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Environmental Protection Agency (EPA) and the Occupational Safety and Health Administration (OSHA) have promulgated exposure limits to asbestos measured over time periods. There are also special requirements for renovation, removal, and demolition, including negative pressure enclosures, supervisory personnel, worker decontamination areas, clean rooms, and equipment rooms. State and local legislatures and agencies have also enacted legislation concerning asbestos. For example, the New York State Department of Law, which oversees cooperative and condominium offerings, has enacted regulations requiring sponsors to inspect for asbestos and disclose its presence, if any, in the cooperative offering plan. In addition, the New York State legislature amended the statute of limitations for toxic tort lawsuits. Victims in New York may commence an action within three years from the date the injury was discovered, as opposed to when the victim was actually exposed to the toxic material. Other states have enacted similar rules.

An interior design firm can avoid or minimize its liability by incorporating certain exculpatory provisions in its agreements. First, the designer–owner agreement should place all responsibility for air quality with the owner. Since many owners will not accept the additional costs relating to improving air quality without evidence of a real need, in projects where air quality may pose a particular problem, the designer–owner agreement should also provide that the owner retain, at its expense, an air quality consultant.

Second, the agreement should specifically exclude the designer from responsibility for all work related to toxic and hazardous material. The design firm should advise the owner before commencing services on the project that it does not have the expertise to deal with toxic materials and a consultant should be hired for this purpose. The essence of this wording might read as follows:

*The Project may uncover hazardous or toxic materials or pollutants including, but not limited to asbestos, asbestos-related materials and PCBs. Notwithstanding any provisions in this Agreement to the contrary, the Interior Designer and its consultants are not responsible for the performance of any services in connection with or related to such materials and the Owner hereby agrees to retain an expert or experts to arrange for the prompt identifications of and/or removal or treatment of such materials identified during the course of*