

21 Turn Lane
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BUYING OR SELLING A HOME IN THE TOWN OF HEMPSTEAD, LONG ISLAND

It is well settled that as "long as the purchasers exert a genuine good faith effort to secure the mortgage financing and act in good faith, they are entitled to rely on the contract and may recover their down payment if the mortgage is not, in fact, approved" (Cone v Daus , 120 AD2d 788, 790 [citation omitted]). It is also well settled that good faith performance may be satisfied as a matter of law by a buyer's mortgage application to one bank if that is all that the contract requires (see, Ruggeri v Brenner , 186 AD2d 441, lv denied , [good faith found with one mortgage application when contract required buyer to apply to a lending institution of "plaintiff's choice"]; Macho Assets v Spring Corp ., 128 AD2d 680, lv denied , 69 NY2d 609 [good faith found with one mortgage application when contract required buyer to apply to a lending institution which was selected by purchaser]; Glassman v Gerstein , 10 AD2d 875 [good faith found with one mortgage application when contract required buyer to apply to "a lending institution"]. Thus, if your mortgage is not approved due to a lack of proper building permits, all should be well, unless of course the buyer is the cause of the lack of building permits. See MAXWELL v. DONALDSON, 0022343/2006 (6-18-2007) (Queens County.) ("In this regard, defendant cannot assert the failure of plaintiffs to perform if defendant has frustrated or prevented the performance (See, Steven Strong Development Corp. v Washington Medical Associates, 303 AD2d 878; A-1 General Contracting Inc. v River Market Commodities Inc., 212 AD2d 897; Hidden Meadows Development Co. v Parmelee's Forest Products Inc., 289 AD2d 642; Young v Whitney, 111 AD2d 1013). Moreover, where the delay in the completion of a contract is caused by a party, that party will not be allowed to assert to its advantage the other party's failure to perform in a timely manner (See, Staten Island Supply Co., Inc. v Beverly-Glenwood Richmond Corp., 96 AD2d 553; Janowitz Bros. Venture v 25-30 120th Street Queens Corp., 75 AD2d 203). In the case at bar, plaintiffs have successfully raised issues of fact concerning whether, under all of the circumstances of this case, the actions of the defendant, especially in allegedly improperly altering the premises, prevented the plaintiffs from obtaining a firm mortgage commitment in a timely manner.")

YOUR MORTGAGE APPLICATION, AND/OR THE SALE OF YOUR HOME, MAY BE DELAYED OR STALLED DUE TO A LACK OF PROPER PERMITS. BE AWARE THAT IN THE TOWN OF HEMPSTEAD, EVEN ALTERATIONS AND STRUCTURES OF A MINOR CHARACTER REQUIRE A BUILDING PERMIT AND MAY BECOME AN ISSUE IN MORTGAGE FINANCING! MANY HOMES IN THE TOWN OF HEMPSTEAD, IN MY EXPERIENCE, HAVE BEEN ALTERED WITHOUT A PERMIT.

This is from the Town of Homestead's website:

"FILING INSTRUCTIONS FOR BUILDING PERMIT FOR ALTERATIONS AND STRUCTURES OF MINOR CHARACTER

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1. A completed Building Permit application form.
2. Three (3) recent complete (unaltered) surveys by a licensed land surveyor, showing the plot and all existing buildings and structures.
3. One (1) photostat of a recent tax bill, showing Section, Block, and Lot.
4. Two photostats of a Plot Plan. (See Instructions).
5. If case is destined for the Board of Zoning Appeals, nine plot plans will be required with all dimensions shown (house, side, front and rear yards).
6. Plumbing Permit application or affidavit of no plumbing and electrical.
7. Two (2) sets of CONSTRUCTION DRAWINGS. (See Below).
Certificate of Worker's Compensation.
8. If the application is destined to go before the Board of Zoning Appeals, a recent record search sheet is required.
9. In the case of a Board of Zoning Appeals application, four photographs showing all four sides of the dwelling and any/all structures on site are required.

The applicant shall carefully follow all instructions on the application form and answer every applicable question thereon. Applications that are illegible or that contain erasures or scratched out words will not be accepted.

The applicant shall indicate on the "Plot Plan", the average front yard setback of the existing buildings within 200' of the subject premises on the same side of the street, and within the same block. If there are no buildings on the same side of the street, the average setback of the existing buildings on the opposite side of the street shall be indicated. Proposed additions and leftover dimensions must be drawn on the Plot plan. The Plot Plan should then be photostatted in duplicate and submitted to this office.

No person shall be permitted to alter any application except the applicant.

