

Handbook for Communities Facing Environmental Hazards

Chapter Four: Legal Options



Environmental Poverty Law Project
Legal Aid of North Carolina, Inc.
<http://www.legalaidnc.org/eplp>



Chapter Four: Legal Options

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Chapter Four: Introduction

This chapter explores different legal options available to communities facing environmental hazards, and provides some tips to help you decide whether to use them. Because this chapter is so long, we suggest you take a look at “What is the Law?” on page 101 and “Can the Law Help You?” on page 102 first.



It is important to understand that the information given in this chapter is not legal advice.

Chapter Four is for your information only; to help you understand some of the legal options available to you and your community. Laws and regulations are always changing and you should be aware that the laws discussed in this chapter may have changed since the Handbook was written. You should always check to make sure any of the laws you use are still current. Also, please do not hesitate to contact an attorney with any questions you may have.



Chapter Four: What is the Law?

The law is the set of rules that we must follow. These rules are enforced by public agencies, including the police.

There are many different types of laws and many different organizations create laws. For example, the United States Congress enacts laws that apply to all U.S. citizens and those who do business in the United States. State legislatures enact laws that apply to all state residents and those who do business with the state. Your local commissioners enact laws called "ordinances" which apply only to people who live in your county. Government agencies enact laws called "regulations" which apply to anyone who deals with that agency. All of these different types of laws make up "the law" as we know it.





Chapter Four: Can the Law Help You?

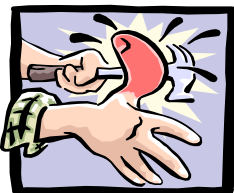
This is not an easy question. Legal solutions for environmental problems are usually last-ditch efforts when everything else has failed. This is because legal solutions tend to be expensive, take a lot of time, and are not guaranteed to work.

Legal solutions may be an option in the following situations:



If you suspect or are certain that an individual or corporation has broken the law, then you may be able to sue. Unfortunately, some amount of pollution is legal and you then need to challenge the law or regulation that allows the pollution.

Example: A factory that gives off more air pollution than is allowed by environmental regulations is breaking the law. You can sue the factory for violating the regulations. If, however, the air pollution is not more than the regulation allows, and you want to change the regulations, you may need to write to your legislators or to the state agency that wrote the regulation to request that the amount of allowable air pollution be lowered.



If you have suffered an injury because someone broke the law, you may be able to get money for that injury.

Example: If a landfill near your home has been polluting and you get sick as a result of the contamination, you may be able to sue and get money for your injuries.



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Legal solutions may also be an option in the following situations:



If you have not yet suffered an injury but fear that you will if a farm or industry moves into your neighborhood or changes their practices to create more pollution, you may be able to get an injunction - a legal remedy which stops activities.

Example: If a permit for a new factory has been issued and you are afraid that it will add pollution to your community, you may be able to get a court of law to prevent the factory from being built (an injunction) until the case is resolved.



If a law or regulation is about to be enacted that will seriously affect your rights, political pressure on your representatives or government agencies may stop the law or regulation from being passed.

Example: The city where you live is considering changing its zoning ordinance to allow a landfill to be built near your home. You should write and call your city council members and the mayor to protest the zoning change. For more information on how to organize your community to oppose these types of decisions, check out Chapter One on Community Organizing.



Chapter Four: Steps Involved in an Environmental Case

If you do decide to pursue a legal remedy to your problem, you will have to put together a case (a case is a dispute that is taken to a judicial official (like a judge, jury or hearing officer) for resolution). Your case will be your side of the facts and what law you want applied to those facts.

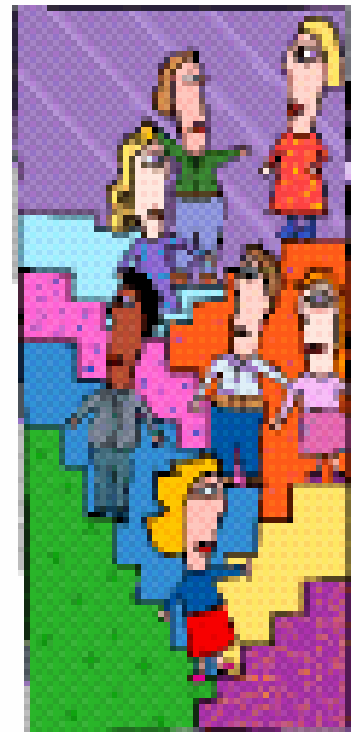
Here are the steps to take to build your case:



Gather as much information as you can about the facts of your case. Take a look at the suggestions on pages 107 and 108 for different ways to gather information. Also check out Chapter Two: Obtaining Information which will help you do research on your problem.



Learn more about how the legal system works. Check out the section titled Basics of the Legal System in this Chapter which starts on page 132.





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Steps to build your case, continued:



Decide whether or not to hire an attorney. Check out the sections “Do I need an attorney?” on page 111 and “How to Do Legal Research” on page 394 to help you make your decision.

If you decide you want to hire an attorney, you will want to take a look at the section on “Dealing With and Using Attorneys” on page 109 to help you hire and work with your attorney.

If you decide to proceed without an attorney, you will want to check out the section on “How to File a Case Without an Attorney” which starts on page 146.





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Steps to build your case, continued:

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Whether or not you use an attorney, you may want to do some legal research on your issue to find out more about the area of law that might apply to your case. Check out the section on “How to Do Legal Research” which starts on page 394.

Pay particular attention to any requirements that you might need to fulfill in order to bring a case against the offending party. Take a look at the “How-to Guide to Civil Lawsuits” or the “How-to Guide to Administrative Hearings” for help.

Finally, take a look at the “Additional Resources” listed at the end of this chapter for more help in building your environmental case.





Chapter Four: Steps Involved in an Environmental Case

Gathering Information About Your Case

Gathering information about your case will help you:

- Decide whether or not you want to use legal options;
- Build your case if you do use legal options;
- Decide whether you want an attorney; and
- If you do, interview and choose attorneys.

Ways to Gather Information:



Find out if other people are having the same problems that you are facing.

Ask your neighbors or other people in your community if they are dealing with the same problems you are. If there is a pattern of pollution, for example, it may be much easier to prove where it is coming from if you talk to other people. The more people that are involved, the more information you can gather and the stronger your case may be. Check out Chapter One for ideas on how to organize your community to fight an environmental hazard.



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Obtain evidence of the problem. Evidence is proof of facts that are presented to the decision maker in a trial or hearing. Examples of evidence include:

- **Witness Testimony:** Try to find people who have direct knowledge of the facts you are trying to prove. Talk to these people to find out whether they are able and willing to testify on your behalf. For tips on using witnesses, check out the section called [How-to Guide to Civil Lawsuits](#).
- **Documents:** You will want to find any documents that will prove the facts in your case. Check out [Chapter Two: Obtaining Information](#) for ideas on how to obtain documents from corporations and the government.
- **Photographs and Objects:** You may be able to use photographs and other objects as evidence. If you have photographs that you want to use, make sure that you clearly identify what the photographs show and who took them.



Get information from the government that deals with your problem. Check out Chapter Two for help. The government should have information on:

- Whether there are any laws that might help you,
- Who is causing the environmental hazard, and
- Whether or not the person or company causing the environmental hazard is violating those laws.