

PUBLICATION UPDATE

Route to: _____ _____ _____ _____
 _____ _____ _____ _____

Real Estate Transactions: Purchase and Sale of Real Property

Publication 658

Release 37

May 2024

HIGHLIGHTS

Important new real estate cases covered:

- The intestate transfer of purchaser's estate, including his equitable interest in a farm, did not violate the anti-transfer clause contained in the contract for deed (installment land contract). See § 2.02[8][m].
- The Massachusetts Supreme Judicial Court declined to adopt a rule that precluded recovery of expectation damages by an exclusive buyers' agent where the alleged oral contract was sufficiently specific to alert the buyers that the broker was entitled to receive a commission. See § 25.05[3][c].
- Exclusive commercial listing agreements, although in compliance with Connecticut law as to duration, constituted personal service contracts that terminated when the personal performance of the named broker died. See § 25.03[4].
- Under right of first refusal, as condominium tenant was not provided with the purchase price and terms of the sale, tenant was not required to establish that it was ready, willing, and able to perform. See § 27.01[2].
- The Fifth Circuit Court of Appeals, applying Texas law, found that email exchanges did not create an enforceable contract, as the exchanges did not identify the property or constitute an unequivocal offer or acceptance. See § 32.02[2].
- An exchange of emails may satisfy the requirement of a

“writing” under the statute of frauds in Massachusetts. See § 32.02[2].

- A purported agreement for the sale of realty did not satisfy the statute of frauds, as the property description was insufficient. See § 32.02[3][b].
- A purported agreement for the sale of realty did not satisfy the statute of frauds, as the purchase price identified was contingent on the parties reaching a consensus on the terms of a seller-financed loan. See § 32.02[3][c].
- A memorandum agreement confirming a grandmother’s contribution to the purchase of a house satisfied Alaska’s statute of frauds. See § 32.02[4].

Specific performance of the residential purchase agreement was unavailable because the property was not a part of decedent’s estate under Missouri law, as the property had already transferred to respondent upon decedent’s death by way of a beneficiary deed (transfer-on-death deed). See § 33.03[2].

Building code violations regulating a firewall did not breach a warranty deed under Michigan law because the City had taken no action to enforce the code at the time the deed was executed, and the violation was not an encumbrance that affected ownership interest in the land. See § 33.04[1][c].

A rescinding party must act with reasonable diligence in seeking rescission so that the parties may be restored to their original position as nearly as possible. See § 39.01[4][b].

Under Oklahoma law, the measure of damages for breach of a real estate contract by a buyer is the difference between the market value of the property and the contract price. See § 39.02[4].

The property disclosure form, in conjunction with the inspection report, put the buyers on notice of the foundation settling issue, such that they could not recover damages under a theory of failure to disclose. See § 40.01.

Matthew Bender provides continuing customer support for all its products:

- Editorial assistance—please consult the “Questions About This Publication” directory printed on the copyright page;
- Customer Service—missing pages, shipments, billing or other customer

service matters, +1.800.833.9844.

- Outside the United States and Canada, +1.518.487.3385, or fax (+1.800.828.8341) or email (international@bender.com);
- Toll-free ordering (+1.800.223.1940) or visit www.lexisnexis.com/BrowseUs.



www.lexis.com

Copyright © 2024 Matthew Bender & Company, Inc., a member of the LexisNexis Group.
Publication 658, Release 37, May 2024

LexisNexis, the knowledge burst logo, and Michie are trademarks of Reed Elsevier Properties Inc., used under license. Matthew Bender is a registered trademark of Matthew Bender Properties Inc.

FILING INSTRUCTIONS

Real Estate Transactions: Purchase and Sale of Real Property

Publication 658 Release 37

May 2024

**Check
As
Done**

- 1. Check the Title page in the front of your present Volume 12. It should indicate that your set is filed through Release Number 36. If the set is current, proceed with the filing of this release. If your set is not filed through Release Number 36, DO NOT file this release. Please call Customer Services at 1-800-833-9844 for assistance in bringing your set up to date.
- 2. This Release Number 37 contains only White Revision pages.
- 3. Circulate the "Publication Update" among those individuals interested in the contents of this release.

**Check
As
Done** Remove Old
Pages Numbered

Insert New
Pages Numbered

For faster and easier filing, all references are to right-hand pages only.

VOLUME 12

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	2-94.1 thru 2-95.	2-95 thru 2-96.1
<input type="checkbox"/>	14-6.1 thru 14-6.7.	14-6.1 thru 14-6.7
<input type="checkbox"/>	15-202.43.	15-202.43 thru 15-202.51

VOLUME 12A

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	15-203 thru 15-207	15-203 thru 15-207
<input type="checkbox"/>	15-222.1 thru 15-225	15-223 thru 15-226.63
<input type="checkbox"/>	15-346.43.	15-346.43 thru 15-346.44(1)
<input type="checkbox"/>	15-381 thru 15-396.1	15-381 thru 15-396.41
<input type="checkbox"/>	15-406.1 thru 15-414.9	15-407 thru 15-414.33
<input type="checkbox"/>	16-1	16-1
<input type="checkbox"/>	16-34.7.	16-34.7 thru 16-34.15

VOLUME 12B

Revision

<input type="checkbox"/>	Title page.	Title page
<input type="checkbox"/>	25-55 thru 25-61	25-55 thru 25-62.1
<input type="checkbox"/>	26-14.1.	26-14.1
<input type="checkbox"/>	27-5 thru 27-6.1.	27-5 thru 27-6.1
<input type="checkbox"/>	32-1	32-1
<input type="checkbox"/>	32-23 thru 32-44.3	32-23 thru 32-44.5
<input type="checkbox"/>	33-1	33-1 thru 33-2.1
<input type="checkbox"/>	33-22.1 thru 33-24.5.	33-23 thru 33-24.19
<input type="checkbox"/>	36-39 thru 36-42.3	36-39 thru 36-42.3
<input type="checkbox"/>	37-1 thru 37-6.1.	37-1 thru 37-6.1
<input type="checkbox"/>	39-13 thru 39-35	39-13 thru 39-36.5
<input type="checkbox"/>	39-61 thru 40-11	39-61 thru 40-12.1
<input type="checkbox"/>	40-21 thru 40-24.5	40-21 thru 40-24.5
<input type="checkbox"/>	I-1 thru I-61	I-1 thru I-61

FILE IN THE FRONT OF THE FIRST VOLUME
OF YOUR SET

To order missing pages log on to our self service center, www.lexisnexis.com/printcdsc or call Customer Services at 1 (800) 833-9844 and have the following information ready:

- (1) the publication title;
- (2) specific volume, chapter and page numbers; and
- (3) your name, phone number, and Matthew Bender account number.

Please recycle removed pages.

MISSING FILING INSTRUCTIONS?
FIND THEM AT www.lexisnexis.com/printcdsc

Use the search tool provided to find and download missing filing instructions, or sign on to the Print & CD Service Center to order missing pages or replacement materials. Visit us soon to see what else the Print & CD Service Center can do for you!



www.lexis.com

**Copyright © 2024 Matthew Bender & Company, Inc., a member of the LexisNexis Group.
Publication 658, Release 37, May 2024**

LexisNexis, the knowledge burst logo, and Michie are trademarks of Reed Elsevier Properties Inc., used under license. Matthew Bender is a registered trademark of Matthew Bender Properties Inc.

