

Long Island Ask The Experts: Dry-cleaners and commercial real estate - by Chuck Merritt



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If you ask an environmental consultant which type of operations concern them the most, dry cleaners are usually the top answer. If you search the internet for Hazardous Waste Sites (HWS) in your home state, usually 7 or more out of 10 results are dry cleaners since historically they use a chemical known as perchloroethylene or PERC and it only takes a little bit of the chemical to cause an environmental impact that is expensive to address. Most dry cleaners operate as mom-and-pop establishments typically in a strip center or in a retail space on the first floor of a residential apartment building. For many years, people did not understand the impact these sites were causing to the soil, groundwater and air quality by using this chemical. The current ASTM environmental standard is more stringent than ever when it comes to preparing phase one (1) Environmental Site Assessment (ESA's). Not to say these sites were overlooked with the past standard, but consultants are now

required to look further away from the subject property bringing more sites into play. In addition, the popularity of vapor sampling has demonstrated an alarming number of problem sites that can very quickly become the death knell of commercial real estate.

Unlike operations like gasoline stations that tend to exist in the same location for many years and occupy large parcels, dry cleaners operate in spaces that can be less than 2,000 s/f and close quickly making it harder to identify them. Gasoline stations are also easier to flag on historical Sanborn maps where the cleaners may not be as easy.

Used as a cleaning agent in clothing since the 1930s, dry-cleaners using PERC were not required to have a Resource Conservation Recovery Act (RCRA) permit to handle, store and dispose of the chemicals until the mid-80s' but not all did and government environmental agencies did not always have the resources they have today. Past operations as a dry cleaner can also be difficult to identify through a site inspection once the tenant space is renovated for another user.

The phase one (1) Environmental Site Assessment (ESA's) is a great instrument to identify past dry-cleaning operations, but it does not have the ability to determine if a release has occurred unless previously disclosed by an owner, identified through a database search, internet search en-

gine, or Freedom of Information request with a regulatory agency that may have files. Only the collection of soil, groundwater or vapor sampling (phase 2) can provide that information.

The cost for conducting the sampling can range depending on many factors. Facilities connected to an on-site sanitary system such as cesspools and septic tanks where the hazardous chemicals tend to get captured will be an area consultants may focus on. In addition, properties located in shallow groundwater areas such as the south shore of Long Island tend to have remnants of the PERC in the groundwater even decades after the tenant ceased operations is an area of concern. When a dry cleaner or former dry cleaner is located "nearby" vapor sampling may be included in the scope of the additional investigation.

Addressing a release that has been confirmed can be expensive and time consuming. In years past, The New York State Department of Environmental Conservation (NYSDEC) would accept a dry cleaning release into their spills program no longer handle those releases. Today one must apply to the State Brownfields program or State Hazardous Waste Site (SHWS) department. Both are still administered by the NYSDEC. When vapor issues are discovered under a building or impacting the indoor air the New York State Department of Health (NYSDOH) has a guidance document that out-

lines how to address those scenarios.

Cleaning up drycleaners is possible but data must be obtained (phase 2) to develop a strategy and understand which regulatory agency to approach. Remedies can range from removing and disposing of impacted soil at a development site to treating groundwater in place with bio-organisms to the installation at an existing property to installing a Sub Slab Depressurization System (SSDS) to stop vapors migrating from an adjacent property.

Due diligence is more important than ever to ensure all avenues are explored as a way of determining if a dry cleaner was present in the past and may have impacted the value of the property. The phase one ESA is the road map when a past dry cleaner is discovered. In most scenarios, additional investigation (phase 2) will be required to evaluate the risk. Once the additional data is obtained, the buyer will be equipped with more information to make a business decision about the potential real estate investment. This information will also help a lender considering a loan application as they will also evaluate the risk from their perch. In addition, vetting that the former dry cleaner has not caused any releases in the past can also provide some comfort for a future buyer.

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