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Home   Business News   Expert Q & As   Publisher's Watch   Press Releases   Business Directory   The Magazine   Search
Properties   RSS   eNews Service

Expert Q&As

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Q&A: Brian H. Mende, principal of engineering and environmental consulting firm, Partner Engineering and Science, Inc By Jodi LaMarco

This week, metrogreenbusiness.com speaks with geologist and due diligence expert Brian Mende.

What's your background?
I have about 25 years of experience with due diligence and I've worked for a number of companies. I was an environmental risk manager for Citigroup for a total of eight years before joining Partner Engineering in April. My primary responsibilities were to review environmental due diligence work and to oversee investigations on Citigroup-owned facilities. I've done financing on petroleum, on agro-facilities, you name it. If you can lend money on it, it crossed my desk.

One issue that is particularly relevant to developers in New Jersey is due diligence. What's the importance of going through with a proper site investigation?
The Innocent Landowner clause essentially says that if you do your due diligence by a certain standard, the property owners are not responsible for old problems that are discovered. They can go after state funds or federal funds, and they always have the right to seek recourse against a previous owner. As a purchaser of property—if you follow that due level of due diligence—it somewhat insulates you from responsibility.

What if you don't perform due diligence?
If you choose not to do your appropriate level of due diligence, you're taking a gamble that if something is found, you are the responsible party.

Would you say that this is becoming standard practice?
I find that most people today are sophisticated enough that they're going to do some level of due diligence. In many cases, lenders require a certain level of due diligence in order for the client to secure financing. Whenever you get a lender involved, they want to know all of the possible risks.

What's the first major step in evaluating a property?
The first major step is called Phase I, and Partner has a lot of experience with that. Phase I is a non-intrusive investigation that includes a physical walk-through of the property and the identification of potential concerns. Do they have oil drums? Do they store hazardous waste? Have they had any spills on the property? Phase I also includes a historical look at the property. We research all sorts of historical records including newspaper articles, federal databases, and local databases. We also go through historical aerial photographs. We've been able to look at aerial photographs in order to track a pipeline down a road and across a highway to where waste had been pumped out from a factory. We also look at historical topographic maps. Phase I is a fairly intense, non-intrusive—meaning no physical soil sampling—assessment of the property. If we do identify potential concerns on a piece of property, we would then go to Phase II and Phase III investigations.

I've been on the banker's side, and I think a good point to make is that environmental consultants need to look at and understand the nature of the transaction that is taking place. What kind of loan is the client after? What's the structure of the deal coming into the lending institution? That's one thing that a lot of environmental consultants don't understand: Phase I is not just a boilerplate document. Consultants should really understand what their client is after. What kind of deal are they seeking with the institution? Is it a land lease? Is it an actual sale? What's the nature of the transaction itself? Many consultants don't understand that. They'll do a Phase I as a boilerplate document and not try to tailor it to what the client needs or what the lending institution is looking for.

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