



**Is an addendum necessary to make the contract “as-is” or obligate the buyer to purchase the property even if the appraisal is low?**

Release Date: 2/18/2021

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**QUESTION:** A buyer submitted an offer on one of my listings on Form 2-T with a non-standard addendum. The buyer is not seeking an FHA or VA loan. The addendum says that the buyer will buy the property “as-is” and pay the purchase price even if the appraisal comes in low. Is this addendum necessary?

**ANSWER:** Probably not.

In July 2013, The Offer to Purchase and Contract (Form 2-T) was amended to include the language that is now found in paragraph 4(d). This paragraph makes clear that unless the buyer and seller agree otherwise, the property will be sold in its current condition. The addition of “as is” to the contract is therefore unnecessary, and it may actually raise a question about intent of the parties. This is because the term “as is” can mean different things to different people.

Similar reasoning applies to the addendum’s statement about a low appraisal. The note in paragraph 4(a) of the contract already provides that the buyer’s obligation to purchase is not contingent on loan approval or a satisfactory appraisal. This is why the buyer should promptly investigate these issues during the Due Diligence Period.

Even though the addendum in your case appears unnecessary, agents have a duty to deliver all offers to the seller, even those with non-standard addenda. It is not your place to give legal advice regarding this addendum. So, when you deliver the offer, convey your reservations but be sure to recommend the seller seek legal counsel regarding the addendum. You can read our Q&A on how to generally address non-standard addenda [here](#).

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