



TRAINING TIP OF THE WEEK

TIME IS OF THE ESSENCE

As Realtors®, you must play close attention to the deadlines and the REPC language. Your understanding of the REPC is one of the greatest value propositions you have to offer your clients. If you have additional questions, please contact the UAR Legal Hotline at (801)676-5211.



On the hotline, callers use the phrase “time is of the essence” when describing their question. Let’s discuss the contractual meaning of this phrase and why you should be aware of it.

What is “time is of the essence?” Section 21 of the Real Estate Purchase Contract states that “performance under each Section 21 of the REPC which references a date shall absolutely be required by 5:00 PM Mountain Time on the stated date... and... the term “days” and “calendar days” shall mean calendar days and shall be counted beginning on the day *following* the event which triggers the timing requirement (e.g. Acceptance).

First, all deadlines under the REPC are by 5:00 pm Mountain Time. Not knowing that deadlines are at 5:00 pm Mountain Time could be a costly mistake for clients (i.e. improper buyer cancellation and losing earnest money). These types of errors may result in breach of your fiduciary duty of care & diligence when working through a transaction.

Second, anytime the REPC refers to days, it means calendar days. NOT BUSINESS DAYS. Using calendar days is easier to track, but it does require you to pay attention to days of the week (i.e. settlement deadline falling on a weekend).

Lastly, days are to be counted after the event triggers the time requirement. The easiest example of this would be earnest money. Under the REPC, the buyer has 4 days to deliver earnest money to the real estate brokerage. Example, if the buyer’s offer is accepted on 12/3/2019, then the buyer has until 5:00 pm on 12/7/2019 to deliver the earnest money without being in breach of contract. Following that, you would then have until 5:00 pm on 12/11/2019 to deposit the earnest money.

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