

SB254 On-site Sewage Disposal Systems – Inspection -Licensing

Support

Letter in Support of Licensing for On-Site Sewage Disposal Systems (OSDS)

Subject location: 14975 Sugarland Rd., Poolesville, MD 20837

Submitted by: Jennifer Freeman, property owner

Jennifer.freeman1@yahoo.com

(301) 377-4267

Dear Committee,

I want to strongly support the proposed upcoming legislation regarding licensing for construction and inspection of OSDS. Particularly in the case of property transfer, I believe such licensing is critical to ensure that inspections are carried out in a standardized, effective and enforceable way. Without such licensing, there is significant risk to the new home owner that the septic system inspection is carried out improperly, thus not only putting property values significantly at risk, but also causing potentially huge costs to later repair a system that was actually already failed (but “passed” inspection) by way of a sub-standard septic system “inspection” at the time of property transfer.

In the fall of 2015, I entered into a sales contract for a property in Poolesville. As required by the sales contract, a septic inspection should be carried out prior to the sale of the property. This inspection should be carried out according to the contract “...by a private company, which has followed the MDE standardized procedure for the inspection of the septic system(s) and that the septic system is not malfunctioning, is functioning satisfactorily, or is in operating condition”. After the inspection, I had begun to have suspicions that the septic system might have problems. I began to research more information about OSDS as well as talk to Montgomery County officials about how inspections should be carried out. Quickly, I came to the conclusion that a proper septic inspection had NOT been carried out and that there was significant risk that the system was already failed. This concern led to a legal dispute between me and the seller which I ultimately won. In the dispute, it was determined that the inspector’s septic inspection could not be considered reliable to determine the true state of the system; therefore, it was required that a new septic inspection (to be carried out by a second trusted inspector) should take place. The results of the new inspection would be the final determination as to the correct status of the system. Needless to say, the new inspector found the system to be failed and determined that it would need to be replaced.

Although I won the legal dispute and costs for installing the new system were covered by the settlement, I was not able to negotiate that the seller also cover my legal fees, which ended up being about \$14,000. Had I not won the case I would have been out approximately an additional \$30,000- 50,000 to put in a new system.

Details of the Negligent/Falsified Inspection:

As is described below, the inspector had failed to carry out his inspection according to MDE guidelines. **Most importantly, the inspector ended up (falsely!) passing the septic system for the property which later was shown to have been a failed system.** Had I not learned that the septic inspection that took place was not complete and therefore might not reflect the true state and condition of the system, then it is almost certain that I would have ended up buying a property with a failed system, and if a new system would not have been possible, the property would have been uninhabitable.

Below details the areas where the septic inspection had failed to meet MDE guidelines, and had the inspector been held to licensing requirements, he would have had to comply with the legislation.

1. Sub-standard, non-MDE compliant inspection –

- a) No hydraulic test was performed. Especially considering the house had been vacant for about a year, the inspector had not brought any water onsite to pump it into the trenches to check drainage.
 - After the second septic inspection had been carried (as required by the legal dispute agreement), the hydraulic test was performed, using about 300 gal of water brought onsite (The original inspector had no water tank truck on location during his inspection). I was on site during the second inspection and saw how water flowed right back into the tank since it was not able to flow through to the trenches. I.e., the system failed the hydraulic test during the second inspection.
- b) The trenches were not checked. At one point during the original inspection, I asked where the trenches were and the inspector pointed off in the distance to some depression in the back pasture (which I later found to be some ground hog holes), and told me the trenches were “probably over there somewhere”.
 - Again, during the second inspection, not only did the inspector first prod with a metal bar to find the trenches, but he also brought in his digging equipment (back hoe) and dug all around the necessary areas to find the trenches in the areas where they had been indicated to be according to county records. Obviously, using this method, the second inspector was able to find the trenches. Consequently, the results of his testing of the trenches showed ground water quickly filling into the trenches, again, meaning the trenches were failed. Further, digging of the trenches revealed dark gray/blackish septic stones which are further indication of a failed system. It is clear that without digging up the trenches, it is impossible to know if they are working – this is a part of the MDE guidelines which the original inspector failed to carry out.
- c) There were tree roots found to be in the tank, but this would raise serious questions about the tank being found to be structurally sound as is noted in the inspector’s report.
- d) The inspector had not checked the distribution box during his inspection.
- e) The inspector pumped the tank first at the very beginning of his inspection, then continued with the rest of his inspection. However, MDE guidelines state that the tank should not be pumped before the inspection, but first there should be observation of the liquid levels and the hydraulic load test.
- f) Insufficient report provided – The extremely brief septic inspection report provided by the inspector does not come close to providing all the required information according to MDE guidelines and in some cases provided false information.

