



MONTHLY

News and Views from the Connecticut Association of Home Inspectors, Inc.

April 2006

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Town to search for sump pumps?

Submitted by Pete Petrino

11/14/05 New Haven Register
Luther Turmelle, North Bureau Chief

CHESHIRE — Officials expect soon to begin a house-to-house inspection of every home in town, looking for sump pumps that are illegally dumping rain or storm water into the sewers, Town Manager Michael Milone said Thursday.

Public Works Director Joseph Michelangelo is negotiating with two companies to conduct the inspections, Milone said. "We hope to begin inspections in three to four weeks," Milone said.

The inspections are among measures officials want to implement to prevent overburdening the sewage treatment plant while the town tries to determine the long-term needs of the plant, which is nearing its 3.5 million-gallon capacity.

The town hopes "to demonstrate that the actual capacity of the plant is greater than the design capacity indicates and to identify ways to increase the maximum capacity of the plant," Michelangelo said.

The house-to-house inspection seeks to identify homeowners violating ordinances against dumping storm water into sewers, Milone said. Violators may face a surcharge to their sewer bills because of the additional cost to the town, he said.

The town is in the midst of a 65-day moratorium on connections to the sewer system, which expires Dec. 2. By then, the Water Pollution Control Authority hopes to have a plan to gradually allocate the remaining capacity over five years.

The authority is charged with determining who can hook up to the sanitary sewer system. It voted at the end of September to impose the moratorium in response to concerns that the sewage treatment plant is nearing its licensed capacity.

The allocation plan would work much like a household budget, with a certain amount of capacity available each month that the authority could give out for new connections to the system, Milone said.

Preliminary estimates are that the authority could allocate 90,000 gallons of sewer system capacity per month for the next five years, Milone said.

Authority Chairman Stephen Eberle said he believes the allocation plan — when used in combination with other measures — will keep the town from incurring punitive measures from the state Department of Environmental Protection.

The town was notified in April that the treatment plant had reached 90 percent of its licensed 3.5 million-gallon capacity. The DEP ordered the town to prepare a plan to deal with future capacity needs.

The authority will vote on the plan at its Nov. 30 meeting, Eberle said.

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Meeting Dates

Apr 26 *Potability of Groundwater Systems* – Ronnie Fields, Premier Laboratory

May 24 *Septic Inspection* – Rich Dallaire, CT Septic Inspection

Holiday Inn
201 Washington Ave
North Haven
(203) 239-6700

President's Corner

Bernie Caliendo

After a crazy winter with its ups and downs, spring is here and it seems like business is in its full swing. These are the cycles to which our profession exists. As spring arrives with its normal rainy season, let's not forget the October monsoon that hit us and how important it is to look for telltale signs of basement flooding or moisture seepage. Double check those stains on the rafters and roof decking in the attic. What about proper sloping around the foundation and where the downspouts are dumping the water? Is that hose coming out of the foundation wall discharging water from a sump pump right back down along the foundation? Report what you see and recommend what you know.

Our trip to the Journal of Light Construction Show in Providence, RI was another success. Five hours was a perfect amount of time to spend seeing new products, demonstrations and new toys. Along with the 5 hours of CE credit received by attendees, we were all home by 5 pm! We are looking to put together another bus trip in the fall and if anyone has a suggestion, feel free to contact me.

Another benefit of the JLC show, we were able to make contact with some major companies to line up presentations for future monthly meetings. Just a few topics: electric and hot water radiant heating, insulated foundation forms, log home construction, and a presentation from Simpson Strong-Tie Company.

Lastly, as some board members have stepped down and have been replaced, we just can't seem to get a full board (9 members) in place for the last few years. As the work load has greatly expanded to provide our members with the benefits and services, we are always looking for an extra hand. If you would like to serve on the board, please supply your request with a resume to myself or any other board member to be considered. If you have some time to just help out now and then, please come forward and offer your services. We would appreciate it.

Happy Inspecting!

To CAHI Membership,

I just received an email regarding the information below. Wanted to pass it on as this may be an issue for all of us this coming season. I can't speak to the source, basis or the accuracy of this information. Please use or disregard as you feel appropriate.

Mulch and Termites Warning

If you use mulch around your house be very careful about buying mulch this year. After the hurricane in New Orleans many trees were blown over. These trees were then turned into mulch and the state is trying to get rid of tons and tons of this mulch to any state or company who will come and haul it away. So it will be showing up in Home Depot and Lowes at dirt cheap prices with one huge problem; Formosan Termites will be the bonus in many of those bags. New Orleans is one of the few areas in the country where the Formosan Termites have gotten a strong hold and most of the trees blown down were already badly infested with those termites. Now we may have the worst case of transporting a problem to all parts of the country that we have ever had. These termites can eat a house in no time at all and we have no good control against them, so tell your friends that own homes to avoid cheap mulch and know where it came from.

