

Best of the Hotline

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Facts. A recent Hotline caller represented a buyer whose offer was accepted. Shortly after the agreement was executed, the buyer asked for permission to visit the home to make measurements of kitchen cabinets so that replacements could be made and ready for installation shortly after settlement. The seller, a cop, said no way.

Q. What to do?

A. The first place to turn for an answer is the agreement of sale. Assuming it is the standard agreement (ASR), the buyer might take advantage of the right to conduct “two pre-settlement walk-through inspections of the Property.” Generally, the two walk-throughs are intended to be conducted before closing where the possibility of a delay may give rise to the need for the second. I suppose the buyer could select to do a walk-through early on in the process. This could invite a discussion of what is meant by a “walk-through inspection,” bad feelings and arguments.

Is there any reason why a home inspector couldn't make the measurements for the buyer?
Hint. I suppose it would look a little odd if a septic inspector were to measure kitchen cabinets, but a little less so if a home inspector were doing so.

The best answer is to foresee the need for measuring excursions and allow for them under special clauses in the agreement. Will a seller walk away from a good offer merely because the buyer inserts a clause to the effect that buyer is given the right, upon reasonable notice to the seller, to enter the property for purposes of measuring rooms, closets, windows, cabinets, and the like?

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Jim Goldsmith is an attorney with Caldwell & Kearns and serves as general counsel to PAR. A substantial portion of his practice is dedicated to providing advice and counsel to real estate licensees. He and his firm represent and defend real estate salespersons and brokers in civil lawsuits and licensing claims across the Commonwealth. Jim also defends REALTORS® in disciplinary hearings conducted by the Real Estate Commission. He routinely counsels employers on employee relations issues and is one of the voices of the PAR Legal Hotline. He may be reached at www.caldwellkearns.com.