



# LEGAL TIP OF THE WEEK

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## Proper Notice of Cancellation

On the legal hotline, we have noticed an uptick in cancellation questions. Nearly 13% of all hotline questions for the month of September were questions surrounding cancellation. So what is needed to give proper notice of cancellation?

Section 18 of the REPC states, “Except as provided in Section 23, all notices required under the REPC must be: (a) in writing; (b) signed by the Buyer or Seller giving notice; and (c) received by the Buyer or the Seller, or their respective agent, or by the brokerage firm representing the Buyer or Seller, no later than the applicable date referenced in the REPC.”

So a notice of cancellation must be:

- 1) In writing;
- 2) Signed by the Party giving notice; and
- 3) Received by the other Party.

Let me illustrate through an example. Say Buyer and Seller are under contract. The Due Diligence Deadline has passed and the Financing & Appraisal Deadline is today at 5:00 p.m. Buyer receives notification from their lender today at 4:45 p.m. that the Buyer will no longer qualify for financing on the property. Buyer desires to cancel to protect their earnest money. Due to the fast approaching deadline, the Buyer’s agent sends an email to the listing agent to communicate that the Buyer is canceling the REPC. The listing agent receives the email at 4:59 p.m. Is this notice of cancellation proper?

Let’s take a look. Is an email from a Buyer’s agent in writing? Yes. Was the email received by the other listing agent prior to the Financing & Appraisal Deadline? Yes. Was the email signed by the Buyer? No. An email from a Buyer’s agent does not contain the Buyer’s signature. So, this notice of cancellation is problematic because it does not meet ALL THREE elements necessary to cancel the REPC. I know this sounds harsh, but this is exactly what the Buyer and Seller agreed to. My advice to REALTORS® is to please use the UAR’s Buyer’s Notice of Cancellation Form and to use it correctly. Familiarize yourself with that form now so that you are prepared to use it in the future.

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