

# Selling a Former Meth Lab Property

## INFORMATION FOR REAL ESTATE AGENTS

Your quick reference to get real estate questions relating to selling meth lab properties answered.

### Disclosure Requirements for Real Estate Transactions

According to state law, the sellers of a property are **required to disclose the fact that a property was used for methamphetamine manufacture** if the sellers have knowledge of this activity. This disclosure is required both in the case of a declared or an undeclared meth lab situation.

Along with that disclosure statement the seller must inform the buyer of the following:

- Whether local authority issued an order on the property that it must be properly remediated before it could be occupied
- Whether any orders issued were vacated upon completion of remediation
- If there was no order issued, but the seller is aware that meth lab activity occurred, they must indicate the status of removal and remediation on the property

The relevant excerpt of Minnesota law that concerns this disclosure requirement can be found at the bottom of this document.

### Declared vs. Undeclared Meth Labs

A property used in the manufacture of methamphetamine is “declared” a meth lab by local authorities. Usually police or sheriffs declare the property a meth lab while conducting a search or making an arrest. Sometimes the Community Health Board or one of its subparts will declare a property a meth lab.

When a property has been used in the manufacture of meth, but has not been declared a meth lab by local authorities, it is an “undeclared meth lab.”

### What is Cleanup (Remediation)?

Making a former meth lab site safer for habitation requires two basic efforts:

- **Gross chemical removal:** This is the process in which law enforcement or a Drug Enforcement Administration contractor removes the obvious dangers from the site. Obvious dangers include containers of chemicals, equipment, and apparatus that could be used to make illegal drugs, drug paraphernalia, and other illegal items. This process does not cleanup or remove chemical spills, stains or residue that could be harmful to inhabitants. A property that has had only a gross chemical removal is not fit for habitation.
- **Remediation:** The cleaning of interior structures and, if applicable, the surrounding land, surface waters and ground water by a contractor: This is the process of removing the

residue and waste from the site after the gross chemical removal is done. A property that has been remediated should present minimal health risk to occupants.

## January 2014 Changes

- Prior to 1 January 2014, the State did not (but some counties did) require remediation of properties declared meth labs.
- Since 1 January 2014, the State requires remediation of all declared meth labs.
- Since 1 January 2014, the State requires affidavits be filed on the deed when a property is declared a meth lab and when the remediation is complete.

## Foreclosed or Forfeited Properties

If you are selling a property where the owner does not have intimate knowledge of the property's history, you can use the following resources to determine whether the property used to be a meth lab.

- If the property was declared a meth lab by local authority after 1 January 2006, it should be listed on the deed to the property.
- Lists of declared meth labs are maintained by local Community Health Services Agencies. Contact information for these agencies can be found at [Methamphetamine Contact Information for County/City Local Health Departments in Minnesota](http://www.health.state.mn.us/divs/cfh/ophp/system/administration/methcontacts.cfm) <http://www.health.state.mn.us/divs/cfh/ophp/system/administration/methcontacts.cfm>
- The Drug Enforcement Administration also maintains a register of clandestine labs across the country. You can check the lists on their website for the property that you are interested in at [Drug Labs in the United States: National Clandestine Laboratory Register Data](https://www.dea.gov/klan-lab) <https://www.dea.gov/klan-lab>
- If the property has never been legally declared a meth lab, it can be difficult to be completely certain if a property was a former meth lab. One good resource is to discuss the property with local law enforcement to determine how likely it was to have been a meth lab. Your local authority can be found at [State & Local Government on the Net](http://www.statelocalgov.net/state-mn.cfm) <http://www.statelocalgov.net/state-mn.cfm>

An alternative option if you can't find the property listed is to test the property for meth residue.

- Professional remediation companies have personnel who are trained in testing procedures and can be hired to do meth testing. Please contact the companies directly for cost estimates and timeline information. See MDH's [Contractor List](http://www.health.state.mn.us/divs/eh/meth/lab/cleanupgen.html#contractors) <http://www.health.state.mn.us/divs/eh/meth/lab/cleanupgen.html#contractors>
- Home test kits are available that you can get online. MDH does not evaluate home test kits for effectiveness. Contact the manufacturers for specific information about test kits.

### What your test results mean:

You are testing meth surface contamination samples for the concentration: the mass of meth found on a surface area.

- The mass is measured in micrograms ( $\mu\text{g}$ , one-millionth of a gram).

- The surface area is usually an area 10 centimeters by 10 centimeters (100 centimeters-squared or 100 cm<sup>2</sup>).
- The California health-based standard for meth residue is 1.5 µg/100cm<sup>2</sup>. This is used as a standard to determine if meth levels are safe.
- If the measured meth level is below the California standard and the property was not declared a meth lab, cleanup is not necessary – that level of meth has been shown to present minimal health risk to all occupants of a home.
- If the meth contamination measures above the California standard, MDH recommends that the property be remediated following MDH’s Cleanup Guidance.

## Excerpt from Law Regarding Disclosure

Minnesota Statutes 152.0275, Subdivision 2 as of July 2014  
(<https://www.revisor.mn.gov/statutes/cite/152.0275>)

152.0275 CERTAIN CONTROLLED SUBSTANCE OFFENSES; RESTITUTION; PROHIBITIONS ON PROPERTY USE; NOTICE PROVISIONS.

Subd. 2. Property-related prohibitions; notice; Web site.

(m) Before signing an agreement to sell or transfer real property, the seller or transferor must disclose in writing to the buyer or transferee if, to the seller's or transferor's knowledge, methamphetamine production has occurred on the property. If methamphetamine production has occurred on the property, the disclosure shall include a statement to the buyer or transferee informing the buyer or transferee:

- (1) whether an order has been issued on the property as described in paragraph (c);
- (2) whether any orders issued against the property under paragraph (c) have been vacated under paragraph (j); or
- (3) if there was no order issued against the property and the seller or transferor is aware that methamphetamine production has occurred on the property, the status of removal and remediation on the property.

(n) Unless the buyer or transferee and seller or transferor agree to the contrary in writing before the closing of the sale, a seller or transferor who fails to disclose, to the best of their knowledge, at the time of sale any of the facts required, and who knew or had reason to know of methamphetamine production on the property, is liable to the buyer or transferee for:

- (1) costs relating to remediation of the property according to the Department of Health's clandestine drug labs general cleanup guidelines and best practices; and
- (2) reasonable attorney fees for collection of costs from the seller or transferor.

An action under this paragraph must be commenced within six years after the date on which the buyer or transferee closed the purchase or transfer of the real property where the methamphetamine production occurred.

(o) This section preempts all local ordinances relating to the sale or transfer of real property designated as a clandestine lab site.

INFORMATION FOR REAL ESTATE AGENTS

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