THE APPLICATION is a sworn statement. Anyone knowingly entering false information thereon may be guilty of a criminal offense.

Construction Drawings

The application shall be accompanied by structural drawings, prepared in a standard architectural manner to scale of not less than one quarter of an inch to one foot.

Blue or Black Line Ozalid Type Prints made from original tracings are required.

The drawings shall include a foundation plan, floor plan, cross sections, elevations, and necessary details to the following items must be submitted:

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1. Completely describe the proposed work.
2. All symbols used on drawings to describe methods or materials etc. are to be standard architectural symbols.
3. In case where the proposed work exceeds the limits described in Sec. 7302 of the Education Law of the State of New York, the Seal and Signature of a Licensed Architect or Professional Engineer will be required on the drawings.

Foundation Plans

Foundation plans shall include the following minimum information:

1. Size of footing.
2. Size and material of foundation walls.
3. Size and location of column or pier footings.
4. Size, material and spacing of columns or piers.
5. Size and material of girders.
6. Size, spacing and direction of joists above.
7. Size and spacing of anchor bolts.
8. Access to, and ventilation for, crawl spaces or cellars.
9. Thickness of concrete floor slabs.

In the case of one story frame structures where the first floor is a concrete slab on earth, and the floor slab is poured monolithically with the foundation walls, trench footings will be permitted.

In cases where a crawl space or cellar is provided, a "tee" or spread footing will be required.

In all cases, footing sizes must be proportioned to uniformly distribute the imposed loads.

In areas where unusual soil conditions are suspected, a test boring may be required to justify the proposed foundation design.

Floor Plans

Floor plans shall include the following:

1. Size and use of all rooms.
2. Size and location of all openings in exterior walls so that available light and ventilation can be determined.
3. In the case of additions to existing dwellings, indicate method for supplying light and ventilation to existing rooms that may be cut off by the proposed addition.
4. Size and swing of all doors.
5. Size and material of all headers and lintels.

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6. Size, spacing and direction of joists above.
7. Indicate load bearing partitions.
8. Section cut lines.

Sections and Details

The drawings shall include the necessary cross or longitudinal sections and details to fully illustrate the proposed construction.

The sections shall indicate the following:

1. Size and material of all members shown.
2. Floor to ceiling height, depth of crawl spaces, and depth of footings below finished grade.
3. Roof pitch, expressed as a proportion of rise to run.
4. Location and type of bridging.
5. The line along which the section was taken shall be indicated on the floor plan.

Details

Unusual framing methods are to be illustrated by details drawings.

Laminated or compound structural members are to be fully detailed.

Trusses or trussed rafters shall be accompanied by a stress diagram and computations.

Fireplace chimney details shall include a plan, section, and elevation. The area of the flue must be proportioned to the hearth opening in accordance with generally accepted standards. A minimum of 8" of masonry is required between the flue and wood frame. No framing will be permitted to bear on the masonry of the chimney.

Second Story Additions

Where a second story, full double dormer or full single dormer are to be erected above an existing dwelling, the plans shall include a first floor layout and cellar plan of the existing building, in addition to the drawings of the proposed construction. The plans of the existing conditions may be prepared at 1/8"- 1'-0" scale and shall indicate the location of bearing partitions, size of girders, and the location, size and spacing of existing columns or piers. A full double dormer and a full single dormer, for the purpose of this section shall be defined as, in excess of 50% of the existing roof line.

General Notes

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Notes on the drawings shall include information on the following:

1. Assumed soil bearing capacity.
2. Maximum permitted fibre stresses for all structural materials used.
3. Any information that will aid in interpretation of the drawing.
4. **PLANS SHALL DEMONSTRATE COMPLIANCE WITH THE REQUIREMENTS OF THE N.Y. STATE ENERGY CONSTRUCTION CODE.**

The information contained in these sheets has been compiled in order to assist persons interested in filing for Building Permits.

These requirements represent the minimum standards for filing and any additional information supplied will certainly expedite the issuance of a permit.

These sheets will be revised from time to time as conditions demand.

PLEASE NOTE, that if work performed under this Building Permit produces solid waste in any form as a consequence of such work, that it shall be the responsibility of the Permittee, to dispose of such solid waste as part of the construction or reconstruction project. Department of Sanitation regulations preclude the collection of the residual of construction or construction renovation materials. Disposal facilities for such materials generated are available for this purpose, for use by the contractor or permit-holder.

It is the policy of this department to abandon and destroy, without notification, any application that has been left dormant by the owner or agent thereof for 90 days. All fees paid in relation to such an application will be non-refundable and non-transferable."