



WASHINGTON REALTORS®

Legal Hotline Q&A of the Week

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Question:

We have a seller who signed a purchase and sale agreement on their home. After a few days, they have "cold feet" and want to terminate the agreement. We told them that there is no simple, contractual way we can get them out of the contract. If buyers ask for things at some point, the buyers might "walk" if seller refuses. But, if they really want to get out of this contract right now, the only thing they can do is ask the buyers if they would be willing to terminate. If that doesn't work, we recommended they consult an attorney. Is there anything else they/we can do to terminate this contract?

Answer:

Listing broker's advice to sellers is good. If the seller wants out of the PSA, with absolute certainty and has no tolerance for a scenario where the PSA may actually close, then sellers should seek legal counsel. Sellers should seek legal counsel BEFORE asking the buyers to terminate. Depending on the forms that are included in the PSA, there may be some other potential options seller will have for terminating the PSA.

If the transaction includes a Form 22EF with the 2nd paragraph marked, there is a potential for seller to terminate if buyer fails to provide the necessary proof. The same is true if line 29 of Form 22EF is triggered and buyer fails to provide the required proof.

If the PSA includes a Form 22A, paragraph 2, option A, then seller has the right to deliver a notice to perform whenever allowed based on the terms of agreement set forth in that paragraph. If buyer does not waive the financing contingency within three days following receipt of the notice to perform, seller may terminate the PSA.

If the transaction includes a Form 22B and buyer sells to a buyer with a PSA that includes a home sale contingency or a pending sale contingency or that has a closing date that is less than 30 days or more than 45 days, without first obtaining seller's consent, then seller may terminate the PSA.

Those are the most common scenarios, based on boiler plate language in the statewide forms, enabling seller to terminate a PSA. There may be other opportunities as well but again, if seller unequivocally wants out of the PSA, seller should seek the advice of seller's lawyer. Essentially, seller wants to breach the PSA and listing broker is neither licensed nor insured to assist seller in that process.

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