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Are there any acceptable alternatives to a Phase I?

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In brief: "It Depends"- a common environmental term. What it depends upon is a variety of interrelated factors including:

- * Is a lending institution requiring a Phase I? Particular lending institutions have established policies which if you want the loan, the lender's requirements must be complied with.
- * What type of commercial property is it? For certain types of properties which have performed operations of concern such as an industrial facility or site detailed by Connecticut as an "Establishment" the answer is there is no substitute for a Phase I. The need to conduct a Phase I can extend to a property which itself may be low risk but may be impacted by a surrounding site.
- * Legal liability protection required or desired? A Phase I conducted according to the highest standard known as the All Appropriate Inquiry (AAI) rule, provides the potential for an Innocent Landowner Defense which can shift cleanup costs to another party. However, conducting a Phase I according to the AAI rule adds cost and hence many Phase I Assessments are not performed to the level of detail required to obtain an Innocent Landowner Defense.
- * Risk tolerance? As any knowledgeable property purchaser knows although environmental concerns are a very important factor to consider, anytime a commercial property is purchased there are numerous types of significant risks that need to be managed.

If the desire is to get a read associated with a property thought to be low risk in order to hedge your bets in a buyer beware world, other alternatives are:

- * Conduct a less costly and less detailed environmental assessment. This is performed according to American Society for Testing and Materials (ASTM) E1528-06 Standard Practice for Limited Environmental Due Diligence: Transaction Screen Process. This Transaction Screen process may be acceptable to a lending institution in lieu of a Phase I; how do you know - ask the question?
- * Hire a knowledgeable environmental professional to conduct a limited site review. Suggest conducting at a minimum, a site walk through and limited records research.

With utilizing one of these limited approaches there is potential that an environmental concern that could be identified in a Phase I is missed. Hence there is more emphasis on the inspector's knowledge and experience to identify potential environmental conditions which raise a red flag. If this occurs the inspector should detail to their client why a Phase I report is justified.

Bottom line - is there an acceptable alternative to a Phase I Environmental Site Assessment? "It Depends"!

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