- i. It stated the house had been vacant since Aug 2015 (the house was put on the market in Sept 2015), but in fact the house had been vacant for an entire year so this information he wrote in the report was not true.
- ii. No supporting pictures or video evidence were provided to support the inspector's assertions about the state of the system, as required by MDE guidelines.
- iii. There was no sketch of the OSDS layout.
- iv. The recommended MDE OSDS inspection report form is 6 pages of specific and clear aspects that should be checked and commented on during the inspection, yet the form used by the inspector is a brief 1 page document and contains very little descriptive information about anything.

2. Ineffective/substandard resolutions to noted problems.

- a) The inspector had found that the baffle was broken and needed to be replaced. During the final property inspection the day before settlement was to occur, I looked at the inspector's work and found that the new baffle was secured with cheap metallic connectors which will corrode and eventually fail. Additionally, the baffle material is substandard, and would not pass a proper inspection. As such, repairs performed on the baffle do not adequately address one of the key septic defects identified by the inspector during his septic inspection and written in the report.
- b) The inspector found that the roots of the large nearby maple tree had broken into the tank. His recommendation was to cut the tree down. According to the recommendation, he organized that the tree was in fact cut, but it was cut with about 18 inches above the ground, meaning that (particularly since it was a Maple), the tree would not have died probably for several years, but would re-sprout from the sides and bottom, meaning the roots would definitely live on strongly for years to come, thus continuing to damage the tank further.

3. The inspector includes an almost surreal attempted legal disclaimer as 'standard issue' to his inspection reports. The disclaimer states, "Septic systems are subterranean, therefore it is impossible to determine their overall condition". Clearly such statements (excuses) would never be allowed if inspectors are required to be licensed since the licensing would require precisely the exact opposite of that statement – requiring that inspections be carried out such that the overall condition CAN be determined! It is shocking that the inspector's 'insight' that septic systems are subterranean is used as an excuse not to do the job he was hired for. Of course, the sales contract for the property transfer requires a determination of the condition of the system; yet, the inspector himself states here in this disclaimer, that he is unable to provide such determination since it is "impossible" since such systems are underground.

4. Interest in providing unapproved (thus illegal) 'work-arounds' for a high cost. The subject property was found to have an additional bootlegged septic system. The inspector offered to me that he would be willing to make the connection between toilet in the outbuilding and the existing tank for about \$5,000 and the County would not need to be informed that this was done. He explained to me that such connection would never have been approved by the county, so if I want to do it, he would take care of it "off the record". I declined his "offer" and requested the illegal system to be properly abandoned, which in fact he did do adequately. Nevertheless, I wanted it to be known that such 'offers' at high prices are a part of the inspector's way of doing business.

5. Exorbitant cost – The inspector’s prices are not only high, but astronomical and price gauging, considering that when two parties are in a real-estate transaction, clearly the parties are ‘trapped’ into accepting whatever price he puts on the table.

- a) Cost of cutting tree down and not even eliminating the roots - \$1,850.
 - By comparison, I had to have a hickory taken down near the house, about the same size as the maple, plus it had to be climbed due to its proximity to the house, plus logs cut in firewood lengths and the remainder chipped; the total cost for that hickory was \$400. Considering that the maple the inspector took down was just cut and dropped, all parts remaining there on location, this price is incomprehensible.
- b) Perc testing for one sand mound, only one hole dug - \$ 3,250.
 - Standard industry price is about - \$800
- c) Cut roots out of tank, replace baffle - \$1,200
- d) Crush and backfill 2nd septic tank - \$1,800

During this whole experience, I learned that although there are certification trainings on how to carry out proper septic inspections that inspectors must participate in, in fact, there is no actual licensing of septic inspectors. I strongly believe that this is a significant problem and that the only way there is a chance to weed out sub-standard inspectors such as the one I had encountered is to institute a licensing system whereby inspectors must not only pass training courses, but they would be at risk of losing their license (and thus not being able to work on septic systems or carry out inspections) in the case they are found guilty of gross negligence and malpractice as my case described above would clearly demonstrate.

I most sincerely hope this licensing legislation passes, in order to hopefully help others not have to go through the same financial pain and emotional stress that I had to go through during my home purchase.

Sincerely,

Jennifer Freeman