

# REAL ESTATE UPDATE

As Chair of the Real Estate Department at Hamburg, Rubin, Mullin, Maxwell & Lupin, I welcome you to our real estate newsletter. Our team – comprised of 9 lawyers, 3 paralegals, and 10 support staff – is truly second to none in representing clients in real estate. After practicing for over four decades, I continue to be impressed by the depth of our ability to handle all types of real estate matters, from purchases and sales, refinancing, assessment appeals, zoning, subdivision, and land development, as well as environmental law.

In today's volatile market, you must be careful with real estate transactions. It is therefore important to have attorneys who listen, understand, and are creative in effectively representing you. The professionals in the Real Estate Department at Hamburg, Rubin, Mullin, Maxwell & Lupin have been doing just that for nearly 40 years.

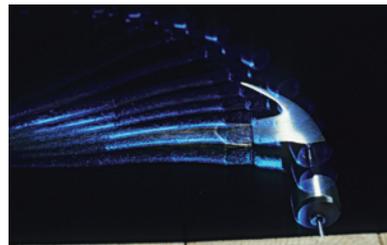


Ed Mullin

## **IMPORTANT ALERT** *The Home Improvement Consumer Protection Act*

Mark F. Himsworth, Esquire

Summer is the season when more and more “contractor” signs appear on the lawns of homeowners. Whether painters, builders, roofers, or masons, the warmer weather brings together contractors and homeowners. This year, the warmer weather will be bringing an added feature to these relationships – Pennsylvania’s Home Improvement Consumer Protection Act (“Act”). Although most transactions involving a contractor and homeowner are successful and satisfying, the number of “bad apples” have increased to the point at which the state legislature has enacted requirements for all home improvement contractors to uniformly disclose pertinent information about their business and the work to be performed for homeowners. These disclosures are for sure to protect the unsuspecting homeowner from predatory or disreputable contractors. However, the Act should also benefit the home improvement trades and industry insofar as unqualified, fly-by-night contractors will find the environment in which to operate less tolerable. The goal is therefore to reduce the opportunity and thus the instances of abuse so there are fewer and fewer “bad apples” misrepresenting themselves as to experience, credentials, and/or capabilities. By having all home improvement contractors comply with the Act, there should be fewer disputes with more successful and satisfying home improvement projects for both contractor and homeowner alike.



**Who is Subject to the Act?** Those in the home improvement construction industry must comply with the recently enacted Act, which goes into effect **July 1, 2009**. The Act defines a home improvement contractor as anyone involved with the following in connection with land, or a portion of the land adjacent to a private residence, or a building or a portion of the building used as a private residence, provided the contract is more than \$500:

- Repair, replacement, remodeling, demolition, removal, renovation, installation, alteration, conversion, modernization, improvement, rehabilitation or sandblasting.
- Construction, replacement, installation or improvement of driveways, swimming pools, pool houses, porches, garages, roofs, siding, insulation, solar energy systems, security systems, flooring, patios, fences, gazebos, sheds, cabanas, certain landscaping, painting, doors and windows and waterproofing.

Registration is mandatory. This means that home improvement contractors must file an application with the Bureau of Consumer Protection in the Office of the Attorney General to obtain a registration number. The application is \$50, and this can be done online by going to [www.attorneygeneral.gov/hic](http://www.attorneygeneral.gov/hic).

**Mandatory Contract Requirements** To be valid, the contract for home improvements after July 1, 2009 must, of course, be in writing, but must also expressly disclose material aspects of the work and

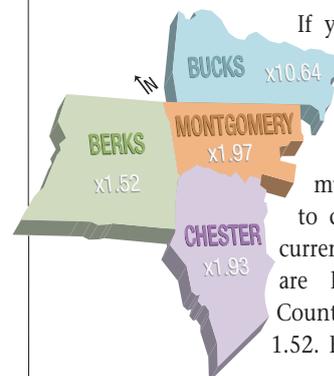
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## **To Appeal or Not to Appeal — That Is The Question!**

J. Edmund Mullin

As you are no doubt aware, real estate values have come down in our area because of the large number of foreclosures involving sub-prime loans. The real estate market is flooded with properties that are either owned by banks or about to be owned by banks, and that are being sold at prices far less than they were purchased for a few years ago.

Whether or not you are one of the purchasers of those homes, or if you have owned your home for some time, it makes sense to take a look at your real estate tax assessment to determine whether or not you are being taxed fairly. The amount of your assessment is set forth on your tax bill, and that assessment was supposed to represent the fair market value of your home the last year the county in which you live performed a county-wide assessment. Since that time, things have changed, and in order to adjust for those changes, the State Tax Equalization Board publishes factors to allow the computation of what your house should be worth today, based upon its assessment.



