

AREA Purchase Contract Changes – July 18, 2017

Forms affected:

- Residential Purchase Contract
- Country Residential Purchase Contract
- Residential Resale Condominium Property Purchase Contract

Clause 7.1

Current clause:

- **7.1** The seller represents and warrants to the buyer that no spouse has dower rights in the Property, other than as shown by:
 - (a) the non-owner spouse's signature on this contract; and
 - (b) the seller providing a completed Dower Consent and Acknowledgment form to be attached to and form part of this contract on or before _____, 20____. If the seller fails to provide the completed Dower Consent and Acknowledgment form, the buyer may void this contract at the buyer's option by giving the seller written notice.

Change:

- **7.1** The seller represents and warrants to the buyer that no spouse has dower rights in the Property. **Otherwise, if dower rights do apply, the seller will:**
 - (a) **have** the non-owner spouse sign this contract; and
 - (b) provide a completed Dower Consent and Acknowledgment form to be attached to and form part of this contract on or before_____, 20____. **(seller to enter an appropriate date.)** If the seller fails to provide the completed Dower Consent and Acknowledgment form by the agreed date, the buyer may void this contract at the buyer's option by giving the seller written notice. **The buyer's option expires when the seller delivers the Dower Consent and Acknowledgement form, even if delivered late.**

Why?

- AREA has received feedback from REALTORS® that Clause 7.1 is not fully understood and that the date for delivery of the Consent and Acknowledgement document is often being filled in by buyer's agents prior to knowing if Dower rights are at issue. If not required, this causes an automatic and unnecessary sign back.

The changes to the clause are intended to provide better guidance on how the clause is to be filled in and by whom:

- “*the seller will*” cues that it is the seller who must act, not the buyer.
- the instructional note, “(*seller to enter an appropriate date*)” identifies that the seller drives the date and indicates the buyer does not select this date.
- “*by the agreed date*” clarifies the timeline for providing the form and for the buyer’s option to begin.
- “*The buyer’s option expires...*” gives clarity on how the option will end and explains that the buyer cannot void the contract once the document is provided, even if it is provided late. Keep in mind that the buyer’s option to void the contract will continue if the Dower Consent and Acknowledgement form is not provided.

How does this affect my practice?

- This change will help REALTORS® understand that the clause provides a seller warranty that Dower Rights do not exist unless the seller takes action to indicate otherwise. The seller is the party who knows whether dower rights exist and it is the seller who should fill in the date in this clause (unless the buyer’s agent has received instructions from the seller’s agent on what timing will be acceptable). It will also help you explain to your buyer clients how the buyer’s option works and how it will end.

For more information, see AREA’s backgrounder on Purchase Contract Section 7 – Dower Consent in our [AREA Forms resources](#).