

THE FINE PRINT

A leaky oil tank could cost a young couple their dream home

By **Sean P. Murphy** Globe Staff, Updated February 20, 2022, 4:46 p.m.



Emmaline and Brian Proctor, a young couple with a baby (and another on the way), face devastating financial loss due to a recent leak of home heating oil from the tank in the basement. They bought their home 16 months ago. JONATHAN WIGGS/GLOBE STAFF

Emmaline and Brian Proctor were busy with routine chores one morning last month when the odor of home heating oil suddenly filled their house in Wareham.

When Brian ran down to the basement, he saw oil leaking from a small hole at the

bottom of their oil tank. The concrete floor was already covered in it.

Fearing the fumes, Emmaline, who is pregnant, and the couple's 10-month old baby were out the door with a hastily packed bag, not to return for almost a week. Brian stayed behind, called 911, shut off the furnace, and tried to stop the leak with his finger.

The Proctors now face an estimated cleanup and replacement cost of more than \$185,000 — more than half of what they paid for their heavily mortgaged house — according to written estimates from contractors. They have no idea how they will come up with that much money and will probably lose their home.

About 25 gallons of oil had spilled before the Fire Department arrived and stanching the leak with a wooden plug. Corrosion inside the tank had apparently caused the leak. The Proctors had had the steel tank inspected before they bought the house in 2020 but it looked fine from the outside.

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Under strictly enforced state environmental laws, the Proctors are now responsible for removing contamination caused by the spill. That means their contractor must excavate at least 10 feet under the house to test the soil and remove contaminated portions. And to do that, the contractor must temporarily lift the house off its foundation for access.

If cleanup specialists already hired by the Proctors (and paid for through a [GoFundMe](#) page) determine that oil has leached into ground water or the properties of neighbors, the costs will go up exponentially.

Twenty minutes of leaking oil could cost them everything.

“We’re considering all options, but there really aren’t any good ones,” said Brian, 24, a full-time National Guardsman who works as a Blackhawk helicopter mechanic at the military base on Cape Cod.

But what about homeowners insurance? Doesn’t it kick in to help pay the cost?

The Proctors pay about \$1,000 a year for what they thought was a comprehensive insurance policy. But they were shocked to find out that their policy — like 90 percent of those written for homes that heat with oil in Massachusetts — does not include specific coverage for oil leaks.

“We had no idea,” said Emmaline, 30, a paralegal who left her job during the pandemic. “It was a total shock.”

About 110 homeowners report oil leaks annually, according to the state Department of Environmental Protection. That’s a small percentage of the estimated 650,000 homeowners statewide who heat with oil.

The consequences can be catastrophic. One homeowner testified before a legislative committee last year that he had spent more than \$500,000 cleaning up an oil spill at his Hopkinton house.

Susan J. Crane, an attorney who has for more than 25 years represented homeowners dealing with oil leaks, wrote to the legislative committee that cleanup costs among her clients average more than \$100,000. A few paid more than \$1 million, she wrote.

“It’s just heartbreaking,” she said in an interview. “Emotionally and financially, it’s devastating.”

Crane and others have long advocated passage by the Legislature of a bill that would require insurers to include oil leak coverage in the policies they sell. They say a 2011 law intended to help protect homeowners like the Proctors has failed because of a major loophole.

The law required all insurers to “make available” insurance to cover oil leaks. But it didn’t require them to inform customers of it. And very few homeowners are knowledgeable enough about the risks to request it, Crane said.

As a result, less than 10 percent of homeowners who heat with oil are insured for losses caused by an oil leak.

Now, Crane and others are pushing to make coverage mandatory and automatic.

The insurance industry has long been wary of selling such insurance, in part because oil releases are “extraordinarily risky to cover, due to the potential for full environmental devastation,” said Christopher Stark, executive director of the Massachusetts Insurance Federation, an industry lobby group.

The industry signed off on the 2011 law as a compromise, he said, because it came with a requirement that any homeowner seeking coverage must first prove they have upgraded their furnace and tank with safety equipment intended to prevent or limit spills.

Stark said the industry opposes mandatory coverage because it would no longer require upgrades in exchange for coverage, and because it would force homeowners who heat with natural gas or electricity (about 1.8 million homes) to also pay for oil release coverage.

Mandatory coverage is strongly backed by the association that represents the private,

licensed site professionals (LSPs) who are authorized under state law to oversee cleanup of oil and other contamination.

The “fundamental” problem with the current law, according to the LSP association, is “way too few homeowners” have opted for coverage, even though it typically increases annual premiums by less than \$100.

The association says spreading the cost to all policyholders, including those who do not heat with oil, will make the increase in premiums “relatively low.”

The association also points out that premiums paid by policyholders who heat with oil help pay for losses caused by natural gas, even though those policyholders don’t use gas in their homes.

Brian Proctor said he would have been interested in buying insurance for oil spills if he had known about it when he and his wife bought their Cape-style house for \$275,000.

But the insurance agent who sold them their policy never mentioned it, he said. Nor did the home inspector, he said. During a walk-through of the basement, Brian and the inspector looked at the 275-gallon oil tank, but there was little discussion. (It was equipped with the kind of safety equipment required under the 2011 law.)

The inspector wrote in his report: “Be advised that steel oil tanks tend to corrode from the inside outward and telltale signs of problems may not always be visible.”

The current assumption among those who have looked at the Proctors’ tank is that it inexplicably corroded, even though it was only 18 years old and designed to last for 30. (Its warranty expired after 10 years and the manufacturer makes a general disavowal of liability for corrosion, Brian said.)

A GoFundMe page for the Proctors started by a family member raised almost \$10,000.

But there’s got to be a better way to protect homeowners who act responsibly by getting their property properly inspected and insured. Can we really look the other way when

families like the Proctors get ruined through no fault of their own?

I think a solution is long overdue. State lawmakers should find it.

And although mandatory coverage may help homeowners going forward, something needs to be done for people like the Proctors who are dealing with a catastrophe now. Billions of dollars in public money have been used to clean up “Superfund” sites polluted and abandoned by corporations. There should be a way for the government to fund some measure of relief for ordinary people.

To live at their home, the Proctors are now relying on a temporary oil tank installed outside their house.

“We love our beautiful little house,” said Emmaline, sitting in the kitchen. “We were so proud of it. We saved and saved and did it all on our own. Now this.”

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