Company Liable Because Comfort Letter ≠ Certificate of Compliance

A company that previously owned and polluted land was held liable under the *Environmental Management Act* for approximately $4.75 million in remediation costs incurred by the current owner in the process of fulfilling regulatory requirements to develop the land. The company appealed the order, arguing that it should be exempt from liability because a ‘comfort letter’ it got from the regulator in the 1980s stating that the remediation it carried out at that time was to a satisfactory standard was legally equivalent to a certificate of compliance. The appeals court dismissed the challenge. The comfort letter didn’t satisfy the law’s definition of ‘a certificate of compliance.’ That’s because the remediation the company did in the 1980s wasn’t done to the standards required by the regulations, explained the appeals court [*J.I. Properties Inc. v. PPG Architectural Coatings Canada Ltd.*, [2015] BCCA 472 (CanLII), Nov. 20, 2015].