



NOTICE FOR SELLERS AND BUYERS

Planning, building and cadastral compliance in deeds transferring buildings

What the seller declares, what the buyer can check and why a technical report before the deed avoids unpleasant surprises.

1. THE DETAILS OF THE BUILDING PERMITS

In every deed that transfers or creates rights in rem over a building, the **seller** is required by law (art. 46 D.P.R. 380/2001, the Italian Consolidated Building Act, and art. 40 L. 47/1985) to declare to the notary, who records them in the deed, the details of the permit under which the building was constructed and of any later permits (building permit, concession, licence, SCIA, building amnesty). For older buildings the declaration may state that construction began before 1 September 1967. According to case law the details must refer to a permit that **exists and relates to that very building**: a non-existent permit, or one relating to another property, can make the deed void.

2. STATEMENTS TO THE NOTARY MUST BE TRUE

The notary is a public official: anyone who makes a false statement commits a criminal offence. The Court of Cassation (Criminal Division V, judgment no. 5178 of 12 December 2017) has clarified that a private individual who declares to the notary that the property complies with the building permit, knowing that it does not, commits the offence of false statement in a public deed (art. 483 c.p.), because he is under a legal duty of truthfulness to protect the orderly use of land; the notary, on the other hand, must record the statements, not verify the actual state of the premises.

3. CADASTRAL COMPLIANCE

Since 1 July 2010 (art. 29, comma 1-bis, L. 52/1985) the seller must declare in the deed, on pain of nullity, that the **cadastral data and the floor plan filed with the Cadastre match the actual state of the property**, or attach a certification by a qualified technician. Before the deed the notary checks that the cadastral owners match the owners shown in the land registers. Minor internal discrepancies (a moved partition wall, a closed-off door) must be regularised with a new floor plan *before* the deed; discrepancies affecting the size or the intended use of the property may also require a planning application.

4. INFORMING THE BUYER IN GOOD TIME

The seller's declarations also serve to inform the buyer: for this reason they must be communicated **in advance**, ideally already at the offer stage or in the preliminary contract, together with a copy of the building permits (which the seller can request from the Municipality through access to records) and the cadastral floor plan. In this way the buyer can carry out his own checks before committing.

5. BUILDING IRREGULARITIES AND FALSE STATEMENTS: THE CONSEQUENCES

If building irregularities or cadastral discrepancies emerge after the deed, the seller must **compensate the buyer** for the damage and, in the most serious cases, the deed may be declared void. The buyer, for his part, has the burden of taking steps before completion to verify the compliance of the property and assess whether the purchase is worthwhile, also with a view to a future resale or a mortgage loan: banks and future buyers will ask for the same documentation.

6. CERTIFICATION OF THE "LAWFUL STATE" OF THE PROPERTY

Art. 9-bis, comma 1-bis, D.P.R. 380/2001 (introduced by D.L. 76/2020 and updated by D.L. 69/2024, the "salva casa" decree) defines the **lawful state** (stato legittimo) of a property as that resulting from the permit under which it was built and from any later permits, including construction and execution tolerances. The buyer may ask the seller for a certification of lawful state issued by a qualified technician (surveyor, architect, engineer) after accessing the municipal records and inspecting the property.

7. THE OFFICE'S ADVICE: A TECHNICAL REPORT BEFORE THE DEED

We advise buyers to have a report on planning, building and cadastral compliance (so-called *technical due diligence*) drawn up, at their own expense and by a technician they trust, ideally providing for it in the preliminary contract as a condition. It is not required by law, but it is the safest way to know what you are buying: it usually costs a few hundred euros and is worth far more than a lawsuit. If you do not know a technician, the Office's secretariat can suggest professionals registered with the Naples professional bodies, with no obligation whatsoever.

8. WHAT THE NOTARY DOES AND DOES NOT DO

- **Does:** checks the title deeds and carries out land-registry and cadastral searches, checks that the planning declarations are present and formally correct, aligns cadastral records and land registers, explains risks and consequences to the parties.
- **Does not:** inspect the property or compare the actual state of the premises with the floor plan and the approved project, which are technical investigations outside the notarial function and not part of the engagement (unless expressly agreed in writing).

9. DOCUMENTS TO DELIVER TO THE OFFICE BEFORE THE DEED

- Copy of the building permits (licence, concession, permit, SCIA, DIA, building amnesties with receipts for payment of the amnesty fees).
- Cadastral floor plan (raster copy) and up-to-date cadastral search; any DOCFA variation filing.
- Habitability certificate (or certified notification), if it exists.
- Valid energy performance certificate (APE).
- For land: planning designation certificate (CDU) issued less than a year ago.
- Any technical compliance report or certification of lawful state.



ACKNOWLEDGEMENT

I declare that I have received and understood this notice on planning, building and cadastral compliance and that the notary has invited me to have the state of the property checked by a technician of my choice before completion.

☐ Seller ☐ Buyer ☐ I will have the technical report drawn up ☐ I waive the technical report, aware of the risks

Property (address and cadastral data)

Place and date

Surname and first name

Signature