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HOME SWEET HOME: OR IS IT? GOING FROM A HOME TO A HAZARD

BY CATHERINE STONE

A component of the American dream is often achieved when a person is finally able to obtain his or her own piece of land and a place to live. This place quickly transforms from a shelter with walls and windows, and becomes a place that will be the site of experiences and memories that the inhabitants will share for years to come. In short, it becomes a home. The word "home" instills an expectation of safety as well as enjoyment. However with negligent behavior, a home can quickly become a danger, and the expectations associated with that home can come tumbling down.

The citizens of Montgomery County, Kentucky, specifically those on Long Lane, are facing the very issue of having hazardous homes.^[i]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn1) The Environmental Protection Agency ("EPA") has detected abnormally high levels of arsenic within the soil deposited throughout that road, causing a need for further testing to see the extent of the danger the arsenic poses.^[ii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn2)

Some residents have been removed from their homes in order to properly dispose of the arsenic that has already been detected.^[iii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn3) It has been concluded the arsenic is likely remaining from improper disposal of wood from an old wood preservation plant, Southern Wood Treatment Company.^[iv]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn4)

In an attempt to help the citizens clean up the area, the EPA has sent a representative from its Superfund Program, which is the division of waste management that responds to incidents where individuals have been unknowingly or unintentionally exposed to a harmful substance.^[v]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn5) In short, this team helps to monitor the cleanup in order to ensure human health and overall quality of life will no longer be comprised.^[vi]

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It is still unsure as to the degree of arsenic that has gotten into the bodies of any of the residents.[vii] (file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn7) To prevent any further exposure, residents have been asked to stay inside as much as possible, limiting both the outdoor time of both adults and children. [viii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn8)
This potential exposure is concerning because arsenic is known to have many harmful health effects. [ix] (file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn9)
Among the most frightening is the greater possibilities of cancer, particularly lung and skin cancers. [x] (file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn10)

There are nineteen affected residences along Long Road, so this is a violation of the expectation of a safe home for several individuals. [xi]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn11)
Furthermore, the residents, some not living on Long Lane, are concerned and confused as to why it took so long to detect. [xii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn12) In response to these fears and the potentially harmful exposure, some residents have retained counsel to represent their interest. [xiii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_edn13)

It is clear that Southern Wood Treatment Company should have taken greater precautions when disposing of its waste. The company had a duty to ensure the plant did not harm others, and it seems that it breached that duty. If the arsenic exposure is found to be substantial, the causal link between the company's negligent disposal of its waste and any of the medical, environmental, etc. issues the citizens have and will face will be easy to establish. The medical expenses associated with the potential exposure, as well as emotional distress from the recent fear will likely result in large damages. Furthermore, the loss of quality of life created by the imposition of staying inside and having to monitor your surroundings would make a persuasive case for pain and suffering. This will be an interesting piece of environmental litigation to follow, but I would like to see the residents of Long Lane get their day in court and ultimately be triumphant.

[i]
(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref1)
Greg Kocher, *Kentucky neighborhood near arsenic contamination retains law firm*, Lexington Herald-Leader, (Sept. 15, 2016), <http://www.kentucky.com/news/state/article101979492.html> (<http://www.kentucky.com/news/state/article101979492.html>).

[ii]
(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref2)
Id.

[iii]
(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref3)
Id.

[iv]
(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref4)
Tom Marshall, *Long Lane Residents Speak Out About Arsenic*, Mt. Sterling Advocate, (Sept. 2, 2016),

<http://www.mtsterlingadvocate.com/morestory.aspx?storiesID=1806>
(<http://www.mtsterlingadvocate.com/morestory.aspx?storiesID=1806>).

[v]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref5)
Id.; *Division of Waste Management*, Kentucky Energy and Environment Cabinet,
<http://waste.ky.gov/SFB/Pages/default.aspx> (<http://waste.ky.gov/SFB/Pages/default.aspx>) (last visited
Sept. 21, 2016); *Superfund*, US Environmental Protection Agency, <https://www.epa.gov/superfund>
(<https://www.epa.gov/superfund>) (last visited Sept. 21, 2016).

[vi]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref6)
Kentucky Division of Waste Management, *supra* note v.; *Superfund*, *supra* note v.

[vii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref7)
Kocher, *supra* note i.

[viii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref8)
Id.

[ix]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref9)
Toxic Substances Portal-Arsenic, Agency for Toxic Substances & Disease Registry, (Aug. 2007),
<https://www.atsdr.cdc.gov/phs/phs.asp?id=18&tid=3> (<https://www.atsdr.cdc.gov/phs/phs.asp?id=18&tid=3>).

[x]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref10)
Id.

[xi]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref11)
Marshall, *supra* note iv.

[xii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref12)
Id.

[xiii]

(file:///C:/Users/Evan/Documents/KJournal/2016%20blogs/Blogs/Stone%20Blog.docx#_ednref13)
Kocher, *supra* note i.

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