

# Snow and Ice Liability Management

Parking garages pose unique risks for store managers and facility owners

By Rich Arlington

Record snowfall last season spelled trouble for many roofs and parking garage decks. The continuous storms that dumped more than 2 ft. of snow in New England alone had facility owners frantically addressing weight load issues as heavy snow and ice threatened, and in some cases caused, roof and deck top collapses. The fallout: a rise in lawsuits as owners, insurance companies and snow contractors battle over snow and ice procedures followed, or not, in comparison with written contracts.

As an expert witness and consultant on risk and liability due to snow and ice, I see many cases in which the scope of work for snow services is not clearly defined, incomplete or inconsistent with the actual work performed. This opens facility owners up to enormous risk and liability exposure. Consider the case of Standard Landscaping (all names and dates have been changed), a 20-year snow contractor hired by Property Management Co. (PMC), which managed the exterior maintenance of a two-level parking garage for a retail complex. Standard signed a three-year contract with PMC to perform the snow and ice management



of the parking garage, which clearly stipulated that Standard was responsible for the removal of snow and ice from all paved surfaces from “curb to curb.”

For two winters, however, Standard had followed the instructions of the mall property manager who instructed them to push the snow on the top of the garage

away from the curb and pile it at an opposite side. The day before a 4-in. snowstorm arrived, Standard checked in by phone with the mall manager who simply said to them, “You know what to do.” There was no discussion about expected snowfall or how heavy it might be. Two days later, the parking garage structure collapsed in the section where the snow was piled and everyone involved began to point fingers at each other.

This case is not settled yet, but in the eyes of the court, the one item that the judge will hang her hat on is the contract and whether there was a change in scope. PMC could be held liable since the mall property manager had set a precedent with specific instructions for clearing and stacking that contradicted the contract. The insurance company’s lawyer might try to show how Standard, a veteran contractor, should have known the dangers of snow piling on the top of a parking garage deck. Regardless, each party will incur significant costs.

If PMC and Standard Landscaping had pursued snow education and training, they would likely learn it is the consensus among snow industry professionals that piling of snow on a parking structure deck top is not proper practice. They would also understand another hazard of this is the chance of thaw and refreeze where there is pedestrian foot traffic.

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## Snow removal checklist

How can facility management address the complexity of parking garage snow clearing? Here are some recommendations from Rich Arlington, of Rich Arlington & Associates:

- ✓ Hire contractors who clearly demonstrate knowledge of snow science and operations.
- ✓ Ask service providers how they train operators and about their continued education to ensure safe and on-time snow clearing.
- ✓ Inquire whether the service provider belongs to the Snow and Ice Management Association (SIMA) and is a Certified Snow Professional.
- ✓ For in-house clearing, train staff on proper snow and ice management.
- ✓ If snow is to be stored on the top level, facility management should provide equipment operators with detailed written guidelines before each storm for maximum storage-pile size, location and height that is pre-determined by a structural engineer.