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Legal Hotline Q & A

From Get the Facts 10/18/2016

QUESTION - With respect to the Broker Alert sent by Washington REALTORS® on Friday, 10/14, regarding the recent Supreme Court ruling affecting water rights and the availability of new wells, will we be getting updated forms for this change in law? Are the current forms still good for what is happening now?

ANSWER: There is no immediate plan to revise the statewide forms based on the new Supreme Court ruling. The existing forms are appropriate to address this issue.

Brokers who are selling raw land to residential buyers should, before buyer signs an offer, give buyer a copy of the Washington REALTORS®, October 14, 2016 Broker Alert. Broker should retain proof, in the firm's transaction file, that the Broker Alert was given to buyer.

Buyer brokers should discuss with buyers the need to include a Form 22LA in buyer's offer. Depending on buyer's preferences and the existing conditions on the property, buyer may want to mark the box under Paragraph 2(c)(v) giving buyer the right to test the quantity of water production from an existing well and mark the boxes under paragraph 3 for both the "Feasibility Study" and the "Irrigation and Water" provisions. As part of buyer's feasibility study, buyer must consult the professionals who can advise buyer as to water availability for the property. Buyer and buyer brokers should recall that even if a vacant parcel has a well installed, the right to use water from that well may require local or state approval if the well is not currently supporting a residence.

In addition to all of the above, broker must advise buyer, in writing, to seek the advice of legal counsel and a water expert for assistance in determining the availability of water necessary to support residential construction.

The Legal Hotline Lawyer does not represent Washington REALTORS or its members. To browse through our database of past Q & A's, visit www.warealtor.org. Attorney Annie Fitzsimmons writes the Legal Hotline Question and Answer of the Week. Please submit questions to legalhotline@warealtor.org or call (800) 562-6027. Please have your NRDS number ready when you call or e-mail the Hotline with your question.