

MAR Legal Hotline Q&A

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Q. Does a buyer whose offer was not accepted have the right to a written objection?

- A.** No. Most offers are valid for a finite period of time, as specified in the offer itself. Once that time period has lapsed without an acceptance, the offer is no longer valid, acting as a de facto rejection by the seller. A buyer has the ability to request a formal written rejection, but the seller is under no legal obligation to provide this, and under the principles of contract law, a written rejection is unnecessary.

In situations where there may be a concern that an offer was not presented to the seller, a buyer's agent may submit a written request to the REALTOR® representing the seller seeking confirmation that the offer was presented to the seller. Under Article 1, Standard of Practice 1-7, of the [REALTOR® Code of Ethics](#), the listing REALTOR® must provide a written affirmation that the offer was presented or that the seller waived the obligation to have the offer presented. It is important to note that this is an obligation of the REALTOR®, not the seller of the property.

Q. What obligations does a seller of an “as is” property have?

- A.** Many prospective sellers may be under the belief that if they list their property “as is” that they do not have to provide potential buyers with any information related to the property. While that is true to some extent, a seller cannot fully relieve themselves of all obligations by selling “as is.”

If the property is serviced by a septic system, the seller, with very limited exemptions, remains obligated to obtain a Title 5 inspection and provide that information to prospective purchasers of the property. Massachusetts law does not require a passing Title 5 for the property to transfer to a new owner, although properties with a failed Title 5 may have trouble obtaining conventional financing.

Additionally, if the property was built prior to 1978 the seller must provide potential buyers with the lead paint notification and certification. As with Title 5, a seller is not obligated to remediate any lead paint hazards, but their knowledge of lead paint hazards must be shared with prospective buyers, including providing the buyer's the right to have a lead paint inspection.



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Pursuant to Mass. General Laws Chapter 148, Sections 26F and 26F ½, sellers must also equip the property for sale with approved smoke and carbon dioxide detectors and obtain a certificate from the local Fire Department prior to sale.

While sellers are not obligated to affirmatively disclose defects related to the property, the listing broker remains obligated under Chapter 93A to disclose known material facts related to the property to prospective buyers. Additionally, any specific questions asked by the buyer must be answered truthfully by the seller.

Listing a property “as is” acts as a signal to prospective purchasers that the seller is unwilling, or unable, to make repairs or modifications to the property, particularly following a home inspection. This phrase, however, cannot be used to shift all responsibility off the seller of the property.

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