

The hidden danger of underground oil tanks



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A 1,000-gallon oil tank being removed from the rear of a Wyckoff house by Lombardo Environmental.

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THE RECORD

When Rutherford homeowners Sandy and Mark Viggiano had their underground oil tank removed last June, they discovered it had been leaking into the soil around their home. That began an ordeal that has lasted for months and cost more than \$30,000, as

a remediation company ripped up their driveway and hoisted out tons of dirt.

"They dug and they dug and they dug," recalled Mark Viggiano, 54, a mechanic. The hole was so deep that "you would think they had dropped a bomb."

As the Viggianos discovered, underground oil tanks are a hidden hazard. A leak can go undetected for years, but lead to tens of thousands of dollars in damage. For that reason, most home buyers will not accept a home with an underground tank — even one that is no longer in use — and sellers are usually advised to deal with them before they put their properties on the market.

"No buyer is buying a house with an underground oil tank," said Nancy Lastra, managing broker of Century 21 Eudan Realty in Rutherford.

"Most lenders will not give a mortgage anymore unless there's proof that the tank has been removed from the ground," adds Richard Kelly, a real estate lawyer in Oradell.

The number of underground tanks has been shrinking as homeowners remove them, either because of fears of leaks or a desire to take advantage of drops in natural gas prices. The state Department of Environmental Protection (DEP) says remediations were completed on 3,700 leaking underground residential tanks last year. Still, the Fuel Merchants Association of New Jersey estimates that about 92,000 remain in the state, with a concentration in North Jersey's older neighborhoods.

Removing the tanks is generally a straightforward, affordable job, running an estimated \$1,500 to \$2,500. The trouble starts when a leak is found, which happens in an estimated 30 to 50 percent of cases, according to tank-removal companies. If a leak is discovered, the state advises homeowners to find a cleanup contractor on the DEP's list of certified companies, which can be found on the department website. As with all home projects, homeowners should get several bids and check references before hiring a company.

Removing the contaminated soil typically runs around \$12,000 to \$20,000, according to tank removal companies. But if the oil leak is large, or the oil has gotten into the groundwater, costs can soar above \$100,000. Once the cleanup is done, the contractor sends a report to the DEP (and

the homeowner sends in a \$400 fee). If the DEP is satisfied, it issues a "no further action" letter, signaling that the property has met cleanup requirements.

The homeowner is usually on the hook for the cleanup cost. Homeowner insurance policies generally don't cover the damage done by leaking tanks, although tank insurance is available, with restrictions, including the requirement that the homeowners stick with oil heat if the tank is removed. And some homeowners have been able to get coverage from older policies if it was determined that the leak took place years ago, in a period when there was coverage. The Viggianos of Rutherford, for example, were able to get part of their costs covered by their former insurance company.

The state used to reimburse homeowners for at least part of the cost of removing a tank and remediating the damage. But financing for that program ran dry several years ago, and now the state DEP's website tells homeowners that they can apply for a grant if they want — with no guarantees that there will ever be an infusion of state money to pay them.

Work takes many months

Aside from the cost, remediation work can also take many months, scuttling home sales.

Real estate agents and lawyers say that if the seller doesn't have the paperwork documenting the proper removal of a tank, buyers should have the property swept with a metal detector to check for an old tank, as part of the home inspection. That costs an estimated \$150 to \$250.

Linda Stamker, a real estate agent with Prominent Properties Sotheby's International Realty in Fort Lee, worked with a Bergen County buyer a few years back who didn't want to do a test for an underground tank.

"The seller insisted there was no tank, and he believed him," she said. "But both his lawyer and I insisted he do [a sweep], and it turned out there was an oil tank, and a leak." Cleaning up the spill cost the seller about \$18,000, she said.

"Sellers are responsible for removing oil tanks and the cost incurred for any leaks or spills," Stamker said. But if a buyer purchases the property without checking for a tank, and one is found later, it becomes the buyer's problem.

Even tanks that have been abandoned in place and filled with foam or sand, as was often done in the past, must be removed, real estate agents and lawyers say.

"No longer will buyers' attorneys accept decommissioned tanks," said Barbara Ostroth, a Coldwell Banker agent in Oradell. "Invariably they say, 'Have it pulled.' "

That's because even if the homeowner got all the right municipal permits, those tanks — described as abandoned or decommissioned — sometimes leaked anyway, leaving the homeowner with an environmental mess.

"Today we're going back in and removing a lot of tanks that were filled [with sand or foam]," said Ken Lombardo of Lombardo Environmental in Elmwood Park.

Real estate agent Barbara Weismann of Weichert in Tenafly said she was representing a buyer in a recent Glen Rock purchase.

The seller insisted that the tank had been properly decommissioned and didn't need to be removed.

Why sweeps are necessary

But the seller had no documentation, Weismann recalled. After a couple of weeks of negotiation, the seller agreed to have the tank pulled. As it turned out, the tank had a hole.

"So we were right in demanding that the tank be removed," she said.

Homeowners who use oil heat and have functioning tanks can get insurance covering up to \$100,000 in cleanup costs on the homeowner's property from the Powderhorn Agency in Brookfield, Conn. That insurance carries restrictions, including the requirement that if an underground tank is removed, the homeowner must install another tank (usually aboveground) and stick with oil heat for at least a year.

"We're not in business to convert heating oil customers to gas," said Gary Missigman, Powderhorn's president. The company requires that the tank be tested before writing the insurance. Premiums run about \$350 to \$500 a year, depending on the coverage.

Real estate agents say buyers will sometimes accept a functioning underground tank if it has such insurance, and they can keep the coverage. But several agents said that even if buyers want to do that, they should demand that the tank be tested.

Others are opposed to the whole idea.

"Buyers should always insist the seller remove the tank," Stamker said. Even if there's tank insurance, dealing with a leak is a hassle, she said, adding, "No new buyer should take that on."

Clara Pichardo, an administrative assistant and mother of three, bought a Teaneck house with a decommissioned oil tank several years ago. Tests found a leak.

Pichardo and her husband thought about walking away from the purchase, but ultimately moved forward when the seller — one of the few homeowners who had insurance coverage for the tank — agreed to put \$25,000 in an escrow account to clean up the mess. It took several months, but eventually the job was done.

"I'm happy because they took care of it, and I didn't have to deal with it," Pichardo said.

Purchases discouraged

But Kelly, the real estate lawyer, said that he would generally advise buyers not to go ahead with a purchase in a case like that, since the cleanup costs could exceed the amount in the escrow account.

"You don't know what the extent of the contamination might be," he said.

Some homeowners get lucky. Andrea Alexander, a teacher, had no idea that her Teaneck house, where she had lived since 1998, had a decommissioned oil tank. But when she put it on the market about a year ago, an inspection by the buyers found the tank under the driveway. Alexander worried about the cost, thinking, "Oh, my God, is this going to ruin me?"

Watching the tank being removed "was really a hold-your-breath experience," she said.

To her relief, the tank was intact. No leaks.

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