

**The ABCs of the BRI and CTA: Five Years Later**

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In March of 2016, the Pennsylvania Association of Realtors® implemented the Buyer's Reply to Inspections/Reports or Written Corrective Proposal, known as the BRI. The BRI replaced the Reply to Inspections/Reports form RR. PAR legal counsel was questioned by a room full of licensees, each of whom seemed disturbed and almost angered by the change, arguing that an otherwise functional one-step process has now been drawn out into a two-step process. Even though this statement is technically correct, what it fails to grasp are the benefits of properly using the BRI as well as its counterpart, the Change in Terms Addendum, form CTA.

Classic attorney response, right? For licensees who generally do not get paid by the hour and are constantly seeking efficiency in practice, why would more work be better than less when the end result is the same? The answer is rooted in protecting buyers, sellers, and licensees, as well as one important fact: the BRI is not an addendum to the Agreement of Sale.

Think of the BRI as a wish-list for the buyer asking for any desired repair, correction, improvement, or modification to the property as the result of an inspection and report. Only the buyer can sign (no seller signature lines) and the form does not become part of the Agreement between buyer and seller. The delivery of this form to the Seller kicks off the Negotiation Period as defined in the inspections contingency of the Agreement of Sale. Upon receipt, seller can cross out, add, or otherwise modify the BRI; however, the seller should not sign or initial the BRI. After the parties have agreed to the final terms that will modify the original Agreement of Sale, the CTA is completed and signed by both buyer and seller, thereby becoming part of and amending the Agreement of Sale.

What are the risks of skipping the BRI and going right to the CTA, or simply using the BRI as the CTA? From a legal perspective, as soon as both parties sign a document that modifies the underlying agreement between those parties, that document and all of the terms contained therein become part of the agreement. When discussing this topic with licensees, I frequently hear that licensees were unaware of the need to send an executed addendum to an Agreement of Sale to a lender. Failing to provide this executed document to a lender may result in a delay in settlement, at best, or an allegation of mortgage fraud, at worst.

As a reminder and overview, use the BRI to negotiate. Use multiple BRIs for multiple inspections and make sure they are all provided to seller no later than the end of the Contingency Period. Licensees may mark-up the BRI to submit as a counter-offer; however, do not allow a seller to sign it. When you have a final agreement regarding the items in the inspection, memorialize it by drafting a CTA and have both buyer and seller sign. After it's signed, submit it to the lender, if any, and the title company as an addendum to the Agreement of Sale. These steps are not only proper practice but necessary steps to avoid lender issues down the road.