



Apartments and Condominiums

Apartment buildings and condominiums are a breeding ground for many environmental risks. Exposures include Indoor Air Quality and Sick Building Syndrome, pollutants such as mold, legionella, asbestos and lead, and the use and storage of chemicals and cleaners like those used for pools and ground maintenance. General Liability policies contain exclusions that can leave owners with significant coverage gaps to respond to cleanup claims and environmental torts from pollution exposures. Site Pollution Liability Insurance, also known as Premises Pollution Liability (PLL) or Environmental Impairment Liability (EIL), is designed to cover claims arising from bodily injury and property damage, and cleanup stemming from pollution releases at, on or emanating from scheduled locations.

Environmental Exposures May Include

- Older buildings may contain asbestos. Asbestos-containing material (ACM) may be present in duct insulation, piping, furnaces, boilers, tank and fireproofing insulation. ACM may also be present in ceilings, walls, flooring tile and mastic. Leading tort claims may result from inadvertent disturbance or alleged exposure during renovation, construction or interior remodeling.
- Lead could be present in paint or pipes. Lead in pipes can get into drinking water, and paint chips and dust from lead based paint can be ingested. Exterior lead based paint can also leech into soil around the structure. Lead exposure can cause significant bodily injury including brain damage, nervous system problems, learning disabilities, reproductive issues (including miscarriage or still-birth), digestive issues and muscle and joint pain. Extremely high levels of lead can cause anemia and affect kidney function, and can damage the nervous system bad enough to lead to seizures, coma and death.
- Bacteria such as legionella and mold/fungi can be transported through water sources, ventilation systems and other means and can represent serious health risks. Legionella is a bacterium that causes a form of potentially fatal pneumonia. Legionella can thrive in water containing systems like large air conditioning systems, water heating systems and industrial water cooling systems. These pollutants have the potential to lead to claims of severe bodily injury or significant remediation costs.
- A growing problem for owners/landlords/managers is methamphetamine manufacturers who move frequently and often leave behind contaminated property. The hazardous chemicals that are used to make meth, and the chemicals which are a produced during the manufacture of the drug, can seep into floors, ceilings, walls and duct work, and can remain for years.
- Indoor air quality can pose significant environmental risks in multi-family apartment buildings and condominiums. Along with asbestos, lead-based paint, mold and bacteria, there are many other risk exposures that can contribute to a potentially unhealthy indoor environment, including formaldehyde from fiberboard, glue or other building materials; nitrous dioxide from gas stoves, space heaters and gas dryers; carbon monoxide from unvented kerosene and gas space heaters; leaking chimneys and furnaces; radon; pesticides; and various volatile organic compounds.
- Sick Building Syndrome, which has been identified as a specific matter of concern since the 1970s, refers to a situation where building inhabitants suffer from health problems that occur and are aggravated while in a building. Sick Building Syndrome is often attributed to poor design or maintenance or a building's faulty ventilation system. Chemical contaminants, including combustion products such as carbon monoxide and nitrogen dioxide, and biological contaminants such as bacteria, molds, pollen, and viruses can be contributing factors to Sick Building Syndrome.
- Illicit abandonment, also known as midnight dumping, is the illegal dumping of pollutants on your property or job site. It can become the burden of the property owner for cleanup and third party bodily injury or property damage if law enforcement cannot find the originator of the waste.
- Above and below ground storage tanks are frequently utilized to store potential pollutants such as fuels, heating oil, lubricants and chlorine or other pool additives. Smaller volumes of materials, such as cleaning agents and pesticides, herbicides and fertilizers used for landscaping activities are often stored or used onsite. Pollutants can migrate to neighboring properties from leaks or surface water run-off.

Environmental Pollution Liability Can Provide Coverage For

- On-site cleanup of new and preexisting pollution conditions
- Off-site cleanup of new and preexisting pollution conditions
- Third-party claims for bodily injury and property damage
- Third-party claims for cleanup
- Defense of third-party claims
- Both sudden and gradual pollution conditions
- Mold, bacteria, legionella and more
- Aboveground and underground storage tanks
- Business interruption resulting from pollution conditions
- First and third party transportation pollution liability
- Illicit abandonment
- Non-owned disposal sites
- Asbestos and Lead

