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First snow of the year brings new snow & ice liability rules into focus

January 06, 2011 - Owners Developers & Managers

The first snowfall of the year should be a reminder to all that the legal responsibilities of property owners have changed—that snow and ice has to be cleaned up!

For over 100 years, Mass. property owners enjoyed a special exemption from liability for "natural accumulations" of snow and ice. An injured person previously had to demonstrate that the accumulation was unnatural, such as the frozen discharge from a gutter, or a pile of plowed snow across a sidewalk.

But now, after a ruling in July 2010 by the Supreme Judicial Court, Mass. will be following the rule of reasonable care. This means that all residential and commercial property owners must take reasonable steps to reduce hazards caused by snow and ice. That means plowing, shoveling, salting and sanding are no longer optional. If a property owner fails to use reasonable care in clearing snow and ice from their property and someone is injured as a result, the property owner can be held liable for that person's injuries.

Boston attorney David White explains, "The old rule allowed hazards to exist in busy walkways and reduced the responsibility of landowners. The rules were confusing and led to protracted litigation. The rules also resulted in more accidents and injuries. The new rule will change that, increasing the responsibility of property owners."

The new standard for snow and ice went into effect in July of 2010, after the Supreme Judicial Court ruled in the case of Papadopoulos v. Target Corporation, which involved a man who was injured when he slipped on a pile of snow while shopping at a Target store.

White explained, "Although this is a new standard regarding ice and snow, the concept of using reasonable care has long been applied to property owners for other defects on their property, such as broken steps or holes in walkways."

White called this decision "one of the most important public safety rulings in the last 25 years."

Under the old rules, property owners were encouraged to not remove snow or treat ice. "If you did nothing, you could not be sued," White explained. "However under the new law, property owners will have to use reasonable care to clear walkways, plow parking lots and treat icy areas."

White said, "No doubt some will be complaining about the extra work required to their walkways clear for travelers. The good news is that the increased care will likely reduce the number of serious injuries due to dangerous walking areas."

If you are a property owner, this means you want to consider how you can prevent snow and ice

accidents on your property this winter. Here are a few tips:

You have a responsibility to clear your driveway, sidewalks and other areas accessible to the public and lawful visitors.

Stock up on salt and use it regularly throughout a storm and in the hours afterward, when freezing occurs.

Walk your property after the snow falls. If you cannot move across it safely, others will be at risk.

Breakstone, White & Gluck, PC, is a Boston law firm which represents plaintiffs in personal injury and medical malpractice cases. The firm has established a reputation as one of the top personal injury firms in Massachusetts. Notable cases include the case against a surgeon who left a patient on the operating table to cash a check, and several multi-million dollar cases arising from medical malpractice, EMT malpractice, and motor vehicle accidents.

David White is a 1984 graduate of Northeastern University School of Law and has practiced in Boston since that time. He is a former president of the Massachusetts Bar Association (2007-2008). Mr. White was been recognized as one of the top ten Lawyers of the Year by Massachusetts Lawyers Weekly (2004), and has received several other recognitions for his professional achievements. Mr. White handles personal injury cases on behalf of plaintiffs, and has had several million-dollar-plus recoveries for clients involved in motor vehicle and construction accidents.

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