



## Real Estate

**Q: I am considering purchasing a property that might have environmental contamination. What are my liability risks and how should I investigate the property?**

**A:** State and federal environmental statutes impose strict liability on owners of property where there was a release of hazardous substances. Strict liability means the current owners are liable for cleanup costs regardless of who caused the release. Defenses to this harsh liability scheme are limited, so before closing the deal, you should hire an environmental consultant to conduct a

Phase I Environmental Site Assessment. A Phase I is an investigation of the property's history to identify potential environmental problems. If problems are identified in the Phase I, then a Phase II Environmental Site Assessment should be performed to test the soil and groundwater for contamination. This due diligence process is necessary to avoid expensive contamination surprises and is a prerequisite for the few liability defenses provided by the environmental statutes.

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