

Basement Apartment Retrofit

“Untangling the web”

In a city like Toronto, where the apartment vacancy rate is low and real estate values are high, many people rely on the rental income from a basement apartment to give them the edge they need to own a home. But is it a ‘legal’ apartment? If not, how can it be made ‘legal’? In the process of legalizing the apartment, will I be inviting ‘trouble’? What if the ‘city’ prescribes improvements that are prohibitively expensive? What if the ‘city’ decides that I can’t have an apartment?

Catch 22

Homeowners with a basement apartment would like to find out what it would take to ‘legalize’ the apartment, but they want to find this out without tipping off the authorities. The only way to know for sure what will be required is to have inspections done by the appropriate authorities.

This report sheds some light on this complicated subject. We will look at basement apartments including –

- Key concepts
- The history
- The evaluation process
- Four key issues
- The rules
- Inspections and their costs
- Where to get more information

Definitions

Is it ‘legal’?

‘Legal’ involves five separate issues including –

- Do the local bylaws permit you to have a basement apartment?
- Does the apartment comply with the fire code?
- Does the apartment comply with basic building code requirements?
- Does the apartment comply with basic electrical safety requirements?
- Has the apartment been ‘registered’?

We will look at these issues more closely.

Building code vs. fire code

The **Building Code** prescribes minimum requirements for the construction of buildings. For the most part, the **Building Code** is a code that applies only the day the house was built. The code changes over the years, but we don’t have to keep changing our houses to comply with the code. The code does not apply ‘retroactively’.

The **Fire Code** is a subset of the **Building Code**. It prescribes construction and safety issues as they relate to how the building is required to perform should it catch fire. A significant distinction with the fire code is that it **can** apply **retroactively**.

Basement retrofit

Now that we know that the **Fire Code** applies retroactively, we can see where the phrase “**basement retrofit**” comes from. A new **Fire Code** was developed that applies to basement apartments. The code applies retroactively, so all basement apartments whether existing or new must comply with the new **Fire Code**. All owners of homes with basement apartments were given a period of time to upgrade their homes to comply with the new **Fire Code**. This ‘grace period’ has long since passed.

Certificate of compliance

All basement apartments have to be inspected to verify that they are in compliance. Once this has been verified and any improvements completed, the apartment is given a ‘certificate of compliance’.

Bylaw

We mention this term here to make sure that we don’t confuse bylaws with building codes. **Bylaw** in the context of basement apartments refers to whether you are permitted to have a basement apartment in your area and any special conditions involved. Bylaws are set by municipalities to keep people from being a nuisance to their neighbours. Codes are health and safety rules to protect occupants.

Basement Apartments – The History

Prior to 1993, there was little to worry about. After 1993, a permit was required to change a home from single family to multi-family.

In 1994, the NDP government in Ontario said that we could ignore local bylaws that prohibited second dwelling units in houses if certain conditions were met.

In 1994, the province set new Fire Code rules for basement apartments. A deadline was established for all existing basement apartments to upgrade to the new fire code. Upgrading to comply with the new fire code is called a “retrofit”. The owners were allowed to apply for an extension for up to two years past the deadline if they had financial or logistical obstacles. Even with the extension, the deadlines have long since passed.

In 1995, the provincial Conservative government told municipalities that they could enforce their bylaws regarding basement apartments. A grand-fathering clause says that apartments existing before November 1995 do not have to meet local bylaws.

The Evaluation Process

NEW UNITS

If you are thinking of adding a basement apartment here is the procedure –

- Check the Zoning Bylaw at City Hall Buildings Division to find out if basement apartments are allowed.
- You would then apply for a building permit. Keep in mind that you will have to comply with today's building codes.

EXISTING UNITS

This report will focus on existing homes with a single basement apartment.

- The first step is to check with Municipal Property Standards or the Fire Department for a Certificate of Compliance. If there is one, you are done!
- If the unit is not registered, you need to do some more work
- Verify that zoning bylaws permit a basement apartment. In most cases they do.
- The next step is to have the fire department inspect the home. They will verify compliance with the fire code. This is the most daunting part of the process because any deficiencies will have to be corrected by order of the fire marshal.
- The next step is to have the Electrical Safety Authority (which used to be called Ontario Hydro Inspection Department) inspect the electrical system. Once again, you will be required to make any improvements that are prescribed.
- If the apartment unit passes the inspections, the unit can be registered with Municipal (Property) Standards (If not, improvements may cost \$15,000 or more).

Four Key Elements

There are four key areas regarding fire code compliance. They all have to do with the safety of the occupants –

- Fire containment.
- Mean of egress.
- Fire detection and alarms.
- Electrical safety.

Let's look at each of these.

1. Fire Containment

The goal is to contain the fire in the unit that the fire started, long enough to get all of the occupants out of the house. This means that any walls, floors, ceilings and doors between units should control the fire for at least a few minutes. These components are given 'ratings' of how long they will survive a direct fire before burning through. A 30 minute rating means that the component will control the fire for at least 30 minutes.

The typical requirement is a 30 minute separation between the units.

