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# FARR LAW FIRM *Newsletter*

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## WHAT DOES THE CONTRACT SAY?

Jack O. Hackett II  
September, 2009



Real estate buyers and sellers, and even Realtors, will occasionally call with a question they think is so simple any attorney should know the answer.

“I have a 15-day inspection period. Do I count weekends in that?”

“I found out the zoning is not right for the way I want to use the property. Do I still have to go through with the purchase?”

“I am having a dispute with the seller. Can I just sue him or do I have to do some type of mediation or arbitration?”

Though clients do not usually like it when we answer a question with a question, in these cases we have to. Simply put, what does the contract say? These questions and many more are not a matter of law, but a matter of contract. They cannot be answered correctly without first reviewing the documents signed by the parties.

One popular contract form counts business days (no weekends or holidays) rather than calendar days. Another counts calendar days unless the time period is less than six days; then it uses business days. Most, but not all, say that if the last day is a weekend or holiday, you go to the next day that is not a weekend or holiday.

Many contract forms have a blank to fill in for your anticipated use. If you filled in “bank with drive-through windows” and the zoning does not permit it, you probably have an out. If you merely filled in the zoning category found on the county property appraiser’s website, say, “Commercial General,” not knowing it takes “Commercial Intensive” zoning to have drive-through windows, you might lose your deposit.



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If your Realtor happened to use the FAR-9 form of contract you will have to mediate first, and if that fails, go to arbitration. If the Realtor used the FAR/BAR-8 contract form you can go straight to court if that is your desire.

In any real estate transaction it is not only important how well the contract was drafted, it is also important which contract form was used. It is not that one form is necessarily better than another form; they are just different. When a question arises during the purchase process, especially before closing, the first place parties and attorneys should look for answers is in the document that was used to ink the deal.

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