

REAL ESTATE



ANDY F. RIGEL

1221 SECOND AVENUE,
SUITE 500
SEATTLE, WA 98101
206-470-7643
ANDY.RIGEL@HCMP.COM

HCMP
Law Offices

Hillis
Clark
Martin &
Peterson P.S.

Q | I am selling property that might be contaminated. Can I transfer responsibility for future cleanup costs to a buyer with an “as is, where is” clause in the real estate contract?

A | An owner of property is strictly liable for the release of hazardous substances while the owner owns the property. The owner cannot cut off its responsibility for cleanup costs by simply selling the property to a new owner. But sellers and buyers can contractually allocate cleanup responsibility in their deal. Washington courts, however, have found that a basic “as is, where is” clause that does not specifically reference environmental statutes is insufficient to allocate cleanup responsibility to the buyer. So if a seller wants to transfer cleanup responsibility to a buyer, the contract must expressly state that intention and the seller should not rely on a basic “as is, where is” clause.