

# AN OIL SPILL CLOSE TO HOME

## Your Legal Liability, Clean-Up Costs & Insurance

*By Samantha P. McDonald, Esq.*

Oil spills are in the news today and on people's minds, thanks in part to the gusher in the Gulf of Mexico. Clean up of that spill will likely run in the billions of dollars.

Have you ever thought about who would pay for clean up of an oil spill at your home? No matter who spills the oil, the property owner is responsible for clean up. Whether it is a spill or a leak, and no matter where it escapes from, the correct term is a "release." Clean up costs for a residential release average between \$20,000 and \$50,000, but can exceed \$300,000.

You can minimize your risk of a release by getting a reliable heating contractor to inspect your heating system; consider replacing your system if it's over 15 years old. In fact, there is a new law requiring residential property owners to have either an oil safety valve on the tank or a protective sleeve on the fuel delivery line. The estimated cost to comply is \$100-\$300. The requirement will be effective as of September 2011. This same requirement has been in place for new systems since 1990, so if your system is less than twenty years old, you should be in compliance.

Your financial risk still exists even with a new and compliant heating system. Until recently, your homeowner's insurance only covered the cost of clean up under your "third party liability" coverage. That meant that clean up was covered only if the oil spill was migrating onto a neighboring property or contaminating groundwater. Even then, the cost of repairing your own house is not covered by your insurance because of the "owned property exclusion."

However, new insurance coverage became available as of July 1, 2010, that covers both your property and third party liability. You will need to show that your fuel system meets the new requirements to qualify.

All insurers covering property in Massachusetts are required to offer this coverage. The minimum coverage available is \$50,000 for property damage and \$200,000 for liability. Premiums for a home with an above-ground tank will run about \$100.

There are some circumstances which complicate the coverage or the premium if you have a below-ground oil tank. Call us to discuss the risks before you call your insurance company.

Most importantly, if you do not elect to get this coverage the next time your homeowner's policy renews after August 1, 2010, it is likely that you will have no insurance coverage whatsoever for any release. Many insurers have announced that they will be specifically excluding coverage for any oil release, even for liability to others, after August 1st.