

Value Added to Your Sellers and Buyers Unpermitted Property Improvements

Merle R. Ochrach, Esq.

How many times have you encountered or heard stories of settlements being derailed or delayed because it was discovered that the seller or a past owner failed to obtain required permits for property improvements? It may be that folks finished their basement, enclosed the porch, laid a patio, put in a large shed on a concrete slab. These things may seem harmless to the homeowner but many home improvements are regulated by the local municipality.

Some property owners think that if they do the job themselves they shouldn't need to get permits. Some contractors try to cut corners or offer a lower price than competitors because they don't go to the expense of obtaining the proper permits.

Some municipalities require the seller to obtain a resale certificate, even on a free standing single family home. The neglected permits may be flagged at that point. The prospective purchaser may choose to have a home inspection. The home inspector may inquire about things that seem to be added after the initial construction of the home and then discover the permits are missing. You may just get a buyer that decides to check with the municipality. If you're lucky and the work was done well and according to code, the fix may be as simple as paying a fee and obtaining the permit. If the work was not done in accordance with building code requirements, the seller may have to go to the expense of correcting the improvements in order to obtain a permit.

A good practice when listing a property is to question up front whether the seller has made improvements during their ownership and what they know about improvements and permitting prior to their ownership. You may be inclined to take the attitude of "let sleeping dogs lie" but being proactive may help you keep a deal on its settlement schedule or from blowing apart.

If you see a finished basement or a patio and the seller doesn't think they are original to the house but does not have permits for the work, do everyone a favor and contact the municipality's code enforcement office. Permits are public records and can be obtained from the local municipality.

A little bit of early leg work will keep your transactions moving smoothly. Should questions arise that you are unsure of, feel free to call [our real estate attorneys](#) for guidance.