bodman

Environmental Law

break new ground

We solve environmental concerns instead of creating roadblocks – whether the matter involves compliance issues, evaluation and resolution of environmental aspects of business transactions, or resolution of disputes with others. The unique character of our group facilitates our approach.

Our environmental attorneys secure permits, help clients satisfy regulatory requirements, and litigate issues that cannot be resolved without suit. We regularly address the environmental aspects of business transactions, including real estate transfers, mergers, and acquisitions. In tackling disputes involving cutting-edge legal issues, we have taken several to the Michigan and federal courts of appeals and the supreme courts. Our effectiveness is enhanced by working relationships with regulatory officials and support from dozens of specialists in related practice areas.

Members of the Environmental Practice Group are part of our multidisciplinary Sustainability and Climate Change team which also includes one of only a small handful of LEED-certified attorneys in the State of Michigan. These attorneys play an important role in advising clients on the environmental aspects of business transactions, such as: negotiating deals between businesses and energy providers on how to best utilize “clean” and sustainable power sources; advising on the availability of tax credits and other incentives; and providing advice on cutting-edge legal considerations such as the disposition of carbon credits in a merger or acquisition. We have advised clients in connection with alternative energy projects and are familiar with the State of Michigan’s Renewable Portfolio Standard (RPS) and the approved RPS plans of Detroit Edison and Consumers Energy.

Our clients include local governments and governmental authorities and businesses in a variety of industries, including automotive, construction, transportation, general manufacturing, commercial real estate, and financial services. We are Michigan’s most experienced lawyers in dealing with

environmental issues in lending transactions, and advise more than 60 Michigan banks on environmental issues and banking policies. As leaders in dealing with Brownfield issues, our expertise includes all aspects of urban redevelopment, from condemnation to cleanup and redevelopment. We have obtained grants, tax benefits, and other incentives for clients involved in Brownfield redevelopment.

SERVICES

BROWNFIELD REDEVELOPMENT AND SUSTAINABLE BUSINESS

- Assemble property for redevelopment (voluntarily and by condemnation)
- Obtain grants for investigation and redevelopment of Brownfield property
- Create Brownfield Redevelopment Authorities
- Obtain Brownfield tax incentives from local, state and federal authorities

REAL ESTATE; CORPORATE MERGERS AND ACQUISITIONS; BANKING

- Evaluate environmental risks of real estate and corporate acquisitions
- Negotiate environmental risk allocation in transactional agreements
- Analyze environmental risks associated with loans
- Evaluate risks related to foreclosure
- Create environmental policies and draft policy manuals

AIR, WATER AND SOLID WASTE

- Counsel on compliance with existing and proposed regulations
- Defend against citizen suits
- Challenge EPA and state regulations
- Obtain permits and negotiate variances

HAZARDOUS/TOXIC SUBSTANCES

- Represent clients involved in Superfund sites
- Participate on site cleanup steering committees
- Pursue and defend cleanup cost recovery actions
- Obtain state/EPA approval of cleanup plans
- Counsel regarding community and employee Right-To-Know laws
- Counsel regarding state and federal OSHA issues
- Implement asbestos-in-schools programs
- Counsel regarding complex hazardous waste requirements

COMPLEX ENVIRONMENTAL LITIGATION AND ALTERNATIVE DISPUTE RESOLUTION

- Bring/defend cost recovery claims under state and federal law

- Bring/defend toxic tort suits
- Defend individual asbestos exposure lawsuits
- Defend EPA/state claims of regulatory violations
- Bring/defend federal and state administrative appeals
- Mediate and arbitrate issues involving complex environmental sites
- Bring claims to obtain insurance coverage

REPRESENTATIVE MATTERS

- We have worked with a national retail owner/developer to obtain the first tax credits approved for a functionally obsolete property in the City of Southfield under Michigan's Brownfield laws.
- Our team represented a professional sports franchise in the development of its new stadium and negotiated a flexible, developer-friendly process with the MDEQ to facilitate redevelopment of the stadium area.
- On behalf of a client at a multi-party Superfund site, we intervened to steer a series of technical and remedial disputes away from almost-certain litigation to a process where all issues have been addressed. The process yielded a productive relationship, including forgiveness of about $1 million in government cost recovery claims.
- We obtained federal appellate and Supreme Court rulings that insulate private shareholders from cleanup liability associated with the corporation whose stock they own.
- We have both brought and defended class action and other lawsuits asserting statutory, trespass, and negligence claims by citizen groups. We also diverted a potential citizen suit into a cooperative planning process to resolve a complex urban water pollution problem.
- A Tier-1 automotive supplier asked us to evaluate and negotiate environmental risk allocations relating to its acquisition of a large manufacturing company with multiple plant sites.
- We have represented Superfund steering committees in cost recovery actions against multiple parties.
- We defended a roof manufacturer against claims by the MDEQ and local citizens under both common law and Michigan's Natural Resources and Environmental Response Act (NREPA) asserting excessive odors.
- We defended a steel manufacturer against common law claims by local residents related to particulate emissions.
- We defended a cement manufacturer against claims by the USEPA, relating to sites in multiple states, that the company had violated federal Clean Air Act PSD requirements.
- We have helped many clients obtain permits to install and permits to operate, allowing them to discharge to the air in accordance with federal and state requirements.
- We successfully brought suit in federal and state courts on behalf of a local municipality against an industrial firm to recover damages under common law theories and to recover environmental

response costs under both CERCLA and NREPA.

- We tried a lawsuit before an MDEQ Administrative Law judge on behalf of two municipal governments and a citizen's group challenging the conditions of a proposed wastewater discharge permit.
- We represented a governmental authority in defense of claims asserted under citizens suit provisions of the Clean Water Act regarding water quality in drains, counseling as to liability under CERCLA and the Clean Water Act for contaminants seeping into drains, challenges to the denial of wetlands permits, and disputes with remediation contractors.
- We represented a private party working with a municipality in its efforts to oppose a proposed development along the Huron River which sought a permit to discharge unreasonable amounts of contaminants from a private wastewater treatment plant into the river.
- We served as environmental counsel to a municipality in transactions to acquire undeveloped property as part of a "Greenbelt" program.
- We have assisted a municipal government in projects involving the assembly of properties for redevelopment, including the basic environmental assessment of the properties, evaluation and providing good faith offers to purchase, and pursuing outright purchase or condemnation proceedings in court.
- We represented a county government in the design, development, and implementation of a groundbreaking regional Brownfield redevelopment plan in conjunction with the establishment of Michigan's first regional land bank.