

INVESTING IN REAL ESTATE: Look Before You Leap

Miel McGerrigle

Many people thinking about purchasing a residential real estate property consider the possibility of renting out a basement apartment as a great selling feature and investment opportunity.

Let's say you find what you think is an ideal property—with a basement apartment. You proceed to renovate, and when the city inspectors arrive to inspect the renovation, they tell you that the basement apartment is illegal. You have tenants lined up to move in next week.

This scenario could have been very different if on purchasing the property you had sought advice from a real estate lawyer.

In Brampton, all basement apartments or secondary dwelling units must be registered with the City, to comply with City by-laws and regulations. If the basement apartment/secondary dwelling unit was not in existence before November 16, 1995, it will be considered an illegal unit. In order to create a new basement apartment/secondary dwelling unit, or to legalize one created after November 16, 1995, the property will have to be rezoned.

If the secondary dwelling unit was in existence before November 16, 1995 but has not yet been registered with the City, in order to qualify for registration, the owner of the property must provide proof to the City that the secondary dwelling unit was occupied on or before November 16, 1995.

By-laws and regulations differ from municipality to municipality. The City of Mississauga by-laws set out the same prohibitions and restrictions when it comes to the matter of basement apartments/secondary units. The Town of Oakville has similar restrictions, but will permit accessory units in two areas: the uptown core, south of Dundas and Trafalgar, and an area located off of 6th line, south of Dundas.

In Toronto, the need for additional rental units is so great that the secondary plans have all been amended to permit second suites in residential areas; the term "second suite" has replaced the term "accessory unit" in the secondary plans for the Toronto area. The City of Toronto even has a program that allows property owners to submit a funding proposal to the City to create a new secondary suite in their home, subject to funding availability. The City gives the home owner a forgivable loan to create a secondary suite; the loan is forgiven once all the work is completed and approved. (For information on other municipalities, please contact our office directly).



If a complaint is made to the City of Brampton about the existence of an illegal secondary dwelling unit, the City may have an officer inspect the property. If the owner refuses to allow the officer to inspect the property, the City may then obtain a search warrant to conduct the required inspection.

If after the inspection, the officer determines that the apartment is an illegal unit, the City may issue an order to comply with the current by-laws and regulations, setting out what must be done to the unit to bring it into compliance. If the order to comply is not followed, the City may then impose a monetary fine or take legal action against the property owner.

An order to comply may include such orders as the removal of a second kitchen/stove or the complete removal or replacement of any alteration that was made in order to make the area a secondary dwelling unit. Complying with an order issued by the City could end up being costly to the home owner, not to mention a huge inconvenience to any possible tenant living at the property.

If you are unsure whether a secondary dwelling unit in a property you currently own or are planning to purchase is legal, or if you would like to find out more information about legalizing your existing basement apartment, Lawrences' Real Estate Group would be glad to advise you.



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