

# MarketNews

GEORGINA RATCLIFFE'S REAL ESTATE UPDATE

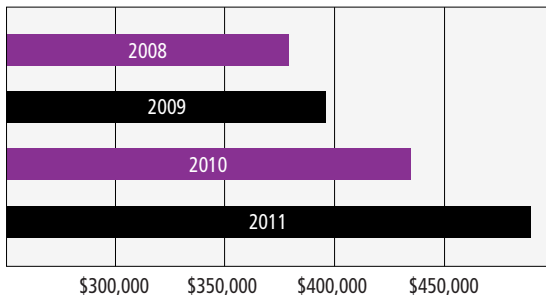
WINTER 2012

## 2011 ANOTHER BANNER YEAR

The average selling price of a resale home in the GTA during 2011 increased by another 8% to \$465,412 and resulted in an increase of about \$34,000 in equity for the average homeowner. Using 2006 as a base year, the average price of a resale home in the GTA has increased by 5.7% per year during the past five years and has provided homeowners with a gain of over \$113,000 in equity. Considering that primary residences are capital gains tax exempt, in order to get an equivalent rate of return, another investment would have had to average 8.8% per year during the same time frame (assuming a 35% income tax rate).

A total of 89,347 homes were sold in the GTA during 2011, which represented a 4% increase versus 2010's volume performance. This was the second-best year ever for sales, eclipsed only by 2007 sales of just over 93,000 homes. Volume was helped by low borrowing costs which kept buyers confident in their ability to comfortably cover their mortgage payments along with other major housing costs. Were it not for the fact that buyers were constrained by a chronic shortage of listings over the past 12 months, it is possible that the 2007 sales record would have been surpassed in 2011.

GTA RESALE HOME SALES (AVERAGE PRICE) - FULL YEAR



GTA RESALE HOME SALES (UNITS SOLD) - FULL YEAR



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# Legally Speaking



A recently released Superior Court decision underscores the importance of reviewing condominium floor plans before completing the purchase of a unit.

Back in September 1997, Kelly Jean Rainville signed an agreement of purchase and sale to buy one of 39 condominium townhouses in the Grand Harbour complex on Lake Shore Blvd. W. in Toronto.

Richard Weldon was one of the developers of the project. He bought one of the townhouse units for \$402,366.09 from the court-appointed official receiver when the development ran into financial difficulties. Weldon's unit was finished as a two-storey unit, with common element attic space above the second floor and a basement below the main floor.

The following spring, Weldon began construction to expand the unit into the attic. The added third-floor area consisted of a new set of stairs, new windows and skylights, a bathroom, sitting area and bedroom, totalling 862.2 square feet.

When the condominium corporation was registered in 1993, the surveyor's floor plans filed in the Land Registry Office did not account for the finished attic space. The plans showed that the upper boundary of the townhouse was the second floor ceiling. No steps were ever taken to amend the condominium declaration, and plans to legalize the third-floor attic build-out, which would have converted it from common elements to a part of the unit below.

Four years after moving in, Weldon sold the unit to Rainville for \$975,000. The certificate she obtained from the property managers as part of the purchase stated that there were no continuing violations of the condominium declaration, bylaws or rules.

In January, 1998, Rainville went to her lawyer's office and met with a law clerk to review and sign the closing documents. Although she was under the impression that she owned from the ceiling of the third floor right down to the basement, she was not shown any condominium plans.

Before moving in, Rainville began a \$700,000 renovation to the townhouse. During construction, it was discovered that there was

mould in the third floor due to water leaking through the roof. The condominium board and property managers became involved to resolve the water issues, and it was soon revealed that the third floor of the townhouse had been built into the attic space without permission of the condominium corporation.

In 2001, Rainville sued her lawyer, the condominium corporation, the property manager and two of its employees, as well as a number of individuals who were condominium board members at various times. In her claim, Rainville asked for the attic to be legalized as part of her unit, approval of the work she had done, and extensive damages for the cost of renovating and repairing the unit.

The trial took place before Madam Justice Darla A. Wilson in late 2009 and early 2010. I was one of the expert witnesses called to testify as to whether Rainville's lawyer was negligent in failing to show her the horizontal and vertical plans, which would have revealed that the third floor was not part of the townhouse.

It was my opinion that Rainville's lawyer's clerk was negligent in failing to show the purchaser both the horizontal and vertical floor plans on the townhouse. In a detailed 69-page decision, Wilson agreed with my opinion and ruled that the law firm had indeed been negligent.

The judge, however, dismissed Rainville's claim to have the third floor legalized. She was ordered to close up the third floor and restore it to attic space.

The law firm was ordered to pay Rainville almost \$300,000 in damages, plus close-up costs and renovation costs to the third floor. Sadly, the legal costs of having nine lawyers involved in a 42-day trial far exceeded the damages awarded. Sometimes in litigation, nobody wins.

