

Legal Questions & Answers

October 2016

Question: Is a Residential Sale Agreement enforceable if the buyer does not offer any earnest money?

Answer: In order for the parties to have a legally binding contract, there must be consideration paid by the buyer to the seller. Earnest money is the form in which consideration is paid, and one could argue that a transaction without some amount of earnest money paid by the buyer is unenforceable.

Question: If a hot tub is listed under the inclusions portion of the MLS listing, is the buyer obligated to accept it as part of the transaction?

Answer: Inclusion in the listing does not necessarily equate to inclusion in the transaction. If the buyer did not request the hot tub as part of his or her offer, then it should arguably be removed by the seller prior to the closing date.

Question: A selling broker has refused to provide a copy of the seller's property disclosure statement with the buyer's signature. How can the listing broker force the selling broker to provide a fully executed copy?

Answer: Unfortunately, the listing broker does not have a specific way of forcing the selling broker to provide a fully executed copy of the property disclosure statement. However, so long as the listing broker can prove that the property disclosure statement was delivered to the selling broker on a specific date, the seller is protected from claims that the buyer did not receive the statement.