

# TALES FROM THE TRENCHES™

BY BARRY C. MCGUIRE

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February, 2017

## DEEP DILIGENCE SAVES HALF A MILLION DOLLARS!

I heard from a Calgary investor recently about dodging an expensive bullet.

Houses with legal suites or houses zoned for legal suites are all the rage in Alberta. What's not to like about adding a secondary suite to a single-family home effectively turning it into a duplex with amazing positive cash flow? Everyone likes that. Tougher to do in Calgary, though. I hate to say it, our Calgary cousins are not nearly as advanced as we Edmontonians on the secondary suite issue. The City of Edmonton has amended bylaws to allow secondary suites all over the city and in most zoning situations.

City of Calgary, not so much. In Calgary, secondary suites are only allowed in certain areas. Calgary City Council is divided on whether to expand the areas where they allow secondary suites.

So, in Calgary if you find a property with a secondary suite that is perhaps grandfathered or is in one of the areas where the zoning allow secondary suites, it can be a jackpot. But, as with all potential purchases, you have to accomplish adequate diligence. Here's an amazing story in the investor's own words.

*Hi Barry,*

*I thought you might find this interesting. A possible "Tales from the Trenches" for Calgary.*

*I have been pursuing a house in Mayland Heights. Great lot, raised bungalow. Existing suite from 1960. However, the city only knew about it as a single-family home. No problem, I thought... I'll just update it to legal status once I purchase it. It is RC2 so permitted use. However, after pulling title...*

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
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*First call to the city, they said it probably only applied to noise and that yes we could build a suite.*

*But something just did not feel right to me, so I did more research. I looked up the property according to the Airport Vicinity Protection Area (AVPA) regulations. And after looking up AVPA Regulations and asking the City to look into it we find out that this property can never be more than a single-family home. So, no secondary suite. No infill development exit strategy.*

*We never put in the offer. Our JV's (Joint Venture partners) once again mentioned how pleased they are working with us, as our meticulous due diligence saved us making a half-a-million dollar mistake.*

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Interestingly, [CBC news recently reported](#) on the issue of airports, zoning, and secondary suites in Calgary. City officials have debated making a request to the Province of Alberta regarding housing rules near airports. A provincial regulation from the 1970s restricts development in communities that are in an air transit flight path. The rules are in place to prevent buildings that would interfere with air traffic. Low height infill like basement suites wouldn't affect airplanes, although airport officials speculate that noise complaints might rise if there were more people living in the flight path.

One classic diligence lesson that our investor so obviously understands is that when you ask a question and the answer is, "probably," that is not an answer to a diligence question. You will recall our investor called the City of Calgary to ask about the AVPA regulations and the city said, "it probably only applied to noise and that yes we could build a suite." Makes sense does it not? Why would airport related regulations that are really mostly about not building tall buildings in aircraft flight space care about a suite in a basement?

Logic would tell you they don't care but logic would be wrong. You have to nail down the answers to your diligence questions.

### LESSONS LEARNED:

1. Airport Vicinity Protection Area regulations prevent secondary suites in Calgary.
2. Reviewing title is basic diligence.
3. Do title review *before* you make an offer
4. Never accept, "probably" as the answer to a diligence question
5. There are airports all over Alberta. Don't buy near an airport without checking on AVPA regulations.

**FOR ALL YOUR ALBERTA REAL ESTATE LEGAL NEEDS,  
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