Here's the link: <http://www.LSUagcenter.com> - Formosan Subterranean Termites Portal

Patrick W. Boland, Member
Shamrock Home Inspection Service, LLC

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April Keynote Speaker

This month's meeting topic is **potability of groundwater**.

Our meeting will feature Ronnie Fields from Premier Laboratory. Ronnie is the Director of Premier and a member of the CT AWWA Education Committee and recently was appointed to the New England Water Environment Association's Laboratory Committee. Ronnie is a frequent speaker for the American Ground Water Trust and writes articles for several trade publications. Ronnie will be discussing Connecticut drinking water standards, action levels, testing and report interpreting among other things.

2 hours of Continuing Education Credits

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"This (allocation plan) will be the beginning of well-planned development in town," Eberle said in reference to predications by some community leaders that the moratorium would deal a crippling blow to economic development in Cheshire. "The sky is not falling."

Sump pump search not illegal

11/25/2005 New Haven Register
Luther Turmelle, North Bureau Chief

CHESHIRE — A plan to inspect every house in town for sump pumps that are illegally dumping rain or storm water into the sewers has been scaled back, but it's not illegal, legal experts say.

The plan now is to visit 275 to 300 homes that have sump pumps and are connected to sanitary sewers, but some in Cheshire, a town of 30,000, see the search as an invasion of their privacy and their rights as property owners.

Williams Road resident Wade Elmer is among those residents who are considering not allowing inspectors into their homes.

Elmer bought his home with the sump pump already connected to the sanitary sewers but wasn't aware it violated town ordinances until earlier this year when he received a note from town officials.

He has since bought the equipment he needs to allow his sump pump to drain to the rear of his property but says he's uncomfortable with the idea of an inspector coming into his home.

"I have nothing to hide, but I just don't like the idea of somebody coming into my home," Elmer said. "You need to have a warrant to do that."

Others, even some people who don't have sump pumps, quietly echoed those sentiments, though they didn't want their names published.

But attorneys specializing in municipal law say inspecting houses for illegally connected sump pumps isn't the same as looking for evidence in a criminal case.

"Municipalities have a right to seek to make an inspection when they believe an ordinance is being violated," said Town Attorney John Knott.

"We're not talking kicking in the door; this is still the United States of America. But this is no different than when the officials of a town believe that zoning

ordinances are being violated. A homeowner can refuse, but at some point, you have to consider the consequences."

Town Manager Michael Milone said if a homeowner chooses to prohibit an inspection, town officials will assume he is violating the town's ordinance. Violators could face a surcharge to their sewer bills.

Public Works Director Joseph Michelangelo said residents whose sump pumps are found to be hooked into the sewer system will be given time to rectify the problem.

House-to-house inspections on such matters as zoning and sewer violations are assumed to be for the common good, said Jeremy Paul, a professor of real-property law at the University of Connecticut.

"This isn't controversial like eminent domain (is)," Paul said. "People are going to let an inspector into their home because they don't want the government to assume the worst, which is what will happen if they don't allow the inspection."

Anthony Macleod, a Greenwich lawyer specializing in utilities law, said that whenever the rights of an individual homeowner intersect with the public good, it's bound to be a sensitive subject.

"I think it's a situation where everybody has to be careful," Macleod said. "But my gut reaction is that the town should be able to do this because there is a public interest involved."

Milone and other town officials said they didn't set out to do anything other than to preserve the dwindling capacity at the sewage treatment plant on Cheshire Road.

More than 90 percent of the plant's 3.5 million gallon capacity is being used, according to 6-month average flow figures. The town must provide the Department of Environmental Protection with a plan to deal with the problem and wants to put off expanding its treatment capacity — a move that would cost town taxpayers tens of millions of dollars — for as long as possible.

Cheshire could face sanctions from the DEP if the problem is not corrected or the capacity of the plant is not expanded.

The town manager bristles at the suggestion that some in the community view the matter in terms of individual rights being violated.

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"These are people we believe are violating the law," Milone said.

Macleod said the sump pump inspections are similar to those conducted by water companies, which have the right to go on private property near a reservoir to make sure there are no pollutants that would foul the water supply.

Luther Turmelle can be reached at lturmelle@nhregister.com or 269-1496.

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Appellate Court holds realty firm, agent liable.

By Alex Wood
Journal Inquirer

The state Appellate Court on Wednesday upheld a Vernon Superior Court jury's verdict that the D.W. Fish Realty Co. of Manchester is liable for failing to obtain a proper inspection of a well that had to be replaced some seven weeks after a couple bought their first home in Bolton.

