

Legal Questions & Answers

July 2016

Question: Are real estate brokers allowed to sell their own property without a formal listing?

Answer: A broker may sell his or her own property without a formal listing so long as he or she discloses licensure as a broker in the sale agreement or an addendum thereto, and so long as all transaction documentation is submitted to the broker's managing principal broker for review as would be required of any other transaction.

Question: Are you allowed to make earnest money non-refundable in a real estate transaction?

Answer: Earnest money can be made non-refundable so long as both parties mutually agree. However, if the seller failed to provide the buyer with a property disclosure statement, one could argue that the buyer's right of revocation trumps the non-refundability of the earnest money, in which case the buyer may be entitled to recover his or her earnest money.

Question: If a team of real estate brokers is formed within a brokerage and a member of the team is the listing agent in a transaction, whose name should appear on the sale agreement the individual broker or the team name?

Answer: The individual broker's name should appear on the documentation, as in any other transaction. The team name would typically only be used for advertising and internal purposes, such as for the division of roles and delegation of supervision.