

Legal experts eye potential for civil suits

By BOB MCGOVERN

Families of firefighters killed by a massive nine-alarm blaze at a Beacon Street brownstone officials say was sparked by welders should have the law on their side if they sue in civil court, but criminal charges will be harder to come by, according to legal experts.

"I can see many, many angles to liability in this situation," said Doug Sheff, president of the Massachusetts Bar Association.

"You definitely have a negligence case here, but it's also a wrongful death case, and in Massachusetts you can get punitive damages."

Welders working on an iron railing behind 296 Beacon St. started the blaze after sparks from the job ignited a wooden structure behind 298 Beacon St., interim Fire Commissioner John Hasson said yesterday.

It appears the welders were working without a permit, Hasson said.

There was also no fire detail, as is sometimes required for workers cutting metal at a construction site.

Sheff said a number of facts yet to be determined will be important in litigation, including: whether they had a permit and what reasonable welders would do

in the windy weather that existed that day.

He added that the owner of 296 Beacon St. — Oliver Realty Limited Partnership — could also be liable.

"If the building owner was somehow negligent by not having an extinguisher or not having the right permits," Sheff said, "he can be liable."

Oliver Realty issued a statement yesterday saying it understood the welding work would be done off-site.

On the criminal side, Massachusetts

law makes it difficult to press charges in cases when fires were started accidentally. Negligent homicide charges are filed only in traffic accidents.

"There are potential criminal problems, but it's not a sure thing," defense attorney Peter Elikann said. "We don't really have negligent homicide here, and that's maybe something the Legislature should look into and tighten up that area of the law that isn't covered."

State Sen. Ken Donnelly (D-Arlington), a retired Lexington firefighter, said, "I'm not so sure there is anything we can do to legislate and make sure that this doesn't happen again, but if there is, we will do it."



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