

Contamination Claims Against Dry Cleaner Allowed to Proceed in Federal Court

By: Dave Scriven-Young, Attorney at Peckar & Abramson, P.C.

(Originally published at: <http://illinoisenvironmentallaw.blogspot.com/2010/06/contamination-claims-against-dry.html>)

The U.S. District Court for the Northern District of Illinois recently issued an opinion in *Tinaglia Family L.P. v. North Shore Cleaners, Inc., No. 09 C 6031*, which concerned the Plaintiff's commercial and residential property in Glencoe, Illinois. The Plaintiff's property is adjacent to property owned by the Defendants, who operate a dry cleaning establishment on site.

According to the complaint, there has been and continues to be a release of hazardous substances on the dry cleaning property and that the hazardous substances have migrated to adjacent properties including the Plaintiff's property. In 2002, Defendants allegedly hired an environmental consultant to investigate a possible contamination problem. The Plaintiff allegedly signed an agreement providing consent for Defendants' consultant to test the Plaintiff's property. Pursuant to that agreement, Defendants were also required to provide Plaintiff with the results of all tests. According to Plaintiff, Defendants falsely reported to the Plaintiff both orally and in writing that there was no contamination on the Plaintiff's property. The Plaintiff allegedly believed the representations, relied on them, and took no further action to investigate the issue. In February 2008, the Plaintiff allegedly attempted to sell its property, and as part of the sale, the lender required an environmental assessment. The assessment allegedly showed that the Plaintiff's property was contaminated by the hazardous substances that had migrated from the dry cleaning property.

The Defendants moved to dismiss the complaint, which was based on the Comprehensive Environmental Response, Compensation, and Liability Act (more commonly known as Superfund), the Resource Conservation and Recovery Act, negligence, trespass, private nuisance, breach of contract, intentional misrepresentation, and negligent misrepresentation. The Court denied the motion to dismiss and ruled that the Plaintiff had alleged enough facts in the complaint to proceed with its claims.

There have been several instances where claims have been made against dry cleaners for contamination, because of the use of hazardous chemicals, including PCBs, by those establishments. As dry cleaners become "greener" and use less hazardous chemicals, we expect less claims to be made against those establishments.

Stay tuned to the Illinois Environmental Law Blog for more news and developments.