

## Double Check Measurements



**By Brian Madigan LL.B.**

How important are the actual measurements of a room? Does size matter? Sometimes, it does. Possibly the prospective purchaser is undertaking some rough calculations of value based on the overall size of the building. Square footage is the basis of this type of calculation, as is the cost per square foot.

In many other cases, this is not the situation. The buyer sees the room sizes and is otherwise content with their size and suitability.

You can appreciate that this situation would be different for a home buyer purchasing a new home from a builder just by looking at drawings, layouts and plans; the buyer who purchases a fully constructed and completed building.

Courts have often provided compensation to a buyer when there is a deficiency in size. Small deficiencies are often ignored, but a 15% deficiency comes with a price tag. So, builders need to be careful!

But, what about the resale market? Everyday realtors pull out their tape measures and calculate fairly rough estimates of size.

In a recent case, there was a 500 square foot deficiency in a house that should have been 2,706 sf., but was actually 2,206 sf. The trial Judge failed to award compensation for the deficiency concluding that the actual measurements were not that important to the buyer.

So, why not include the following clause for the benefit of the Seller:

***“Measurement Verification***

*The measurements provided by the Seller are estimates, and the Buyer to the extent that accuracy is important shall verify all such measurements on or before 6:00 pm on xx, April 2009.”*

This way, the buyer will state “on the record”, one way or the other that:

- 1) he is not relying upon the listing agent’s measurements,
- 2) he will ensure the accuracy on his own.

This will amount to a representation by the Buyer. If it is important, he will resolve the issue now. If it is not important, then, he will not later be able to claim that it was.

All too often, a buyer after completing the sale, will have second thoughts about the wisdom of the purchase. If the price went down, then they may be seeking some compensation from someone. It doesn’t matter who, but frequently the listing agent will do.

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