

Current Offer Trends in Real Estate in Our Market

1. Our South Carolina State Real Estate contracts allow for Buyers to select a contingency for inspections that include the following:

- A. Repair Procedure
- B. Due Diligence
- C. As-is

A. Repair Procedure on the contract states the following: Any and all requests necessary to place the heating systems, air conditioning systems, electrical systems, plumbing systems, water supply systems, water waste systems to be conveyed in operative condition, to make the roof free of leaks, to address environmental concerns and to make the improvements structurally sound (Repair Requests) should be delivered by the deadline above. If the Buyer fails to notify the Seller within this timeframe, Buyer shall have waived any and all rights under terms of this section. If Lender's commitment requires any additional inspections or certifications, these are to be provided by the Buyer. Buyer at Buyer's expense shall have the privilege and responsibility of inspecting the structure, square footage, environmental concerns including but not limited to mold, radon gas, lead based hazards including lead based paints, wetlands study, appurtenant buildings, heating systems, air conditioning systems, electrical systems, plumbing systems, water supply systems, water waste systems, as well as, appurtenant equipment or appliances. Upon Seller's request the Buyer will provide with a copy of the Inspection Report.

The costs of all repairs to heating systems, air conditioning systems, electrical systems, plumbing systems, water supply systems, water waste systems making these systems operable, make roof free of leaks, address environmental concerns, and to make the improvements structurally sound to be paid by Seller ("Seller Paid Repairs"). Seller Paid Requests DO NOT include the following items: home maintenance, flooring, fogged windows, grandfathered code issues, landscaping, preventive maintenance, cosmetic changes, home improvement, and energy efficiency. If the Seller contractually agrees to make all the requested Seller Paid Repairs, the Parties agree to proceed under the amended Contract. The repairs to any other items are the sole responsibility of the Buyer.

B. Due Diligence on the SC State Real Estate Purchase Contract states the following:

During the Due Diligence Period, Buyer may take timely/prudent steps to help Buyer/Inspectors, Seller/Estimators, and REALTORS® all have adequate time for: Buyer to coordinate Inspections and Repair Requests, Seller to obtain Repair estimates, Buyer and Seller to negotiate Repairs, and Buyer to potentially timely/properly Due Diligence terminate or buy.

During the Due Diligence Period, Seller agrees Buyer may rely on the following list of five items in accordance with Contract and laws. Buyer is solely responsible for Inspections. Buyer is not required to Inspect. Until Buyer timely/properly terminates the Contract or the Parties agree on an amended Contract, the Buyer can rely on #1, #2, #3, #4, and #5. TIME IS OF THE ESSENCE. Delivering a Repair Request does not extend the Due Diligence Period.

(1) Conduct/obtain Inspections [e.g. on-site conditions, off site conditions]

- (2) Deliver Repairs Requests Notice to Seller [e.g. SCR525 with all repair requests, all/portions of reports]
- (3) Proceed under amended Contract [e.g. SCR310 and SCR525, SCR390, SCR391]
- (4) Proceed under As Is Contract [e.g. Buyer desires to buy anyway, Buyer wants Property without Repair]
- (5) Terminate Contract by timely/properly Delivering "Notice of Termination" and "Termination Fee" to Seller within the Due Diligence Period.

C. The As-Is Option on the SC State Real Estate Purchase Contract states the following:

All Parties agree that Property is being sold "As-Is". "As Is" means Buyer buys the Property for the Purchase Price while Seller maintains the Property from the Effective Date through Closing subject to normal wear without repair or replacement and sells the Property for the Purchase Price unless otherwise agreed upon in writing by the Parties in this Contract. Buyer retains the right to inspect the Property by 6 P.M. on (date) for informational purposes only. The Seller is under no obligation to remedy any issues the Buyer discovers during their inspections, and the Buyer may not terminate the contract based on the results of any inspections conducted.

Now that I have laid out the 3 "contingency" choices available to Buyers on the SC State Real Estate Contracts, I will tell you that currently, we see a trend in our local real estate market where Sellers are NOT allowing the "Due Diligence" option because it is simply too much exposure for Sellers during this current fast-paced market. You see, it allows the Buyer to basically tie the property up during the "Due Diligence" time period and allows them the ability to change their mind for any reason whatsoever during this time period and terminate out of the contract, receiving a full refund of their earnest money deposit.

The trend we are seeing currently with offer negotiations is that Sellers are only permitting Buyers to choose the "Repair Procedure", eliminating the risk to the Seller of a Buyer bailing out of the contract during the inspection period. This could change going forward if the scales tip more towards a Buyers' market but, currently, that's just not what we are seeing. So, if you're a Buyer making an offer, be prepared to be "all-in" before doing so. You'll still have the opportunity to inspect (see above) but, the Seller won't be contractually obligated to pay for any repairs outside the scope of what is listed above in the Repair Procedure language.

2. Our South Carolina State Contracts state whether the Buyer or Seller will be responsible for providing the "Wood Infestation Report" (aka CL-100 or termite inspection). We are seeing the trend for the Seller (especially on occupied properties) to provide the CL-100.

Just like all terms of a contract, these are all negotiable items but, these are just the trends we are seeing in the current market (May 2020).

3. Another interesting trend that we are seeing in today's real estate market is that, unlike in the past, Sellers and Buyers rarely sit around the closing table any longer. This trend started in

October of 2015 when the TRID (Truth-In-Lending-Disclosure) became a regulation across the nation with regards to how lenders disclose loan documents to their clients. With this came more confidentiality at the closing table and the separation of Sellers and Buyers. In many cases this resulted in Sellers having their own attorney, separate from the Buyers' closing attorney, who would prepare their "Seller Docs" for the closing.