



Minnesota Pollution Control Agency

In a recent Minnesota Court of Appeals case the Court decided that the Petroleum Tank Release Compensation Board exceeded its statutory authority regarding a voluntary cleanup of a contaminated site.

GH Holdings LLC was excavating property for redevelopment in Rochester, Minnesota, when it unearthed underground gasoline storage tanks. These tanks dated back to the early 1900s. After determining the extent of contamination with its environmental consultant, GH Holdings voluntarily cleaned up the site, and then asked to be reimbursed by the Minnesota Petroleum Tank Release Compensation Board for its cleanup costs. The Board denied GH Holding's request for reimbursement solely because the Minnesota Pollution Control Agency didn't order any corrective action. In other words, because the PCA never asked GH Holdings to clean up anything, it couldn't pay GH Holdings for the cleanup it did. Apparently no good deed goes unpunished.

GH Holdings' remedy was to appeal the decision of the Minnesota Petroleum Tank Release Compensation Board and have the matter be heard by an Administrative Law Judge. At that hearing, the Board tried to argue that the only evidence the Administrative Law Judge could consider in determining whether or not GH Holdings should get reimbursed for its voluntary cleanup was the written record submitted to the Board itself. The Board relied on a rule that was written by the Board itself – The Board argued it was in charge of deciding what evidence could be admitted in those cases where a judge decided whether or not the Board should pay out for cleanup costs.

GH Holdings then asked the Appellate Court to rule that the Board couldn't limit the evidence in this case – that the Administrative Law Judge should be able to consider all of the relevant evidence in the case. The Court ruled in favor of GH Holdings – that the Board exceeded its authority in attempting to limit the evidence in this matter.

If you have any dealings with the Minnesota Petroleum Tank Release Compensation Board, the Minnesota Pollution Control Agency, or other similar governmental entity, you need to have legal counsel on your side. At Libby Law Office, we would be happy to sit down with you and discuss any questions or concerns you have regarding any communications or interactions you have with these or any other governmental or regulatory agencies.