Claims Scenarios & Examples

- In the course of selling an apartment building, the owner of the apartment building performed a Due Dilligence test and learned that an underground plume of contaminants from a nearby property had impacted their site, resulting in vapor intrusion into several of their buildings. Unfortunately, the source of contamination was an orphaned site, so the owner of the apartment building had to pay the entire cost for the vapor mitigation system and faced the possibility of future bodily injury claims from tenants.
- A multi-story building with retail space and apartments had extensive mold growth throughout the building. The cause was alleged to be improper maintenance of the building's HVAC system. The previous and current tenants sued the building owners, who agreed to remediate all the contaminated space. They also agreed to pay for legal fees, temporary housing and business interruption, along with the reimbursement of personal property that was damaged and medical expenses. In addition, they paid a lump sum payment of several thousand dollars to each resident. The building owners were out more than \$10 million after all was said and done.
- Two residents at a condominium complex contracted Legionnaire's Disease. An investigation was done and found Legionella in the complex's water supply. Residents that were high risk (over 50 years old or with an underlying condition) were advised to take caution while the complex worked on remediation.
- Twenty-three women, many of which were students at a university, were sickened by a carbon monoxide leak at an apartment building that was off-campus. Five of the women were hospitalized, and their apartment building was cordoned off after tests and showed potentially lethal levels of the gas. Authorities believed the leak was caused by a faulty valve on a hot-water heater in the women's laundry room. They found that the relief valve was stuck open, which forced the appliance to constantly burn fuel in an attempt to heat the water. Unfortunately, this event occurred just one year after someone was killed and dozens more sickened in a similar incident at another college when a water heater caused a carbon monoxide leak there.
- Almost 1,800 gallons of heating oil spilled in an apartment complex utility room and seeped into the floor drain and into a storm basin. After experiencing a heavy rain storm, the oil flowed downhill into an apartment parking lot and playground.
- Fertilizer was applied to the lawn at a condominium complex. The fertilizer migrated offsite and into the pond on a neighboring property. It cost over \$50,000 to restore the pond.
- A condominium community leased out some of their retail space to a dry cleaning business. When the dry cleaner went out of business, they left, and it was later found that they had been dumping solvents down the drain. As a result, the pipes were eroded and the chemicals were released into the nearby soils and groundwater. The condominiums had to cover the cleanup costs that exceeded \$1 million.
- A new owner of an apartment complex discovered that the apartment was built on previously contaminated property. The site used to be home to a gas station. Prior to construction of the apartment complex, the underground storage tanks were removed, and 22,000 tons of contaminated soil was excavated. A No Further Action letter was received from the state prior to the sale; however, several years later, the owner received a letter from the State's Department of the Environment (DOE) explaining that the case had been reopened. They required the owner to hire an environmental consultant to review the details of the past cleanup activities due to new groundwater and soil vapor regulations. The review was submitted to the DOE who determined that additional sampling of the groundwater and soil vapor would be needed. The DOE required two additional wells to be installed and sampled on a quarterly basis. Costs exceeded \$93,000.
- After an apartment unit was vacated, the owner of the building discovered that the renter had left behind an illegal meth lab and related chemicals. The renter could not be located, and the landlord was left with the responsibility for the cleanup. The owner not only had to cleanup the contaminants that had been released into the room, but also had to pay to remove the leftover chemicals that were still in containers. Cleanup and disposal costs were in excess of \$100,000.
- Several families sued the landlord of an apartment complex after living in unheated, mold-infested units. The families claimed that the apartments were leaky and mold was thick. Along with this several alleged that they developed asthma, while others alleged chronic sinusitis and upper-respiratory problems, all from living in these conditions. The lawsuit went to the state Superior Court, and the 12 families received \$1.3 million as part of the settlement.
- A property management company was sued by the Air Quality Management District. The property management company allegedly used unqualified workers to remove asbestos from an apartment complex, and the workers didn't protect themselves or residents from asbestos exposure. The property management company settled the suit for \$300,000.

Final Consideration

As a property owner you can be faced with the cost to defend yourself against allegations or legal action from pollution related events, regardless if you are at fault or not. Having the proper insurance coverage in place will help fund the expenses incurred to investigate or defend against a claim or suit and provide you with environmental claims handling expertise.

This environmental risk overview has been developed by Environmental Risk Professionals on behalf of J. Loos & Associates. It is intended to provide the reader with a broad range of potential risks they may encounter and may not reflect all risks associated with their business. To verify available insurance coverage, please consult your insurance representative.

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