



# TRAINING TIP OF THE WEEK

## Proper Notice of Cancellation

The UAR legal hotline has seen an uptick in questions regarding the cancellation of the Real Estate Purchase Contract (REPC). They estimate that nearly 13% of questions each month were specific to this topic. 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.”

To summarize, a notice of cancellation must be:

1. In writing;
2. Signed by the party giving the notice; and
3. Received by the other party.

### 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 the REPC to protect their earnest money. Due to the fast approaching deadline, the Buyer’s agent send an email to the listing agent to communicate that the Buyer is cancelling the REPC. The listing agent receives the email at 4:59 p.m.

### *Is this a proper notice of cancellation?*

Is an email from a Buyer’s agent considered “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. 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 have agreed to. It is also why Buyer’s and Seller’s look to REALTORS® for guidance and protection during a complex transaction.

REALTORS® should familiarize themselves with the “Notice of Cancellation Form” now so you are prepared to use it in the future.

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