

Negotiating Repair Requests

In a market where buyers have more leverage, sellers may be more willing to negotiate repairs than they typically are in a so-called “seller’s” market. Negotiating repairs can be a very important, yet very complicated, part of a sales transaction.

Inspect early to allow time to negotiate

The standard time period in the Residential Purchase Agreement and Joint Escrow Instructions (C.A.R. Form RPA) for the buyer to inspect the property and exercise their investigation contingency is 17 Days. If the buyer wants to have the best opportunity to negotiate any potential repairs with the seller, they should have their inspections done early and not wait until just before the deadline.

How can Buyers request repairs?

The buyer should use the Request for Repair (C.A.R. Form RR) to propose that the seller: 1) make repairs, 2) cure section 1 or section 2 items identified on a pest report, 3) provide a credit, or 4) adjust the purchase price. The Buyer should give seller copies of inspection reports with the request.

How may a Seller respond to a Buyer’s requests?

The seller may respond directly on page 2 of the RR form if the seller is agreeing to everything, nothing or to some of buyer’s request. If Seller wants to propose an alternative response, the seller should respond on the Seller Response and Buyer Reply to Request for Repair (C.A.R. Form RRRR) instead.

NOTE: Paragraph 14B(2) of the RPA states that a seller is not obligated to agree or respond to any buyer requests. Although it is courteous for the seller to respond, no response from a seller should be interpreted as “NO” to all repairs asked for by the buyer.

What conditions does Seller impose when agreeing to repairs? In both C.A.R. Forms RR and RRRR, the seller’s agreement is conditional. The buyer must agree to the release language included on the form and to removing the identified contingencies for the seller’s agreement to be binding. Agreeing to the seller’s response and signing directly on C.A.R. Form RR or RRRR will remove buyer’s investigation contingency. Buyer must sign the Contingency Removal, (C.A.R. Form CR) attached to Forms RR or RRRR to remove any additional contingencies. If the seller is responding on Form RRRR, the buyer may: 1) accept the seller’s response, 2) counter terms on page 2, or 3) make a new Request for Repair. If the buyer counters the terms on page 2 then the seller needs to complete the final section of Form RRRR. If the buyer makes no counter, this section is left blank.

What are alternatives to Seller making repairs? If a buyer does not want to request repairs, or a seller does not want to perform them, C.A.R. Forms RR and RRRR, as well as the Amendment to Existing Agreement (C.A.R. Form AEA), allow for the parties to agree to a credit or price reduction. While the seller may offer a credit or price reduction, it is possible that the repair of habitability conditions by the seller may be required by the buyer’s lender. Additionally, the buyer’s lender may disallow a credit being offered from the seller to the buyer. Remember that the lender’s decision must be respected, and the buyer cannot receive the credit if that credit is disallowed by the lender. To avoid this situation, ask the lender in advance about the maximum allowable credit.