Real estate agent JoAnn Marozzi of D.W. Fish told the homebuyers, Christine and Richard Heller, that she would arrange all necessary inspections, including a well inspection at the home they were buying at 18 French Road in Bolton, according to the Appellate Court decision.

Marozzi later assured the couple that the well was functioning properly, and the sale closed, the decision adds. But about seven weeks after the couple moved in, they noticed a problem with the quality of their water and discovered that rodents had gotten into their "dug well" and died there. They replaced the well with a drilled well.

The Hellers later learned that the inspector hired by Marozzi did water tests but wasn't qualified to conduct a well inspection, which would have revealed holes through which rodents could enter the well, according to the decision.

The jury awarded the Hellers a total of \$43,500 in damages, including \$25,000 in "noneconomic damages."

The jury found in favor of the Hellers on several legal grounds, including a violation of the Connecticut Unfair Trade Practices Act. That law allows a judge to order a

defendant to pay reasonable legal fees incurred by a successful plaintiff.

But Judge Jane S. Scholl, who presided over the trial, refused to issue such an order on grounds that the Hellers' lawyer couldn't separate the fees related to the unfair trade practices claim from those related to their claims for negligence and breach of contract.

In response to an appeal by the Hellers, the Appellate Court ruled that such an allocation of legal fees was unnecessary. The breach-of-contract and negligence claims were related to the unfair trade practices claim "because they depended on the same facts," the unanimous three-judge panel said.

As a result, the court ordered a new hearing on the appropriate amount of legal fees to be awarded. The decision adds in a footnote that the defendants have conceded that the Hellers' request for some \$48,000 in legal fees is reasonable.

But Manchester lawyer Derek V. Oatis, who represents the Hellers, said the legal fees will be higher because they will include the costs of litigating the appeal. Oatis said that his clients were willing to settle the case before trial for two-thirds of the cost of the new well but that the defendants will end up paying many times that amount.

In their appeal of the verdict, D.W. Fish and Marozzi argued, among other things, that they hadn't made a contract to inspect the well and that they weren't

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negligent because they had no duty to inspect the well. Despite the lack of a written contract obligating D.W. Fish to have the well inspected, the Appellate Court said the jury could reasonably have found a contractual obligation based on Marozzi's oral promise to have all necessary inspections done.

In ruling that D.W. Fish had the legal duty required for a finding of negligence, the court said: "The defendants argue that Marozzi did not know that a well inspection is different from the water test that was performed, but her lack of knowledge regarding the specific nature of a well inspection does not affect the foreseeability of the harm."

The court added. "Because it is desirable to promote home ownership, public policy favors requiring real-estate agents to fulfill the promises they make to buyers."

Hartford lawyer Daniel Jonah Krisch, who represented D.W. Fish and Marozzi, said he would have to talk to his clients

and the insurance company that is paying the bills before deciding whether to ask the state Supreme Court to hear the case.

"The client believes strongly in its position that it did nothing wrong," he said.

Krisch said he didn't think the Appellate Court gave any "serious or reasoned consideration" to public-policy issues raised by the case about the responsibilities of real estate agents.

A key issue, he said, was what Marozzi, an experienced agent, understood a well inspection to be.

Another key issue, he said, was whether a well inspection would have corrected the problem. He said the Appellate Court simply assumed that it would have.

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Septic System Inspection & Problem Resolution Tips

By Bradley Korth, Korth Engineering, LLC

Who can conduct a septic inspection in Connecticut – legally anyone: surprisingly there are no State mandated credentials or content! Hence a wide variance in terms of both quality and price exist. Connecticut does however have recommendations for both which can be found at: www.dph.state.ct.us/BRS/sewage/sewage_program.htm.

Septic inspections involve only limited accessibility to actually viewing the system and problems can be intermittent. Hence it is important to not only perform a quality inspection, but also to address liability concerns. The following are some suggestions to include in a septic inspection report for both purposes, of which many are applicable to other types of inspections:

- ❖ **Specify Weather Conditions & Time of Year** – These can cause limitations on both conducting an inspection and identifying problems such as if the ground is covered with snow or it is the middle of August and there has been an extended dry period.
- ❖ **State & Evaluate Assumptions** – Ex: occupancy of premises in respect to both time and number of people, pump-out frequency of septic tank, any reported problems, etc. A change in occupancy use is critical as there may have been no problems with limited use that suddenly occur with greater usage.
- ❖ **Detail Criteria Utilized & Any Limitations** – If relevant, include completed copy of checklist and/or organized notes with report. A disclaimer statement may list in general how the inspection was performed and restrictions (ex: limited to only the parts of the system which could be physically observed).

