

***From the desk of John Poletes B.A.S.,  
LL.B. Barrister & Solicitor  
Suite 610, 161 Eglinton Av. East  
Toronto, Ontario, M4P 1J5  
The Grass is always Greener over the  
Septic Bed. ©***

Finally you have the keys for your wonderful rural property. It's over an acre of land with a lake frontage and a dock. As you pull into your long driveway you stop to admire the healthy clump of sycamore trees sitting in the middle of the front lawn. That clump of bull rushes makes a perfect picture. Once inside you appreciate how clean the sellers have left the cottage. As you explore your new home you are slightly annoyed that the kitchen drain appears to be plugged and is draining slowly. Luckily the local handyman knows about plumbing and septic. Within a few minutes of his visit he informs you that there is a problem with the septic system. He is familiar with the property and claims that the previous owners needed a new septic system as the tile bed was not functioning and backing up --expected cost \$25K. He points to the sycamore clump and bull rushes and indicates that they are growing right in the middle of the tile bed. He then asks if you had a septic inspection before buying. Your stomach starts to do somersaults

What could you have done to prevent this from happening? Let us indulge in hindsight.

First, before purchasing a rural home, have the septic system inspected by a certified on-site system professional by requesting a simple file search or a complete inspection of the tank and leaching bed. If a septic system in the past did not meet health guidelines or had any malfunctions there would be an order for repair or replacement against the owner on record.

Inspectors focus on whether environmental factors such as adequate filtration are met rather than whether other maintenance issues such as clogged systems exist. To find out whether there are maintenance issues you could, as a second measure request documentation from the homeowner. This documentation could tell

you a lot about the adequacy of a septic system. Since a permit is required for the new installation, replacement, or lengthening of a septic system, the homeowner should be able to provide you with the approved site plan and subsequent permit for your review. If the homeowner does not have this documentation, you could request it from the local municipal office or the Ministry of Environment. If a permit was never issued to the homeowner, this should wave a red flag. The construction of a septic tank without a permit probably means it does not comply with municipal guidelines, and is also an offence. If there is no permit or if you are dealing with an older septic tank that may not have a permit, you should have a full inspection of the system.

Third, it is also worth inquiring whether the septic tank is covered by warranty. Perhaps the warranty is transferable to the new owner. Many companies provide a transferable warranty to cover structural damage for about three to seven years. Perhaps your title insurance policy covers septic tanks.

Fourth, there are several septic tank details you could have inspected on your own, namely

- a. Cracks or leaks in the pipe connections to house and in the leaching bed
- b. Extreme height or depth of water level in the tank
- c. Odours or soggy/saturated soil on leaching bed surface;
- d. Pavement or trees obstructions to the leaching bed
- e. Slow drainage of sinks, bathtubs, and toilets
- f. Request and inspect past system maintenance records to find out if tanks were pumped every three to five years).

A malfunctioning septic system is an expensive smelly health risk and neighborhood nuisance Isn't it worth the few extra dollars to have a proper inspection and obtain any relevant documentation to ensure your new cottage country home can adequately dispose of your family's waste?

***For more information about this or any other real estate law related topics please do not hesitate to contact John Poletes at 416-482-1902, or e-mail him at [john.poletes@bellnet.ca](mailto:john.poletes@bellnet.ca)***