

Legal Questions & Answers

December 2017

Question: Is a buyer allowed to terminate a transaction based upon his or her discovery of information from the city or county during the boilerplate inspection contingency period?

Answer: The boilerplate inspection contingency relates to physical inspections of the property. Thus, anything relating to the city/county would need to be included in a separate due diligence contingency. However, if there was a material misrepresentation by the seller regarding such information, the buyer may have a right to terminate the transaction. As this is highly fact specific, the buyer may wish to have the matter reviewed by an experienced real estate attorney.

Question: If a permit number is provided in Section 13 of a new construction sale agreement, does the seller still need to provide the completed exemption section of the property disclosure statement?

Answer: Pursuant to ORS 105.470, a seller does not need to provide the completed exemption section of the property disclosure statement so long as the sale agreement states the "THIS HOME WAS CONSTRUCTED OR INSTALLED UNER BUILDING OR INSTALLATION PERMIT(S)#_____, ISSUED BY_____." Section 13 of the new construction sale agreement contains this language. Notwithstanding the above, a seller may wish to consider providing the exemption section of the property disclosure statement in order to provide clarity to a buyer.