*This article was contributed by Bob Aaron, a prominent Toronto-based real estate lawyer. Please visit him at [www.aaron.ca](http://www.aaron.ca)*



By combining personal taste, unlimited resources and individual style, you can achieve an interesting decorating look for almost any room. But there are some things you should just never do. The following is a short list of the top things you should never do when decorating a room, whether it's in a casual decor, a traditional setting, or in a child's room.

### **Choosing Furniture That Doesn't Fit**

You wouldn't wear clothes in a size that's baggy or skin tight, so why would you choose furniture that doesn't fit in your room? Before you shop for furniture, whether you're buying new or at a garage sale, measure your space, think about where you're going to put the piece, and write down notes. Resist the temptation to buy a too-big sofa, thinking you can put it on an angle if it doesn't fit. Write down the measurements and stick to it.

It's just as bad to buy pieces that are too small, thinking you can add more pieces to fill the space. Plan out your arrangement, think it over, and then find the pieces that are just right.

### **Using Too Many Patterns and Prints**

Don't pick up just any fabric or piece of furniture you like, thinking you can work around it. Plan your colour scheme, select a main pattern, then find coordinating stripes, small prints and plaids that enhance your choice.

Follow the "Rule of 3": Select one main pattern, usually a large print. Then find one small, coordinating print and one stripe or plaid. Then call it quits. If you need another fabric, think about using a solid-coloured texture or interesting weave instead of another pattern or print.

### **Floating a Rug in the Middle of the Room**

The elements in a room should be connected, both visibly and physically. A rug on the floor adds colour and a connection between pieces of furniture. The rug should be tucked under the front legs of chairs, sofas, and tables.

A rug placed in the middle of a room, unanchored, poses a safety hazard. It would be easy to trip on an edge or corner of the rug or

slip and slide if the rug moves.

### **Pushing All the Furniture Up Against the Wall**

You may think that a room will look larger if the middle of the floor is open, without furniture. But the opposite is true. Unless you're going to have a dancing party in the middle of your room, move the furniture into groupings in the centre.

Arrange a sofa with a table behind it, away from the wall with a walking space behind. Show off the back of the sofa and arrange decorative items and a lamp for reading behind it. Move chairs out of corners and you'll have a more open, airy look in your room.

### **Putting Decorative Pillows Everywhere**

You can buy pillows in every size, shape, colour, and texture. But just because you can doesn't mean you should. Pillows are great accessories to use to add interest and softness to a space, but they should be functional, not just decorative.

It's almost a natural that you'd use a decorative pillow on a sofa or at the back of a deep chair. Several on the top of a bed would be logical too. But don't place pillows on furniture that you have to take off to sit down or lie in bed. Make pillows decorative, soft, comfortable and, above all, useful.

### **Protecting Your Furniture With Slipcovers**

Slipcovers are wonderful for covering up worn fabric or patterns on fabric that are out of style or don't go with your decor. But any slipcover should be decorative and add to the piece, not distract from it.

The worst of the worst are clear vinyl slipcovers. You might be tempted to choose one to protect the beautiful silk fabric on your furniture. But they just look awful. There's no question about it and you should avoid them at all costs.

If you must cover a piece of furniture, choose a slipcover in a colour that resembles the upholstery you're covering. Hopefully it will blend with the space and no one will really notice. Remove the cover whenever you have guests and replace it for everyday activity.

# TO MY VALUED CLIENTS

Many people think being a landlord and investing in real estate is a way to make easy money. It can be financially rewarding if you do your homework and reduce your risks. But easy, it isn't and it can lead to financial ruin if not done properly. Here are a few quick tips for successful real estate investing.

Research the area where you'd like to buy. Is it in decline or on the way up? A good indication is if chains like Wal-Mart, Tim Horton's and Home Depot are moving in.

Once you own more than four rental units, find a reliable property manager. You don't want to take a call in the middle of the night. A rule of thumb is that you should allocate up to 10 per cent of monthly rent to a property manager.

Do not be in a hurry to rent a vacant unit. Take your time to qualify any potential tenant, since it can take months to evict

a problem tenant. Call all tenant references, ask for a current pay stub and speak to at least two prior landlords.

Be careful with basement apartments and homes rented to students. Although these units can provide additional income, you must make sure that they are legal, comply with the fire code and have any required licenses to operate.

Buy and hold your property for the long term. This way, you have an income and slowly start to pay down your mortgage.

Happy investing! And Happy New Year!

As usual, your client referrals are both highly valued and much appreciated. Until next time, take care!



# PEARLS OF WISDOM

*"Don't accept your dog's admiration as conclusive evidence that you are wonderful."* - Ann Landers

*"If you don't read the newspaper, you are uninformed. If you do read the newspaper, you are misinformed."* - Mark Twain

*"Santa Claus has the right idea. Visit people only once a year."* - Victor Borge

*"By the time a man is wise enough to watch his step, he's too old to go anywhere."* - Billy Crystal



## "YOUR REFERRALS ARE ALWAYS WELCOME!"



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