



LEGAL HOTLINE Q&A

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QUESTION :

I just came across a broker who is insisting that we only use the one original 35R form with each party marking, initialing and signing their section on that original Form 35R. I prefer to have the buyer reply on a clean Form 35R. Can you tell me if it is necessary for us to use the original Form 35R only?

ANSWER:

There is no reason that using a single Form 35R is necessary and doing so often leads to a messy form that is difficult to read, interpret and understand. Each of the sections of Form 35R serves a distinct purpose and the same goal is accomplished if that section of Form 35R is marked and initialed on the original Form 35R or on a clean Form 35R. There is literally NO benefit from using the original Form 35R for seller's response and buyer's reply. (Brokers must remember to complete the introductory paragraph of each Form 35R, identifying the parties, the property and the transaction to which the Form 35R is attached.)

To the extent the same form can be used without creating an illegible mess of the form, it is fine to use the same form. However, it is critical to remember that RE Brokers are held to the standard of care of a lawyer when preparing the purchase agreement. A goal of every broker when drafting the Form 35R, which is an addendum to the purchase agreement, should be to make the document legible and easy to understand. If this goal is facilitated through the use of more than one Form 35R, then more than one Form 35R should be used.

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