



Home Inspections & Contractual Issues

The Legal Hotline regularly receives questions related to home inspections and the contractual issues that arise pertaining to the home inspection. Here are some of the most common questions we have received on this subject. Please remember that the Legal Hotline is available to assist principal or managing brokers and their designated agents between the hours of 9 a.m. and 5 p.m., Monday through Friday.

Q: The Buyer's inspection has turned up several items of concern for the Buyer and, as a result, my buyer no longer wants to purchase the property. Does the Buyer have to give the Seller an opportunity to repair the defects or can the Buyer walk away from the deal due to the bad inspection results?

A: The Buyer does have an obligation to submit an Inspection Response to the Seller pursuant to the language contained in the IAR Purchase Agreement. If the Buyer fails to submit a Response to the Inspection report within the allotted time to do so, the property shall be deemed acceptable to the Buyer. If, rather than giving the Seller the opportunity to repair any defect with the property, the Buyer submits a Mutual Release or indicates they are unwilling to complete the transaction, the Buyer will be in breach of the Purchase Agreement and will likely lose their earnest money and may be liable to a seller for additional damages as well.

Q: My Buyer asked the Seller to repair some property defects on an Inspection Response. The Seller replied that they were "unable or unwilling" to complete the requested repairs. My Buyer then submitted a second Inspection Response asking for half the number of repairs originally requested. The Seller replied by sending over a signed Mutual Release. The Seller can't do that – can they?

A: According to the IAR Purchase Agreement, when the Buyer receives the Seller's Response to the Inspection Response which states that the Seller will not remedy the defect as requested, the Buyer may either: 1) terminate the Agreement; or 2) waive the defect and proceed toward closing. If, however, the Buyer submits to the Seller another Inspection Response, the Seller may elect to terminate the Agreement.

Q: When either party to the Purchase Agreement needs additional time to respond to the other party regarding the Inspection Response, which form should be used?

A: As indicated in both the IAR Purchase Agreement as well as the Independent Inspection Response, the request for extension of time must be made in writing and ideally would be done using the Independent Inspection Response Form (under #4, Other).

The Legal Hotline is available to assist principal or managing brokers and their designated agents between the hours of 9 a.m. and 5 p.m., Monday through Friday by phone at 317.913.3254 or 800.444.5472 toll free, by online [form](#) or by fax at 317.842.8494