

Lessons Learned

Spalled Concrete Lid = Lawsuit

Note: This is the first of an occasional series about risk management in the onsite wastewater industry, presented by Alteris, NOWRA's endorsed provider of Errors and Omissions Insurance for Designers and Inspectors.

A septic Inspector was requested by a property owner to perform a lender-required inspection of an older system, at one of his rental properties.

Upon arrival at the site, the Inspector could see the riser & cap protruding several inches above ground level, in the back yard. The system had an older pre-cast concrete septic tank, with a concrete riser and inset concrete cap. The cap's outer diameter was chipped and spalled significantly. After the pumping and inspection, the Inspector contacted the office and notified them about the results, and also about the lid's poor condition.

Normally, when dealing with a home-owner, the Inspector's procedure is to list any adverse findings on the completed work order, and to have the Inspector present and explain same to the customer for signature. Under normal circumstances, the customer would be advised of the hazard, and the Inspector offers to replace the damaged cap for a nominal charge (\$25). In this case, the property owner was not on site, and had pre-paid for the inspection. The office personnel called the property owner (who was not available) and left a voice-mail message regarding the hazard. The Inspector never got a return phone call.

Six months later, a local story made the news. A six year-old child, playing in his back yard, had fallen into a septic tank and died, after the tank's lid had crumbled and gave way. Of course this story caught the Inspector's attention immediately, and his worst fears were confirmed – the accident had occurred at the location described above. Both the landlord and the Inspector were sued.

How could the Inspector have protected himself? Either by sending someone out to replace the lid, and billing the customer (the actual cost of which was far more than the \$25 charge), or, by sending the customer a brief letter (certified-mail, return receipt-requested) explaining the hazard that existed, and offering to replace the lid. The second method is far less expensive, and more importantly, transfers the risk directly to the property owner.

The above article was provided by Alteris, Manager of the SeptiCover E & O Program, the endorsed Errors & Omissions Insurance Program of NOWRA. For more information about the SeptiCover Program, contact Jim Tyrrell at 617-235-6142 or JTyrrell@Alterisus.com

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