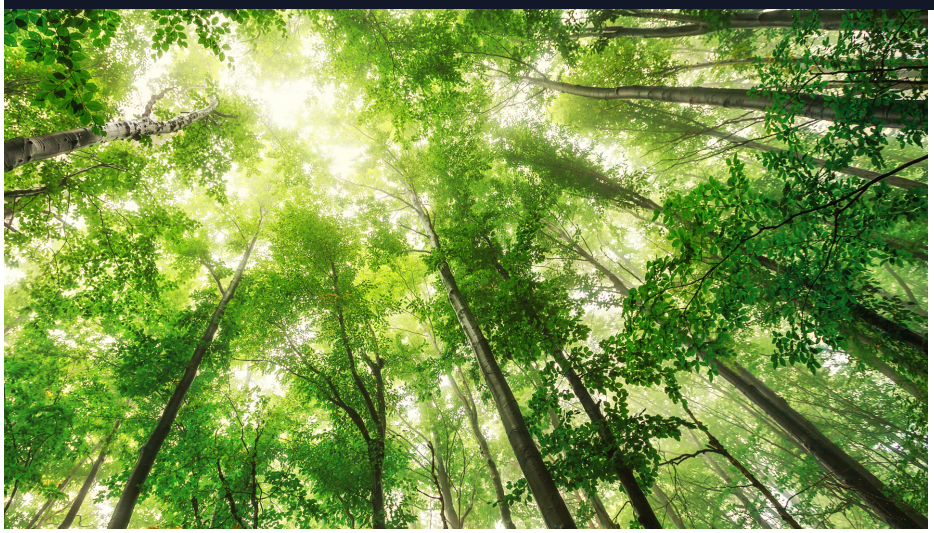
BARNES & THORNBURG LLP



BROWNFIELDS AND ENVIRONMENTAL TRANSACTIONAL DILIGENCE

BROAD REACH

Environmental issues are often one of the key components in business and real estate transactions, and Barnes & Thornburg attorneys assist clients in acquiring and divesting properties despite environmental impacts by historic operations. Whether the concern is dividing environmental liability between the seller and the purchaser or conducting remediation before or after the closing of a transaction, our Environmental Law Department lawyers are experienced with the environmental issues you may encounter.

These environmental concerns should not get in the way of completing your transaction - whether involving a single parcel, assets or stock in a company, or merger. We will work with you to identify the relevant environmental issues and help you resolve them in a manner designed to protect you and assist in closing the deal. Our environmental attorneys who practice in this area not only have environmental expertise and technical backgrounds, but also understand the real-world context of these business and real estate transactions.

We know these transactions often require immediate attention, and so we have created a multi-disciplinary Business/Corporate/Tax, Real Estate and Entrepreneurial Group to respond promptly and efficiently on environmental diligence and related transactional needs. We also have a national network of environmental consultants if clients need site assessment or auditing referrals.

We have represented purchasers, sellers, landlords, tenants, lenders and investors involved in transactions where environmental diligence is critical. We work closely with the firm's other practice groups to evaluate environmental issues for a variety of business transactions. We have conducted due diligence on real estate, corporate and commercial

Why Barnes & Thornburg?

Finding new ways to help clients identify solutions and new business opportunities, across industries, is at our core. We are, at times, more than lawyers, we are advisers bringing new ideas to light. We understand what keeps you up at night and work collaboratively to find practical and creative solutions, at the heart of business.

RELATED PRACTICES

Environmental

transactions, mergers and acquisitions, industrial properties, purchases and sales, and corporate restructurings. We work with our clients and, where appropriate, with environmental consultants to minimize environmental liabilities - all while keeping the clients' business priorities and goals in mind.

Knowledgeable in environmental aspects for all phases of business and real estate transactions, we work with clients regarding:

