

ENVIRONMENTAL LAW

Typical Legal Services

- ◆ **Litigate environmental matters** in state and federal court.
- ◆ **Litigate Superfund (CERCLA) matters.**
- ◆ **Represent clients before New York City Environmental Control Board (ECB).**
- ◆ **Initiate Article 78 proceedings** challenging determinations by government agencies.
- ◆ **Represent clients in permitting matters.**
- ◆ **Prepare and negotiate contracts** for design and implementation of environmental clean-up programs for mold, lead-based paint and hazardous waste, including soil and groundwater contamination, asbestos and underground tanks.
- ◆ **Prepare comprehensive plans** to address potential “emergency” environmental problems before they occur.
- ◆ **Prepare procedures** that address environmental regulatory investigation of companies or individuals.
- ◆ **Develop operations and maintenance plans** to address asbestos, lead-based paint, underground tanks, cooling towers, water contamination, back-flow prevention, mold and indoor air quality issues.
- ◆ **Prepare clean-up plans** in connection with lenders’ refinancing requirements.
- ◆ **Prepare environmental site assessments** in conjunction with environmental consultants and engineers.
- ◆ **Investigate water intrusion and mold conditions** in conjunction with environmental consultants and engineers and oversight remediation.

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Representative Experiences

◆ FAST FOOD RESTAURANT REQUIRED FAST ODOR COMPLIANCE

When adjacent residential property owners blocked alternative solutions for a fast food restaurant to vent its cooking odors, the New York City Environmental Control Board set tight deadlines. These deadlines made compliance a virtual impossibility and made facility closing appear imminent. John E. Osborn P.C., with the assistance of strategic alliance partners, accomplished the delivery and the installation of an electrostatic precipitator (with a typical 14-week manufacturing lead time) over a single weekend, thereby solving the problem and avoiding shutdown of the restaurant.

◆ VIOLATION OF LEAD-BASED PAINT NOTIFICATION REQUIREMENTS SETTLED WITHOUT FINE

A large residential management company was spot-checked for compliance with HUD Lead Based Paint Notification requirements. Although lead hazards were absent, compliance with paper work requirements was deficient at one building, and the management company faced fines well in excess of \$100,000. We retained an environmental consultant to prepare a comprehensive Paint Maintenance Plan for the management company to follow at all of the properties it owned and managed. The violation was settled without a fine.

◆ NOISE CODE VIOLATIONS RESOLVED BY NYC TELECOMMUNICATIONS HOTEL

When massive air conditioning systems that cooled file servers at a telecom hotel exceeded regulatory noise limits, residential building owners living across the street and down the block contacted New York City inspectors. Violations were issued. Our firm was retained by the building's owner to handle negotiations with the tenant and violations issued by the New York City Environmental Control Board. Arrangements were made for community members to hold off further action until the tenant remedied the noise violation as required by its lease. Successful resolution was reached. The tenant paid to retrofit equipment, which cost in excess of \$2 million, thereby addressing the problem and avoiding further violations.

◆ COMPLEX PHASE I ENVIRONMENTAL ISSUES ADDRESSED IN REFINANCING AUTO DEALERSHIP PROPERTY

When a Westchester auto dealership started to refinance its property, the lender required a Phase I environmental investigation at the borrower's expense. The lender required that all issues raised by the report be remedied before approving the refinancing. John E. Osborn P.C. was retained to oversee the implementation of the Phase I environmental investigation and then to review the findings with the lender's attorneys. Complicated issues relating to hydraulic lifts (governed by US EPA laws and regulations relating to underground injection control systems), asbestos, underground tanks, and potential ground water contamination were addressed effectively, and environmental impediments to the loan process were cleared.