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- ❖ **Ask If There Have Been Any Problems** - Include statement in report of what information was provided and by whom. State if no information was provided.
- ❖ **State Observations and Include Pictures & Available Diagrams** – look for “tell tale” signs both good and bad such as septic tank routinely pumped, problem with slow draining fixtures, etc. Document utilizing pictures and/or historical records.
- ❖ **Search Applicable Records, Evaluate & Provide Details In Report** – Suggest investigating at a minimum any available historical records from Town Hall & the property owner or manager with respect to system design, use and septic tank pumping. Hearsay may be applicable to include in report as long as it is stated as such (ex: per current owner reportedly.....) and evaluated accordingly. Sometimes hearsay may be the only information available!
- ❖ **Detail Location of System** – Ex: small lot with surrounding septic systems in close proximity, leaching fields located at bottom of large sloped area, etc.
- ❖ **Evaluate Soils** – Several methods available ex: Flow Test, Soil Records, Percolation Test, Signs of Ponding or Breakouts, etc.
- ❖ **Review Wastewater Routing** – Water treatment equipment backwash disposal, separation of gray and black water systems, presence of garbage disposal, etc.
- ❖ **Identify Inspector and Qualifications** – This can be as simple as the name of the individual conducting and/or reviewing the inspections along with their qualifications e.g. Licensed Installer, Professional Engineer, Registered Sanitarian, etc. Include certification number if applicable.

Some or all of the information may be inconclusive; state as such and why. It is imperative to look for “red flags” which indicate that there “could” be problems not necessarily that there “are” problems. A

“routine” septic inspection does not need to be the “Final Word”; don’t be afraid to make a written recommendation detailing that further investigation is needed. Remember. when writing recommendations, that there is no definition of a “Failed Septic System”. Although there may be “red flags” present, it may be difficult to readily identify a “failing” system due to factors like limited current usage, changing conditions (ex: storm water runoff), time of year inspection conducted, and system not having been utilized for an extended period of time.

When “Potential” problem septic systems have been identified and/or legal liability issues arise, options include:

- ❖ **Perform Further Investigation** – Performing a camera investigation of the system can readily identify blockage problems. Other more costly solutions such as expanding or replacing a system may require additional soil testing including digging with a backhoe.
- ❖ **Inspector Competency** – Assure that evaluation is performed by someone qualified and experienced to investigate and evaluate “Existing Septic Systems”. Don’t be fooled by qualifications alone! For example a “Professional Engineer” or “Licensed Installer” may be well qualified with respect to installation of new leaching fields, but have little experience in evaluation and repair of existing systems: allowable regulations and technologies can be quite different! Interpretation of State regulations can vary widely among licensed sanitarians!
- ❖ **Failed Leaching Fields Must Be Replaced** – WRONG ASSUMPTION! It may not only be unnecessary and costly; simply replacing leaching fields may not fix the root cause, leading to multiple failures. Limitations such as available area and obstructions (ex: pavement wells, etc.) may make this option impractical.
- ❖ **Evaluate All Repair Strategies** – Due to

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**Guest Speaker
or
Newsletter Article**

CAHI will pay \$25.00 to any member who provides us with a guest speaker for one of our monthly meetings or for any article that is submitted and used in the monthly newsletter.

Your guest speaker's name and contact number should be given to Woody Dawson (203) 272-7400 or Barry Small (860) 655-6383 (barrysmall@yahoo.com).

Articles must be e-mailed to Rich Kobylenski (rkoblenski023@earthlink.net) and should be a PDF or Word document. Articles should pertain to our industry.

We will review articles for content and reserve the right to edit, use and/or refuse them.

Contact CAHI

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lack of knowledge and/or investigation (and yes sometimes outright dishonesty) replacement of leaching fields is chosen as an option when better and/or less costly alternatives are available. Some problems may be simple to fix such as a crushed pipe, or blockage: "older" systems may be undersized and require expansion. It may also be possible to "rejuvenate" totally failed septic fields!

- ❖ **Evaluate Rejuvenation Technologies** – When applicable, technologies such as aerating with SoilAir, or performing Terralift can cost effectively provide long-term fixes with little or no digging. However, there are certainly scenarios when replacement of leaching fields is the best or only option.

Last and perhaps most important, maintain readily retrievable records, they can prove invaluable.

Bradley Korth is a registered Professional Engineer in Connecticut.

Korth Engineering, LLC provides a variety of environmental engineering services to the real estate industry including septic system designs & rejuvenation assessments, property contamination assessments, permitting, local town hearings, & expert witness testimony / litigation support.

Contact Mr. Korth www.kortheng.com or (860) 295-9458

CT Home Inspection Licensing Board

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The Licensing Board meetings are held at 9:30 am, Department of Consumer Protection, Room 117, 165 Capitol Avenue, Hartford.

The public is always welcome.

E-mail Bernie Caliendo for the latest meeting schedule at bsurehomeinspect@juno.com