

Storage tanks affect purchase, sale of older homes

by Tom Henderson

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Conor McGeehan, left, and Toshio Sagara, field supervisors with Soil Solutions, take soil samples from the yard of a Southeast Portland home to check for contamination from an underground heating oil tank. (Photo by Sam Tenney/DJC)

[HOT LUST](#) could cause problems for people building, buying and selling homes.

The two acronyms are used by the Oregon Department of Environmental Quality to refer to Heating Oil Tanks and Leaking Underground Storage Tanks. However, Portland real estate broker **Joan Rogers** said HOT LUST is nothing to snicker about when it comes to navigating DEQ regulations.

There is a protocol for decommissioning and reporting old tanks.

"The problem is that protocol has been a moving target for the past five to 10 years," said Rogers, a principal broker with [Windermere Real Estate](#). "You

can't force people to do what they ought to do."

Tanks were often decommissioned without homeowners at the time telling the DEQ. Then houses were sold and new owners discovered that they had tanks listed on the department's LUST list.

Herrington Rose, a spokesman for the Oregon DEQ, noted that the DEQ in 2000 started a program that certifies contractors. Now, when a tank is removed and a site is cleaned up, the work is automatically reported to the DEQ.

"Apparently these earlier reported release sites remain listed as active contaminated parcel without the ability to receive 'No further action' declarations unless a site re-assessment is completed," he said.

Rogers said it is a fairly common problem.

"I would say I see it primarily in houses built between 1895 and 1965," she said. "It affects about one in 10 of the older homes I sell. That's not a small amount. That's 10 percent."

New home construction is affected as well, she added.

"It is never a problem for new home construction – except when it is," she said. "You go to build a new house and, guess what, there's an old storage tank buried on the (property). I always say assume there's a tank under the house, even if it was built last week. Lack of information doesn't mean lack of a problem.

"Most people think they absolutely know that they have a tank on their property if they have one. And yet I've found several leaking tanks on properties where the owner swore up and down that it was impossible."

It's not a bad idea to check for old storage tanks, said **Marcia Denab**, a DEQ spokeswoman.

"People want to buy a home, and there's tank in the ground – they want to make sure they

don't inherit the pollution," she said. "These things can be negotiated between buyer and seller. We just recommend that when the work gets done, it gets done by a licensed contractor."

So, what if a homeowner with a decommissioned tank and an open LUST record were looking to sell a house?

"Well, that's not good," Rogers said. "The standards for fuel spill chemicals changed about three years ago. Now they are testing for three chemicals instead of one. One of the chemicals, naphthalene, behaves very differently from benzene, which was what they used to test for. Many sites that were clear for benzene before the new standards are not clear for naphthalene now."

An open LUST site can't be closed without new soil samples.

"Then there's a pretty good chance that the site won't pass, and the current homeowner is left with having to do another closure or a cleanup," Rogers said.

Darren Blaine, principal of [Soil Solutions](#), said he and his crew remove old (but clean) storage tanks on a fairly regular basis.



Toshio Sagara, left, holds an auger as fellow Soil Solutions field supervisor Conor McGeehan removed dirt from the bit while taking soil samples. (Photo by Sam Tenney/DJC)

"Sometimes they're safe, and sometimes they don't get reported," Blaine said. "Sometimes it's a complete mystery why they're still listed."

Actually, the mystery is not so deep.

"There was no process for the companies to close the files," he said, adding that the situation has since changed and the DEQ now works with contractors.

DEQ officials, however, do not seek out old tanks.

"They're expecting that over time the problem will eventually take care of itself," Blaine said.

People buying and selling homes also need to know that getting a letter of "No further action" from the DEQ guarantees no further action only if conditions don't change, Rogers said.

"There are two basic problems: the leaks we knew about and the tanks we didn't," said **Mike Kortenhof**, manager of the Oregon DEQ's heating oil tank program.

In cases where a tank was removed and a site was cleaned up without the DEQ's knowledge, Kortenhof said officials will accept the remediation for a small fee.

Kortenhof said he understands the dilemma faced by Rogers and others.

"These tanks can be a surprise for real estate agents and homebuyers," he said.

It is particularly troublesome because there is a 30-day deadline for cleaning up sites after issues are discovered.

"We often have to deal with people on a very short fuse," he said. "Sometimes we don't hear about the problem until Day 25."

Always do more than what seems reasonable on the surface, Rogers advised.

"There are companies that will search the property with underground sonar and now with dogs trained to smell oil," Rogers said. "The latter is invaluable in the case of properties where a

tank used to be there – was taken out of the ground. But there was a spill that nobody knew about because all of this happened 20 years ago because someone thought that taking a tank out was better than decommissioning it.”

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