



*Promoting expertise in real estate*

## **Legal Hotline Q & A**

**From Get the Facts 03/21/17**

**QUESTION:** I represent a seller of a home who accepted an offer from a buyer. Buyer has performed inspection and has had appraisal done. Seller calls me today and says they changed their mind and are moving back into the house and want to cancel the sale. I advised them to seek legal counsel. Buyer has been verbally notified. What is the process for me to terminate the contract? Seller has knowledge that they are in breach and may be responsible for damages. Please advise how to proceed.

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**ANSWER:** Broker has done what she is obligated by the Agency Law to do. Broker has a duty to advise seller to seek the advice of an expert in matters that exceed the scope of broker's expertise. Sellers have indicated an intent to breach their purchase agreement with buyer. Seller will face legal liability as a result of that decision. Broker is not licensed to advise seller as to seller's legal liability and should not attempt to do so. Broker's advice to seller, to seek legal counsel, must be in writing so that broker can prove, later, that she gave the advice she was obligated to give.

Broker should await seller's instruction, following consultation with seller's legal counsel, as to how to terminate the purchase agreement. Maybe seller's lawyer will find a weakness in the agreement allowing seller to terminate without penalty. If not, then seller's lawyer will have to assist in the negotiations and/or documentation of whatever resolution seller and buyer achieve. This is obviously a difficult situation and broker is not licensed to handle it for seller. Broker is licensed to assist seller in entering a purchase agreement. Broker is not licensed to assist seller with the breach of a purchase agreement.

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