- Drywall and plaster are acceptable. but suspended (T-bar type) ceilings are not.
- The ceiling must be continuous. For example, this means that you can't have exposed joists in the furnace room – this area has to be drywalled or plastered as well.
- Doors should be solid wood or metal – at least 1¾ inch thick.

2. Means of Egress - Escaping the home

The goal is to allow the occupants to get out of the house if there is a fire. There are two common situations; either each unit has its own exit, or there is a common exit. If each unit has its own exit, you are all set. If the units share an exit, it is more complicated.

A common exit is allowed if it is 'fire separated' from both of the units with a 30 minute rating. If the common exit is not appropriately fire separated, you can still use this common exit as long as there is a second exit from each dwelling unit and the fire alarms are interconnected (if one alarms, the others will alarm as well). Here is an example: There is a common exit area but the common area does not have a 30 minute fire separation between both of the units. If there is an 'acceptable' window for an escape route and the smoke alarms are interconnected, we are all set.

What is an acceptable window?

- The windowsill must be within 3 feet of grade. We don't want people jumping and breaking a leg.
- The smallest dimension is 18 inches.
- The opening is at least 600 square inches (30 inches by 20 inches for example)
- If there is a window well on a basement window, it must extend 3 feet out from the house wall, to allow room to crawl out.

3. Fire detection

All units must have smoke alarms. The **owner** of the property is responsible for ensuring that there are smoke alarms and that they are maintained. The smoke alarms do not have to be interconnected unless the fire separation to the common exit area does not have a 30 minute rating (Note: It must have at least a 15 minute rating).

A carbon monoxide detector (CO detector) may be required by the city.

4. Electrical Safety

An electrical inspection by the Electrical Safety Authority is required. The Electrical Safety Authority used to be called Ontario Hydro Inspection Department. All deficiencies must be addressed.

General Rules

Here are a few rules that your apartment must meet.

- All bathrooms need either a window or an exhaust fan
- If there is a parking spot for one of the units, there must also be a parking spot for the other unit (yes, you read it correctly!)
- The minimum ceiling height is 6 feet 5 inches
- The entrance door size must be at least 32 inches by 78 inches

Inspections and their costs

As we already pointed out, two inspections are required, fire code inspection and electrical safety inspection.

Once the inspections are done, you will be required to make the prescribed improvements. Improvements may be minor, but can cost \$15,000 or more.

There is lots of room for the inspectors to be more or less 'strict'. In municipalities that encourage basement apartments, the inspection may be less strict. In municipalities that discourage basement apartments, the inspection may be more strict.

Inspections for fire code compliance cost between \$120 and \$300.

Inspections for electrical safety cost \$72.

The consequences

If you are going to represent the property as two family, verify that it is registered with Municipal Property Standards. Failure to comply can result in a \$25,000 fine and one-year jail term.

More information

The Second Suites kit from City of Toronto is a useful reference. Contact **Shelter, Housing and Support** at 416-397-4502.

Office Presentation Available

If you would like an Engineer from Carson Dunlop to come to your office to do a presentation on basement retrofit requirements, please contact our office at 416-964-9415.

Our Web Site

The Carson Dunlop web site has this report and other reports of interest to Real Estate Professionals available for download. See us at www.carsondunlop.com

*This article was submitted by Carson Dunlop, a Toronto based Consulting Engineering company that has specialized in **Home Inspection** since 1978. For more information, call 1-800-268-7070 or visit www.carsondunlop.com.*

Relevant phone numbers and web sites

Municipal (Property) Standards

East York	416-397-4591
Etobicoke	416-394-2535
North York	416-395-7000
Scarborough	416-396-7071
Toronto	416-338-0338
York	416-394-2535

Fire Services (Fire Prevention)

www.city.toronto.on.ca/fire/prevention.htm

East York	416-396-3750
Etobicoke	416-394-8588
North York	416-395-7271
Scarborough	416-396-7644
Toronto	416-392-0150
York	416-394-2787

Buildings Division

www.city.toronto.on.ca/building/

East York: East York Civic Centre,
850 Coxwell Ave 416-397-4488

Etobicoke: Etobicoke Civic Centre,
399 The West Mall 416-394-8002

North York: North York Civic Centre,
5100 Yonge St 416-395-7507

Scarborough: Scarborough Civic Centre,
150 Borough Dr 416-396-5207

Toronto: Toronto City Hall,
100 Queen St W 416-392-7539

York: York Civic Centre,
2700 Eglinton Ave W 416-394-2490

Other Contact Numbers

Shelter, Housing and Support
416-397-4502

**Ontario Electrical Safety
Authority (ESA)**
(Formerly Ontario Hydro)
905-712-5650

Canada Customs and Revenue Agency
Income Tax Information 800-959-8281
Rental Income Tax Guide 905-712-5813

Greater Toronto Home Builder's Association
www.newhomes.org 416-391-3445

Hiring a Contractor
www.newhomes.org/reno/how2wire.htm

Insurance Bureau of Canada 416-362-2031

Land Registry Office 416-314-4430

Landlord's Self Help Centre 416-504-5190
www.landlordselfhelp.com

Ontario Association of Architects 416-449-6898

Property Tax Inquiries 416-338-4TAX
(338-4829)

Toronto Licensing Tribunal 416-392-3074