

## **Legal vrs. Non legal accessory apartments: Know the difference**

We get questions almost weekly pertaining to basement apartments. Having someone help you with mortgage payments often seems like a great idea but beware of the risks when purchasing a home with an accessory apartment.

An accessory apartment is defined as a separate living unit created within a single-family home and occupied by either a family member or a non-family tenant. A self-contained living unit features a separate eating place, a kitchen, a bedroom and bathroom.

When it comes to basement apartments, most of the confusion stems from a decision made in 1994, by the NDP government. The NDP passed legislation to provide that additional units (called accessory apartments) in houses were permissible. As a result, anyone anywhere in Ontario could create a second unit in their house. Two years later, this Act was repealed by the Conservative government. Municipalities were again given the right to decide where accessory apartment could be located. A provision was made that all apartments created under the old legislation were still legal as long as they met the requirements of the fire code.

The Ontario Fire Code addresses four fire safety issues with respect to basement apartments. They are; fire separation for each unit, means of escape from each unit, smoke alarms and electrical safety. The home owner must arrange for the house to be inspected and correct all fire safety and electrical hazards identified through the inspection. Bringing an existing house into compliance with the new regulation may be difficult and costly. Be cautious when you see a listing ad worded "owner does not warrant retrofit status." This likely means that it is illegal. Every basement apartment is unique and you should always double check with your municipality before assuming anything.

Keep in mind that when applying for a mortgage, lenders will only consider the rental income from an accessory apartment 'IF' buyers can prove the apartment is legal. This topic can be a complex issue. Please find rules and regulations regarding retrofit and fire codes at the Landlord and Tenant Board website: [www.ltb.gov.on.ca](http://www.ltb.gov.on.ca). Information can also be obtained from the planning and development at the City of Peterborough website: <http://www.peterborough.ca>.

