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Seller repair credit gives buyers cold feet

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Q: I am considering terminating a contract to purchase a home. We are currently in the inspection contingency period. But the catch is, prior to signing an inspection response addendum, we worked with our agent to verbally negotiate what would be mutually acceptable. We wanted the sellers to fix A, B and C. They said they would fix only A and B. We thought that was OK, so our agent wrote up the inspection response addendum stating the sellers would fix A and B.

We signed and sent the addendum to the sellers to sign, opening up a five-day window for further action. Now, a couple of days later, our agent tells us that the sellers have said they would rather offer us a credit (amount still unspecified) toward those fixes.

In all honesty, we've been having second thoughts about the whole purchase and are considering terminating if at all possible (and still getting our deposit back). Can we terminate and get our deposit back without a big fight at this juncture?

Or if we say we're terminating, could the sellers just go ahead and sign the addendum we sent them a couple of days ago to force things to move forward? --Anonymous, Elizabethtown, Pa.

A: It depends. Every state's form of addendum for a buyer's response to inspections is different. Does yours state that when both parties sign to indicate their agreement to the post-inspection fixes, the buyer thereby also removes all contingencies? If so, since you've already signed it, it is correct that the sellers have the ability to move the transaction forward and render your deposit nonrefundable with their signature(s).

However, this doesn't sound likely. It sounds like the sellers have no intention to sign this document at all, given that they are awaiting your response to their credit proposal. In contract law, documents become binding once they are delivered to the other side's agent.

Assuming your inspection contingency is intact, that means that if your agent delivers a signed cancellation and deposit release form to the listing agent before the listing agent delivers a signed inspection response addendum to your agent, chances are the sellers will be powerless to stop you from canceling the transaction and recouping your earnest money deposit.

Could they make it difficult or fight you on it? Sure, that's always the case -- anyone can fight or sue anytime. But they'd be wrong, legally, and would also tie the property up and not be able to market or sell it to other buyers in the meantime, so such a fight is unlikely.

One thing all parties to a real estate transaction must be aware of is that when they hesitate to get verbal discussions inked as written agreements, that delay creates time and space for buyer's remorse, or even life events, like death, layoffs or breakups to get in the way of the closing.

That's why people who are involved in lots of transactions tend to have a high sense of urgency to get people to sign to do what they verbally say they'll do. In real estate, unless and until it's in writing, it's not a deal.

Now, let's turn briefly to the matter of your second thoughts. Do be aware that real estate is like marriage, in that anyone with half a brain does (and should) have at least a momentary flash of cold feet, reconsideration, or gut-checking to be sure this major commitment is what they really want to do at this time in their lives.

Perhaps you have some life circumstance that you didn't mention that is causing you to reconsider whether to buy this house; if so, you're fortunate that you have that option.

However, if it's possible that you are simply experiencing the usual homebuyer jitters, really sit with it before you pull the backout trigger. Ask yourself: How would you feel if you didn't end up in this house? Try to identify the particular fear or anxiety that is making you hesitate to proceed, and deal with it.

Look back at what you wanted your life and your home to be like before you started to house hunt. Can you envision that life and that home actually happening in this house?

And, unless they are trying to lowball you by offering an amount that you know wouldn't suffice to cover the fixes they had agreed to do, please don't allow the sellers' suggestion of the credit to be the deal-breaker for you.

In fact, many buyers prefer a credit to the repairs actually being done by the sellers. No one will ensure the work is done as well as you will as the new owner of the home.

If you take a credit, which reduces the amount of cash you'll have to bring to the closing table, you can plan and have the repairs done over time, in the course of remodeling or other work you are planning to have done, at the lowest cost or with the highest quality materials -- whatever works for you.

The one caveat: If you're doing repairs to woodwork or behind stucco, make sure your inspections are extremely complete before accepting a credit in lieu of repairs, including test holes being drilled in exterior stucco to see how far the damage goes up into the framing.

When you take a repair credit, you do run the risk that any work of that nature will be worse, once uncovered, than an exterior inspection could have revealed.

Tara-Nicholle Nelson is author of "The Savvy Woman's Homebuying Handbook" and "Trillion Dollar Women: Use Your Power to Make Buying and Remodeling Decisions." Tara is also the Consumer Ambassador and Educator for real estate listings search site Trulia.com. Ask her a real estate question [online](#) [1] or visit her website, www.rethinkrealestate.com [2].

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