If you are located in Montgomery County, you would take your assessed value and multiply it by 1.97, to come up with the current value. If you are located in Berks County, you multiply by 1.52. Bucks County gets

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## Important Alert... *continued from page 1*

job, such as start and completion dates, the total contract price, identity of any subcontractors used on the job, confirmation of insurance coverage, and, importantly, notice that the homeowner can rescind the contract up to three days after signing. There are many other required disclosures and you should seek our guidance to determine whether any contract subject to the Act is in compliance.

**Consequences For Failure to Comply** A contractor's failure to comply may render the home improvement contract unenforceable. As with any new statute, what constitutes "compliance" under the Act, given any set of conditions or circumstances, can be tricky and uncertain for all parties. For contractors subject to the Act, questions may exist as to whether current contracts comply with the Act or whether modifications need to be made. This is critical because as expressly provided for by the Act, a contractor's non-compliance may trigger liability under Pennsylvania's Unfair Trade Practice and Consumer Protection Law, under which a homeowner may recover attorney's fees and treble damages.

After the Act takes effect on July 1, homeowners will not only have a basis to dispute payment to a contractor whose contract does not satisfy the Act's requirements, but might also be entitled to recover attorney's fees and treble damages in cases where fraud can be proven under the Unfair Trade and Consumer Protection Law.

Certainly, home improvement contractors have the affirmative obligation to make sure that they are in compliance with the Act. We at Hamburg, Rubin, Mullin, Maxwell & Lupin can help in ensuring such compliance. With home improvement contracts fulfilling the Act's requirements, the potential for dispute, and perhaps costly litigation, between contractor and homeowner is reduced. ■

## To Appeal or Not to Appeal...

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multiplied by 10.64, and Chester County gets multiplied by 1.93.

If you do the math, and your assessed value comes out to more than you think your house is currently worth, you should file an appeal.

These appeals should be successful if you recently purchased your house, or recently refinanced your house. If neither of these apply, the appeal may be a little more difficult, but it is certainly worth discussing with us.

Each county has a different date by which the appeals must be filed, so if you are interested you should contact our office.

We have a set fee of just \$750 for processing the initial appeal, which, if successful and depending on your circumstances, might save you thousands of dollars over time. *If you feel that you may qualify for tax reduction, contact Judy Moore at our office, at 215-661-0400.* ■

## Boarders Might Be Here To Stay

Karen T. Albright

Could the extra bedrooms or finished basement in your home be the answer to your thinning wallet during these challenging economic times? Many homeowners seem to think so. As the economy plummeted, mortgage foreclosures soared and layoffs became common during the past year, homeowners have turned to an old school method of increasing their income – renting rooms to boarders. What used to be regarded as an arrangement for college students and migrant workers, "homesharing" is now becoming a way of life for folks who are finding it increasingly difficult to make rent or mortgage payments. With ads by people seeking roommates increasing by more than 70 percent nationwide on craigslist.com within the last year, the combination of the contracting economy and the internet, which fosters socialization among strangers, has made such boarding arrangement attractive and a necessity.

But beware – financially strapped homeowners renting out rooms to help pay the mortgage or other costs may be overlooking key issues that could lead to greater financial hardship. First, a leasing arrangement in the home may be prohibited. Existing leases restricting sublease arrangements, homeowners' associations rules limiting owners who live in planned communities, and local zoning ordinances prohibiting rental arrangements

could result in eviction or financial penalties if violated. Some municipalities require that lease arrangements be registered with the municipality. If the house is zoned as a single family dwelling, the owner may not be allowed to rent out parts of the house or create a dual-family arrangement, and could face steep fines if officials discover such violations. Potential landlords should not only review their existing contracts and association rules, but should also check with the local municipality's code enforcement office.

Furthermore, a homeowner's insurance policy may prohibit a "business" within the insured home and the rental of rooms may therefore be considered a business. The insurance coverage could have limitations regarding coverage for contents, personal liability, medical payments and identity fraud regarding tenant arrangements. Some policies may also restrict capacity or the number of boarders. The homeowners' policy may provide coverage for a visiting "friend," but not necessarily for a formal financial/legal agreement with a boarder. For example, if a visiting friend starts a fire in your home, coverage would be available, but if a boarder starts the fire, no coverage would be available for any portion of the house. Homeowners considering renting a room should inform their insurance carrier to confirm the rental arrangement is covered. Also, landlords

should make certain the boarder buys his/her own renters' insurance, which protects the landlord/homeowner as well as the boarder.

In addition to contract and local law restrictions as well as complications with homeowner insurance policies, safety issues are the predominant concern in renting rooms. Homeowners should order a detailed criminal background check and credit history on the prospective tenant to help identify any potential problems that may arise during the tenancy.

After completing the due diligence items outlined above, to formalize the leasing arrangements, the homeowner and tenant should sign a lease documenting the terms of tenancy. The lease should include the term of the lease, rent, maintenance responsibilities, events of default, and remedies in the event of default, among other terms. ■



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