

REAL ESTATE



LISA CHAIET RAHMAN
HILLIS CLARK MARTIN
& PETERSON

999 THIRD AVENUE,
SUITE 4600
SEATTLE, WA 98104
206-470-7671
LISA.RAHMAN@HCMP.COM

HCMP
Law Offices

Hillis
Clark
Martin &
Peterson

Q | My business is a tenant on property that may have soil and groundwater contamination. Even if we are not the polluters, could we be held liable for cleanup?

A | Under Washington's cleanup statute called the Model Toxics Control Act ("MTCA"), a tenant may be liable as an "operator" for cleanup of contaminated property. However, a recent Washington Supreme Court case narrowed the scope of what actions turn a tenant into an "operator" under the statute. In *Pope Resources v. DNR*, an operator of a contaminated property "must manage, direct, or conduct operations specifically related to the pollution" in order to trigger MTCA liability. Accordingly, if no evidence exists that your company has "operational control" of or "business management" authority over the source of the contamination, you now have strong arguments to avoid MTCA operator liability.