

# Motion Judge Erred in Dismissing Contamination Case



A property owner sued various parties for damages resulting from the contamination by hydrocarbons of its land. The contamination allegedly migrated from an adjacent property, which had been used as a gas station. The defendants argued that the owner had known about the contamination for more than two years and so the lawsuit was barred by the statute of limitations. The motion judge agreed and dismissed the case, but the Court of Appeals disagreed. Knowledge or suspicion of *possible* contamination isn't the same as knowledge of *actual* contamination. In addition, the court found that the motion judge ignored the relevant circumstances of the owner's purchase of the property—that is, its involvement in a multi-property transaction and its waiver of all conditions (not just an environmental condition for the property in question) [*Crombie Property Holdings Ltd. v. McColl-Frontenac Inc. (Texaco Canada Ltd.)*, [2017] ONCA 16 (CanLII), Jan. 11, 2017].