

Jonathan Rosenfeld's Nursing Homes Abuse Blog

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[Nursing Home Operators May Be Responsible For Injuries Due To The Negligent Removal Of Snow & Ice](#)



As winter weather sets in, the city is often covered in a blanket of snow and ice. While the slippery weather conditions present a danger to all of us, snow and ice are particularly dangerous for older adults who are already more likely to suffer from a fall and also more likely to [suffer bone breaks](#) and injuries.

Nursing home residents rely on the nursing home property owners (nursing home operators and manager) to provide a facility free of dangers that might cause dangerous falls or accidents. This responsibility includes the removal of snow and ice, which creates a serious risk of falling.

In Illinois, according to the Premises Liability Act (740 ILCS 130), owners or occupiers of land owe invitees and licensees a duty of “reasonable care under the circumstances regarding the state of the premises or acts done or omitted on them.” An owner or lessee must provide a reasonably safe means of access to its business. If you bring a premises liability claim, you, the plaintiff, have the burden of proving that your injuries were caused by a condition on the property that was not reasonably safe that the owner knew or should have known of by the exercise of reasonable care.

Jonathan Rosenfeld represents victims of nursing home abuse and neglect throughout the country. For more information please visit Nursing Homes Abuse Blog (www.nursinghomesabuseblog.com), Bed Sore FAQ (www.bedsorefaq.com) or call Jonathan directly at (888) 424-5757.

However, this duty of reasonable care is different in the case of snow and ice on property. In Illinois, absent a contractual obligation, if you are walking down the street and happen to slip and fall on a snow or ice covered sidewalk or parking lot, the property owner owes you no duty to remove the natural accumulation of snow, water, or ice. (Illinois Snow and Ice Removal Act – 745 ILCS 75).

The Act states that it is undesirable for any person to be liable for damages due to his snow removal efforts, unless his actions amount to “clear wrongdoing.” Illinois follows the natural accumulation rule, where a property owner is only liable for a snow or ice related accident only if their alleged misconduct was willful and wanton or there was an unnatural accumulation of snow or ice or a natural condition that is aggravated by the owner. (McBride v. Taxman Corp., 327 Ill.App.3d 992 (1st Dist.2002); Ziencina v. County of Cook, 188 Ill. 2d 1 (1999)).

Natural accumulation is the result of natural weather conditions; whether accumulation is natural or not is oftentimes a difficult factual question. Examples of natural accumulation are: a sidewalk that has not been shoveled, puddles of water inside buildings from melting snow, ice formed by snow being packed down by pedestrians. Unnatural accumulation would be any actions by the property owner that cause snow or ice to accumulate in a specific location. One exception to the natural accumulation rule is if there is a contractual obligation to remove snow or ice; for example, if the property owner or manager has a provision in a lease providing that the owner agrees to remove snow or ice. If this is the case, the owner may be held liable.

Nursing home facilities must provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being of its residents. Part of this responsibility is ensuring that “the resident environment remains as free of accident hazards as is possible” (Requirements for States and Long Term Care Facilities – 42 CFR 483).

Therefore, nursing home operators owe residents a higher level of duty than a regular invitee or licensee, which under premises liability would only require them to exercise ordinary or reasonable care in maintaining the premises in a reasonably safe manner. Nursing home residents are more vulnerable than the regular invitee or licensee, and the degree of care owed is greater in recognition of that vulnerability.

Absent any dangerous winter weather conditions, nursing home residents are already more vulnerable to dangerous slips and falls, which can lead to serious injuries such as [broken hips](#) and [head injuries](#). Even minor falls can be dangerous because elderly people are more susceptible to bone fractures than younger people because as bones age, they lose the ability to resist the formation and growth of cracks which can lead to bone breaks. The federal code regulating nursing homes is sensitive to nursing home residents’ vulnerability to falls, even specifying a standard for flooring; “the facility must have floors that have a resilient, nonabrasive, and slip-resistant surface.”

Therefore, nursing home operators must take extra precautions to make the nursing home facility premises safe for elderly residents. This includes installing slip-resistant flooring and removing dangerous snow and ice. Nursing home operators have a contractual duty to make the premises free of accident hazards, including hazards posed by snow and ice.

Unnatural Accumulation Of Snow & Ice

If the nursing home operator removes snow or ice in a negligent manner or creates an unnatural accumulation of snow or ice, they may be liable for the resident's injuries. Similarly, if you are visiting a family member at the nursing home and happen to slip and fall on snow or ice, you may bring an action against the nursing home even though you are not a party to the contract because you are a foreseeable user of the premises.

If you or a member of your family has suffered a dangerous fall because of dangerous snow or ice accumulation at a nursing home, you have the right to hold the nursing home owner or operator responsible for those injuries. The nursing home is obligated to provide a safe environment for all residents, and that includes an environment free of dangerous snow and ice.

Thanks to Heather Keil, J.D. for her assistance with this Nursing Homes Abuse Blog Entry

Resources:

Illinois General Assembly – [Nursing Home Care Act 210 ILCS 45](#)

Illinois General Assembly – [Premises Liability Act, 740 ILCS 130](#)

Illinois General Assembly – [Snow and Ice Removal Act, 745 ILCS 75](#)

CIVIL IMMUNITIES

(745 ILCS 75/) Snow and Ice Removal Act.

(745 ILCS 75/0.01) (from Ch. 70, par. 200)

Sec. 0.01. Short title. This Act may be cited as the Snow and Ice Removal Act.

(Source: P.A. 86-1324.)

(745 ILCS 75/1) (from Ch. 70, par. 201)

Sec. 1. It is declared to be the public policy of this State that owners and others residing in residential units be encouraged to clean the sidewalks abutting their residences of snow and ice. The General Assembly, therefore, determines that it is undesirable for any person to be found liable for damages due to his or her efforts in the removal of snow or ice from such sidewalks, except for acts which amount to clear wrongdoing, as described in Section 2 of this Act.

(Source: P.A. 81-591.)

(745 ILCS 75/2) (from Ch. 70, par. 202)

Sec. 2. Any owner, lessor, occupant or other person in charge of any residential property, or any agent of or other person engaged by any such party, who removes or attempts to remove snow or ice from sidewalks abutting the property shall not be liable for any personal injuries allegedly caused by the snowy or icy condition of the sidewalk resulting from his or her acts or omissions unless the alleged misconduct was willful or wanton.

(Source: P.A. 81-591.)