- 'All appropriate inquiry' and other environmental due diligence site investigations
- Audits scoping (including privilege considerations) and evaluation of regulatory compliance and potential liabilities of target companies
- Review and compliance with transaction-triggered laws, such as responsible property transfer disclosures
- Spill reporting obligations to government agencies analysis arising from present day discovery of pre-existing environmental contamination
- Potential vapor intrusion pathway assessment and working with environmental consultants to develop appropriate criteria and options to address this pathway
- Historic insurance policies archaeology and recovery to help fund prior contamination investigation and remedial costs
- Drafting and negotiation of environmental contract language, such as representations, warranties, indemnities and definitions
- Environmental permit compliance status and transfers
- Environmental management systems and audit privilege programs creation and implementation to promote and track ongoing compliance post-closing
- Federal, state and local incentives and financing availability under Brownfields and similar programs
- Avenues to eliminate or minimize liability after purchase, including qualifying for and monitoring status of bona fide prospective purchaser
- Post-closing environmental due care and continuing obligations
- Restrictive covenants, deed restrictions and similar land issues
- Remedial costs estimates and establishing escrow accounts to fund post-closing future remedial expenses
- Lender liability environmental assessments in conjunction with commercial loans, mortgages, foreclosures and receiverships
- Pollution legal liability and cost containment cap insurance coverages to mitigate environmental claims post-closing and supplemental indemnities

Brownfield Redevelopment

Successful Brownfield redevelopment projects require integrating various legal disciplines, including environmental, real estate, business, tax, government services/incentives and insurance recovery. Our environmental lawyers therefore work closely with other Practice in the firm, including the Real Estate, Insurance Recovery and Counseling and Government Services departments. Through this inter-disciplinary

approach, we provide legal and lobbying support for land use planning and development, real estate acquisition and disposition, public and private infrastructure finance, environmental remediation, regulatory compliance, Brownfields redevelopment, and developing and implementing land use approval and infrastructure financing strategies. Barnes & Thornburg is uniquely positioned to provide turn-key legal support in all of these areas.

Examples of our Brownfields and environmental transactional diligence include:

- Successfully negotiated the first 'bona fide prospective purchaser' status agreement ever entered by Indiana Department of Environmental Management (IDEM) on behalf of client purchasing property with known contamination.
- Advised Blackland Group, LLC on environmental issues in acquisition of Skokie, Ill., metal fabrications facility, including sorting out unclear advice from environmental consultants retained by client and counsel on environmental issues delaying transaction. We advised on applicable law, technical guidance through alternative consultant, and created plan of action that both ensured regulatory compliance and removed obstacles to transaction Closing.
- Representation of Town of Speedway, Ind., and Speedway Redevelopment Commission in connection with ongoing major redevelopment project involving approximately 500 acres of land historically used for many decades for industrial purpose; assisted client with obtaining EPA investigation grants and worked closely with industrial landowners, private developers, and various governmental agencies to obtain necessary approvals, as well as developing creative financing arrangements, including TIF financing, to facilitate funding for $500 million project.
- Served as national environmental counsel for a Brownfields redevelopment company with projects in several Midwest states.
- Advised public university under Ohio Brownfield program from project initiation to completion for development of emergency medical training facility in coordination with local municipality.
- Represented numerous cities and counties in connection with pursuing former potentially responsible parties (PRPs) and insurers responsible for contaminating city well field, redevelopment of Superfund sites, purchasing and acquiring property contaminated with petroleum and chlorinated hydrocarbons, defending claims by U.S. EPA and other PRPs in connection with Superfund liability for old county-operated landfill, legal opinions regarding potential environmental liability arising from acquisition of Brownfield properties, and developing creative financing strategies and related development issues.
- Advised aerospace component manufacturing company on environmental issues in acquisition of East Hartford, Conn., precision-machined component manufacturer; including retention of environmental consultants and oversight of environmental site investigations, managing environmental due diligence, and negotiating environmental aspects of transaction documents. In addition, we evaluated seller compliance with Connecticut Property Transfer Law regarding investigation and remediation of environmental issues.

- Coordinated and provided legal advice for environmental diligence on numerous acquisitions and divestures for manufacturing and commercial facilities throughout Ohio.
- Successful negotiation for transfer of Brownfield redevelopment tax credits provided under Michigan law to foreclosing financial institution.

Many members of our Brownfields and Environmental Transactional Diligence Group have organized, written for, and spoken at a number of Brownfields and remediation seminars with U.S. EPA, state agencies, and trade associations, including the Mid-Western Environmental Consultants Association and various chambers of commerce. Importantly, one of our environmental attorneys participated in drafting and approving ASTM standards relating to environmental due diligence, including the ASTM E 1527 - Phase I Environmental Site Assessments, ASTM E - 1900 Phase II Environmental Site Assessments, ASTM E 2790 - Standard Guide for Identifying and Complying with Continuing Obligations (for CERCLA liability protections), among others.

Practice Leaders



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