

Legal Questions & Answers

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Question: When properties are listed with our company, a home warranty is often provided. Is it legal to further offer incentives such as a free home appraisal or home inspection?

Answer: We would suggest that, rather than offer incentives to a seller that benefit a buyer, it may be more prudent to simply offer a discount on your listing commission. There is risk inherent in paying for a home inspection or property appraisal, particularly if the inspector or appraiser is negligent. As a practical matter, the seller may not be interested in those types of incentives for themselves as they are more applicable to a buyer.

Question: We receive many initial offers on homes built before 1978 that include a Lead-Based Paint Disclosure form already signed by the buyer. Is this not backwards in procedure? What effect could it have on the offer since it was not filled out by the seller before being given to the buyer?

Answer: Typically, the Lead-Based Paint Disclosure would be provided by the seller after acceptance of the buyer's offer, and signed by the buyer thereafter. A buyer should not sign the form before the seller has indicated whether he or she has knowledge of lead-based paint at the property. The buyer's premature execution of the addendum does not necessarily impact the transaction, as the lead-based paint contingency period commences upon the seller's execution of the form.

Question: Does a buyer's 5-day time period for review restart if a seller verbally discloses new information regarding the property after having submitted the Seller's Disclosure Statement to the buyer? What determines a "reasonable time frame" to respond to the new disclosure?

Answer: As the Seller's Disclosure Statement is a written document, a verbal disclosure does not impact the 5-day time period. However, it could materially impact the buyer's decision to purchase and may be an independent basis to terminate the transaction. The seller should amend the Seller's Disclosure Statement. While no hard and fast rule exists, it would be prudent that the buyer be provided an additional 5-day time period from the date of delivery of the amended Seller's Disclosure Statement based upon this new disclosure.