



LEGAL HOTLINE Q&A

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Question:

Another firm has taken the stance that every seller must sign Form 35C before their buyer will deliver the Form 35R. They argue that their buyers feel there's too much risk if they list items they want repaired or ask for credit towards the same. I've tried to explain that as long as none of the inspection report is shared with the seller there's no need for 35C. In effect, they're forcing our seller to receive portions or all of the report to move transactions forward. How do we resolve this difference in handling the inspection response?

Answer:

It would seem that the problem with buyer broker's policy endangers buyer, not seller. Listing broker is correct. Seller should not sign a Form 35C unless seller wants to receive some or all of buyer's inspection report. Buyer is not providing any of buyer's inspection report if buyer provides a contractor's estimate of work that buyer wants seller to perform or if buyer seeks a price reduction. However, if buyer refuses to deliver a Form 35R request for concessions because seller refuses to provide a Form 35C, then buyer will be unable to seek seller's requests for concessions. Buyer's broker is taking a very dangerous and misguided approach to advising buyer. Broker's advice will leave buyer in one of two unwanted outcomes. Buyer will either have to terminate the transaction because buyer's broker advised buyer that buyer cannot seek concessions or buyer will waive buyer's inspection contingency through inaction. Either way, listing broker should not advise seller to take an unwanted risk in sending a Form 35C, to accommodate a buyer broker who does not understand the operation of the forms.

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