

Environmental Real Estate Services

Chairs & Contacts

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We collaborate with clients to identify, analyze, address, and mitigate environmental risk inherent in the acquisition, management, development, financing, and disposition of real property.

Overview

A primary focus and core area of experience of Post & Schell's Environmental Practice Group is representing commercial real estate investors, such as REITs and private equity real estate funds, as well as real estate developers and property owners. We collaborate with clients to identify, analyze, address, and mitigate environmental risk inherent in the acquisition, management, development, financing, and disposition of real property. We provide sophisticated, business-oriented environmental counseling across a wide range of transactional, regulatory, insurance, and litigation matters to help clients manage environmental risk and maximize investment returns.

Local, Regional, National, and International Client Base

Post & Schell's Environmental Practice Group serves a local, regional, national and international commercial real estate client base, with particular focus on investments in:

- Coastal Gateway Markets, including Boston, New York City, Washington, DC, Miami, and Southern Florida, Texas, and California
- Philadelphia Region
- Lehigh Valley and Western Pennsylvania Regions
- New Jersey
- European and Asian Markets

Legal Services

- Pre-acquisition environmental diligence and risk assessment.
- Negotiation of purchase and sale terms, loan agreements, and other contracts to account for and allocate environmental risk.
- Selection and retention of third-party consultants and development of scopes-of-work tailored to needs of particular transactions.
- Environmental permitting, auditing, and compliance, including stormwater permitting, sewage facilities approval, wetlands mitigation, tank removal, hazardous substances remediation, and other related issues.
- Brownfield remediation and redevelopment counseling.
- Structuring and negotiation of specialized insurance products to address and mitigate environmental risk.
- Pursuit of environmental insurance recovery.
- Development of comprehensive risk management programs.
- Contingent loss assessments for annual financial audits.
- Cost recovery actions to recoup remediation expenses.
- Administrative hearings, appeals, and related representations before state and federal regulators.

- Defense of regulatory violations and enforcement proceedings.

Representative Transactional Matters

- Represented national real estate investment funds in over 50 commercial real estate acquisitions in Tier-1 Gateway and emerging markets. Our work focused on the identification of potential environmental risks in connection with the acquisition, development, and renovation of real property, the evaluation of regulatory compliance obligations and costs, the allocation of environmental liabilities among parties, and the development of comprehensive risk management and environmental insurance programs.
- Provided environmental counseling in connection with regulatory obligations associated with site development projects in New York, New Jersey, Pennsylvania, Florida, Texas, and California.
- Advised investors on requirements to qualify for brownfield remediation tax credits in Massachusetts and New York.
- Negotiated comprehensive environmental insurance programs for several real estate investment fund portfolios, insuring more than 100 real estate assets with each.
- Structured and negotiated guaranteed fixed price remediation contracts for contaminated redevelopment sites.
- Negotiated the transfer of continuing environmental investigation and remediation obligations under the Site Remediation Program for former industrial property in New Jersey.
- Negotiated the allocation of environmental liabilities and remediation obligations in connection with the acquisition and redevelopment of a Superfund Site in Silicon Valley, CA.
- Counseled clients regarding regulatory compliance matters and potential environmental risks and liabilities involved with acquisitions and mergers of multi-national companies in the petroleum, rubber, aerospace, agricultural, pharmaceutical, electrical generation, and technical manufacturing industries.
- Counseled a foreign company on environmental due diligence in the multimillion-dollar acquisition of a heavily regulated precious metal recycling facility. Identified and quantified environmental risks, enabling the client to avoid nearly \$1 million in liability.

Representative Regulatory Counseling Matters

- Counseled a national commercial/retail property owner on the cleanup and redevelopment of a large, historic industrial property in Hudson County, NJ. Sued the former owner/operator to recover \$20,000,000 in cleanup costs.
- Assisted one of the largest owners of commercial and industrial property in the United States, as it subdivided, leased, and sold portions of a large shopping center. Crafted a strategy to satisfy complex environmental requirements in time for sale to national big box companies. Shaped environmental restrictions to minimize impacted parcels, identified existing and historic property interest and negotiated necessary environmental covenants and subordination agreements with them and the government. Quickly re-negotiated documents when the client altered its development plans near closing.
- Represented a client on the redevelopment, sale, and lease of its former naval base. Negotiated with the Navy over which entities were obligated under the BRAC agreements to address newly discovered contamination and risks.
- Advised property owners and tenants regarding applicable regulatory requirements, and negotiated contracts, for asbestos abatement projects in connection with the renovation of historic commercial buildings in Austin, TX, and residential conversion projects in New York and Philadelphia.
- Counseled owners and operators and oversaw the investigation and remediation of a Legionella bacteria outbreak in the water system of a major New York City hotel, under Department of Health oversight.
- Counseled investors and developers regarding applicable remediation requirements in connection with infill development at numerous little "e" designated sites in Manhattan and Brooklyn, NY.
- Negotiated contracts and oversaw the investigation and remediation of major mold outbreaks in two resort hotels in Hawaii stemming from construction defects.
- Advised building owners regarding regulatory and industry standards for building restoration after wet weather/flooding events in lower Manhattan and along the Potomac River waterfront in Washington, D.C. Negotiated related contracts and oversaw the investigation, remediation, and close-out reporting as necessary to satisfy lenders and tenants, and sell the assets without adverse impact on value.
- Counseled developers of numerous Pennsylvania sites regarding investigation and remediation requirements to obtain liability relief under Act 2. Our work involved drafting and recording related UECA Environmental Covenants where required.
- Advised resort owner in Pennsylvania regarding regulatory requirements associated with on-site water treatment facilities and in obtaining necessary discharge permits.