to the appropriate EPA website to learn about their particular site and then to decide whether to close on the deal (sale of contact). I believe the home buyer deserves to know this information and I ask you to approve Bill SB 485.

Thank you.

Elizabeth J. Law

Frederick, Maryland