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Asbestos: Why you should still be concerned about it

As real estate investors and professionals, many of us seem to have been lulled into complacency over the issue of asbestos. In the decade after 1986, which is when the Occupational Safety and Health Administration first stated that workers exposed to asbestos are at risk of lung cancer, asbestos was a hot-button topic. Yet today I often hear people say that “there isn’t any more asbestos out there.”

In fact, thousands of properties across Colorado and the region still harbor this dangerous fibrous silicate used in fire-resistant and insulating materials. (The word “asbestos” comes from the ancient Greek for “inextinguishable.”) What’s more, asbestos is not only not banned, but also it is still in use in the United States. Asbestos continues to be a relevant matter to all involved in construction and real estate.

■ **Health Problems Caused by Asbestos.** Asbestos is one of the most widely recognized construction health hazards. In addition to causing asbestosis, a debilitating lung disease, it is also an established carcinogen. It causes lung cancer and mesothelioma and has been linked to other cancers, such as ovarian and laryngeal. It is estimated by the World Health Organization that 43,000 people die each year due to asbestos exposure. Millions more will die in the coming decades, since many years can elapse between exposure and onset of illness.

■ **Asbestos: More Common Than You Think.** According to Baron and Budd, a national mesothelioma law firm, more than 1,000 tons of asbestos continue to be imported by the U.S. each year.



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The chlorine/sodium hydroxide industry uses about half, and the roofing industry uses the other half. About 2 percent – or 21 tons – is unaccounted for.

Not that long ago, the U.S. was importing 800 million tons a year. So it appears that while the building trades in developing countries continue to rely heavily on asbestos, here in the U.S. we’ve largely – but not completely – weaned ourselves of the material in our new building products.

Yet even so, asbestos will be a continuing hazard in maintenance, remodeling and demolition for many years to come. Its 3,000 construction uses have included: floor tile, roofing materials, drywall compounds, gaskets, packing materials, electric insulation, caulking, adhesives, corrosion-resistant coatings, heat-resistant materials, and asbestos cement pipe and sheet – to name a few. Asbestos-containing materials are often found as insulation on heating and air-conditioning systems, as structural fireproofing and as surface coating in acoustical applications.

■ **What’s a Property Owner to Do?** First, understand what you are legally compelled to do. Building owners and managers are required by OSHA to notify all building tenants about the location and physical condition of any asbestos-containing materials. Building owners are

also required to test (with limited exceptions) buildings of any age prior to renovations and demolition. Even buildings built last year usually have to be tested prior to remodeling.

■ **But How Do You Know if Your Buildings Contain Asbestos?** One clue is age. Asbestos use in construction began as early as the 1930s and peaked in the 1970s. In fact, in the 1970s and early 1980s, asbestos was considered a premium building material. After OSHA’s 1986 warning about asbestos’ health hazards, use of the material declined in the U.S., although it can still be found to this day in some construction products. What’s more, asbestos-containing products may have been added to pre-1950s buildings during remodels. So while building age is one clue, it cannot solely be relied on to rule out the presence of asbestos.

The only way to determine with certainty whether or not your buildings contain asbestos is to order an asbestos inspection. Typically Phase I and Phase II environmental audits do not specifically and thoroughly address asbestos concerns, though they may reveal the need for further inspection and testing.

If the asbestos inspection reveals the presence of intact and well-maintained asbestos-containing materials, you may be compelled to do nothing further than notify the building’s occupants/tenants. Asbestos is only dangerous when it is crumbling or breaking into pieces. Resultant airborne particles that are too small to see with the human eye cause asbestos-related disease.

If, on the other hand, the asbestos inspection reveals disturbed asbestos, due diligence will

require that the material be safely mitigated by an experienced and appropriately credentialed asbestos abatement contractor. During renovation, repair, remodeling or demolition, asbestos abatement becomes mandated per federal and state regulation.

Either way, creating an asbestos management plan with the help of an inspection professional will protect your investment and minimize your liability.

And if you are buying real estate, it is better to know the extent of the asbestos material that will ultimately require abatement before you close on the transaction, so that asset value can be better determined. It’s also better that you find this out when you are in the position of buyer rather than seller.

■ **Asbestos in Soils.** In our inspection work, we sometimes find asbestos-contaminated soil. The EPA has determined that even soil and site debris that contain significantly less than 1 percent asbestos can pose an “unreasonable risk to human health.” Whether or not the soil must be removed, however, depends on the use of the property and the likelihood that the soil will be disturbed. Intact and undisturbed asbestos in the ground or on-property does not pose a risk to human health.

As with all real estate business matters, the more you know, the more you can invest wisely and protect your investments. Asbestos concerns will continue for decades to come, so inspecting for asbestos now and creating an asbestos management plan for each of your properties now is a prudent step.▲