

Value Assurance Programs and Environmental Contamination: Assessing the Impact

Compared to costly, drawn-out litigation, VAPs may in certain cases be the most efficient option.

By Orell C. Anderson, Louis Wilde, and Alexander R. Wohl

Share this:



Following the discovery of contamination, owners of real property located on or near the contamination may claim that their property values have been diminished because of the contamination. During the past few decades, the potential for large losses in real property values and the threat of resulting litigation have motivated the development of various risk-management mechanisms (RMMs). The largest and most well-known of these is the Superfund program, which serves as a federal environmental insurance

program. There also exist private markets for environmental insurance, typically targeted at institutional real estate investors in commercial and industrial markets.

This article addresses a third type of RMM known as value assurance programs (VAP). *See* Jerry M. Dent II & Christina M. McLean, *Value Assurance Programs: An Alternative Response to Property Value Disputes*, 20 *Envtl. Litigator* (Spring 2009). VAPs, which defendants have used in litigation for years, are usually implemented by government agencies or private companies faced with the potential for multiple property value diminution claims from owners of residential property surrounding manufacturing or industrial facilities. Each program differs based on its design and implementation, but the general idea behind any VAP is a guarantee to compensate qualifying property owners for the difference between the actual selling price of their property and the market value of their property if it were unimpaired. When successful, these programs may lessen homeowner concerns about property value losses and help resolve disputes motivated by the fear of precipitous drops in home values. However, VAPs may cause price declines that could be misinterpreted as an indication of property value diminution due to environmental contamination.

LAWPAY
AN AFFINIPAY SOLUTION

IT'S FUN TO GET PAID!

Let us show you how LawPay can help your firm.

PAYMENT
RECEIVED



mium Content For:
tion of Litigation

Join - **NOW**

ALREADY A MEMBER? **LOG IN**
→

 American Bar Association |

</content/aba-cms-dotorg/en/groups/litigation/committees/environmental-energy/articles/2018/summer2018-assessing-the-impacts-of-value-assurance-programs>