



Cohen Highley^{LLP}
L A W Y E R S

RENT CONTROL BULLETIN

RECENT OIL SPILL HIGHLIGHTS IMPORTANCE OF PROACTIVE PREVENTIVE MEASURES BY OWNERS OF MOBILE HOME PARKS

Owners of a Mobile Home Park in Ontario recently learned first-hand just how important it is for owners to protect themselves from the consequences of spills from oil tanks. What could have been a One Million dollar liability for an owner has turned out to be a One Million dollar liability for a Mobile Home Park resident and the resident's Insurance Company.

Over the last few years we have stressed the importance of establishing and enforcing compliance with oil tank criteria by residents in Mobile Home Parks. The owners of Mobile Home communities have the right to impose oil tank safety standards in order to protect the land and other residents in the community. In addition to a list of safety measures, tenants can be required to carry liability insurance to cover oil spills. If tenants fail to comply with the standards or convert to another source of heat, the owner has the right to apply for eviction of the tenant (and their home) from the community.

In this particular case, the owners had issued a notice to residents requiring compliance with oil tank standards. A tenant of the community was chipping ice off the roof of his home and a piece of ice fell to the ground, severing the oil line between the tank and the furnace. The resident did not notice that the line had been cut. The resident also had not complied with the safety measures imposed by the landlord (which would have prevented the spill) but had obtained liability insurance. The contents of the tank (about 200 gallons) emptied into the ground (primarily sand based).

The Technical Standards and Safety Authority (the Authority) inspected the site; ordered the home to be demolished; and ordered the owner of the home and the owner of the community to clean up the oil spill. In addition, both the owner of the home and the owner of the community became liable for fines of up to One Million dollars.

The resident's Insurance Company will be picking up the tab for the clean up and liability for the fine because the resident was negligent in failing to adhere to the oil tank standards. In addition, the resident lost a home valued at about \$30K and it appears that the Insurance Company will be paying only a nominal amount for the loss of the home. The important thing is that the owners of the community will not be paying the majority of the financial liability stemming from this preventable incident. If the resident did not have insurance, the owner of the Mobile Home community (and its Insurer) would be footing the bill.

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The lesson for Mobile Home Park owners is this: if there are oil tanks in the community, the owner should implement compliance with oil tank criteria, including the insurance requirements. Implementation means more than just issuing notices to residents with oil tanks: it includes a deadline for compliance; inspection of compliance; and the commencement of lease termination proceedings where residents fail to comply. If owners ignore the problem, they open themselves up to millions of dollars of liability and terrible environmental consequences. Luckily, in this case, surrounding homes did not have to be removed to facilitate clean up; in other cases they have had to be relocated at substantial cost to the landlord and the tenant.

An “Oil Tank Criteria” package is available directly from Cohen Highley^{LLP} or for members of the Ontario Manufactured Housing Association (OMHA), through the OMHA web site. The package is available at a nominal cost (less than \$200.00) and the benefits can save owners hundreds of thousands of dollars!

If you have any questions about anything contained in this Bulletin contact Paul Cappa: cappa@cohenhighley.com or Joe Hoffer: hoffer@cohenhighley.com or (519) 672-9330.



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