CONTRACT TERMINATION & RELEASE OF EARNEST MONEY

REAL ESTATE CONTRACT TERMINATION

Successful real estate transactions occur regularly. However, sometimes things fall through. You need to be sure that you have the legal right to terminate the contract and are following the correct protocol in order to protect all parties involved.

The following list provides several examples but is not limited to possible cause for contract termination:

- Unrestricted right to terminate during the option period
- Failure to obtain financing during the financing contingency
- Object to the title commitment
- Object to the survey
- Low appraisal unsuccessfully negotiated
- Seller's failure to make agreed repairs
- Seller's failure to disclose known conditions
- Seller does not permit reasonable access to the property while under contract
- The property is destroyed or damaged and seller cannot or declines to repair

Visit www.trec.texas.gov to find the proper Notice of Termination forms (if required).

RELEASE OF EARNEST MONEY

If a transaction cancels within the option period the earnest money may be refunded without written authorization from both parties provided the check has cleared the bank and satisfactory evidence exists that the contract was terminated before the option period expired.

If a transaction cancels after the option period has expired a written authorization from both parties is required directing us how the money is to be disbursed. Depending on the situation, we may choose to follow any applicable escrow provision in the earnest money contract relating to refund of the earnest money. A typical approach is set out in Paragraph 18(C) of the TREC One to Four Family Residential Contract (Resale), which may apply when that is the contract used for the transaction. If both parties give written demand to us for the earnest money,and no agreement is reached, the earnest money may be surrendered to the court registry in an interpleader action so that the court disburses the earnest money pursuant to court order.

TEXAS EXCEL
TITLE