

**Town Topics, December 8, 2004 Legal Forum:  
"The Importance of Building Permits To A Residential Real Estate Transaction"  
by Kristina P. Hadinger, Esq.**

Reprinted with permission of the Town Topics

It has now become routine for a buyer in a residential real estate transaction to request that the seller provide confirmation of building permits and approvals for all additions or alterations made to the dwelling. Even if a buyer doesn't make this a direct condition of the contract, the buyer's home inspection company is likely to flag the issue in its inspection report. In addition, some municipalities require the issuance of a continuing certificate of occupancy on a resale. This entails an actual inspection of the dwelling including any improvements made without permits from the local Construction Code Official. Thus, one's failure to obtain the necessary permits to finish a basement or add a deck are, at some point during the transaction, likely to come to the buyer's attention and unnecessarily complicate the sale of one's home. In addition, the failure to obtain the necessary permits can subject the property owner to fines of up to \$2,000.

One common reason homeowners don't obtain the necessary permits is lack of awareness that permits are needed. Yet, under the Uniform Construction Code, virtually all improvements involving construction of one sort or another require a permit. It is not unusual for people to think they don't need a building permit to put a new roof on their house, to refinish their basement, or add exterior lighting when, in fact, permits are required for all of these activities. A very limited category of work defined under the Uniform Construction Code as "ordinary maintenance" (such as painting, repair of gutters, replacement of a faucet or replacement of an existing window) does not require a permit. Thus, a more realistic approach might be to presume a permit is required for the work contemplated, consult the local Construction Code office, and be thankful in the unlikely event the work qualifies as "ordinary maintenance."

The other typical reason homeowners fail to obtain building permits is concern that completion of their home improvement projects will be unduly delayed if they comply with the rules. This concern may be understandable, but there are ways to significantly minimize how long it takes to obtain a building permit, have one's project inspected, and the certificate of approval issued. The first step is to contact one's local Construction Code department. Many departments have practical hand-outs that address common alterations and improvements. Homeowners can use this information to plan their improvements with reasonable certainty regarding methods, materials, process, and inspections.

The Construction Code Official has twenty business days under the Code to review plans. Most officials strive to complete plan review in far less time. Plan review is facilitated by detailed drawings that depict the work being undertaken. Inspections of the work will be required at different stages. The homeowner should bear in mind that once an inspection is requested the official has three days to complete the same. A final inspection is required

at the end of the project and when the work has passed the final inspection, a certificate of approval or occupancy may be issued by the Construction Code Official.

Though the permit process can add time to completion of a home improvement project, when weighed against the potential for fines and complications in the sale of one's home, the inconvenience is relatively minor. Moreover, since the overriding purpose of the process is to secure the safety of the homeowner, family and guests, at the end of the process a homeowner can rest assured that the new deck is not merely an aesthetic enhancement to the property, but a sound improvement as well.