



## **Legal Information Lines - Frequently Asked Questions: Resale Packages, Mailbox Rule, and Marijuana**

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**Q. In a real estate transaction of a residential property within a common interest community, can the buyer pay for the resale package and the seller reimburse at closing?**

A. No. The statutes are explicit that **the resale package is the seller's expense** (NRS. 116.4109). Practicing real estate in the manner presented in the question gambles on a guaranteed closing - and that is simply not in line with reality. A lot can happen in a real estate transaction, and if the parties fall out of contract, the seller will violate the requirements of the law. Acknowledging that resale packages can be costly, it's important to also remember resale packages are good for 90 days (NRS 116.4109(5)).

**Q. My buyer signed the seller's counteroffer, but before we could send it back, we received a rescission of the seller's counter. Which prevails - the signed counteroffer that was not yet sent or the received rescission?**

A. The rescission would probably prevail because the answer hinges on **delivery**. Unless the contract terms indicate otherwise, the long-standing common law rule presumes the document is delivered upon dispatch (also known as "the mailbox rule"). In this question, the problem with the signed counteroffer is that *it was never sent* to the seller, and as such, the rescission which *was sent* would effectively cancel the counteroffer. Further, whether the dispatched signed document sat in the recipient's inbox or mailbox unread or unchecked is of no consequence, because again, once the document is properly sent it is presumed to be received and delivery has been completed. The answer given here was a "probably" because it further presumes the sender did their due diligence when sending the rescission, for example, if sending the offer via electronic mail, checking to see if the email is in the sent folder, and/or no auto-generated delivery error response was received.

**Q. My client wants to buy a commercial property and one of the tenants runs a marijuana business. What considerations should my client take into account?**

A. Although recreational and medical marijuana have been legal in Nevada since 2016, it's a particular area of the real estate market that is still being established. With that said, the National Association of REALTORS® (NAR) has published very helpful information to provide guidance to our members:

- (1) [Marijuana Becomes Growing Issue in Real Estate | Realtor Magazine](#)
- (2) [Marijuana and Real Estate: A Budding Issue \(nar.realtor\)](#)

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