



## Can a buyer who intends to subdivide a listed property use Form 12-T to make an offer?

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**QUESTION:** I have a client who is interested in purchasing some vacant land within a platted residential community. He wants to subdivide the land into two lots after he closes. The County has advised him that the subdivision would likely be approved. My question concerns the Note at the top of Form 12-T regarding the sale of property that will be subdivided. In light of the language in the Note, can I use Form 12-T to submit an offer on behalf of my client?

**ANSWER:** Yes. The Note in Form 12-T was included because there are criminal penalties associated with selling lots in an unapproved subdivision. See [NC General Statutes §160D-807](#). However, in the scenario you have described, the seller is not in the process of subdividing the listed lot, or attempting to sell only a portion of an approved lot. The fact that your client hopes to subdivide the property after he purchases it does not preclude you from using Form 12-T to submit his offer.

What do REALTORS® need to know about selling lots in an unapproved subdivision? First, that North Carolina law authorizes both counties and municipalities to regulate the subdivision of lands within their borders. According to the Real Estate Commission's online Real Estate Manual, almost every area of the state is subject to either county or municipal subdivision regulation. In any City or County that has a subdivision ordinance, it is a misdemeanor under North Carolina law to sell or transfer land in a subdivision prior to subdivision approval, or, except in limited circumstances, to enter into a contract to sell land in a subdivision prior to final subdivision approval.

If you have a buyer client who is interested in subdividing a listed property, you should inform your client that subdivision approval is not assured. You should also advise your client to consult with a real estate attorney about the likelihood of that approval.

If you are a listing agent, the Real Estate Commission has stated that before accepting a listing for subdivided lots, you should request to see a copy of the final approved and recorded subdivision plat. If there is no final recorded plat, you should meet with the seller and the seller's attorney to be sure that offering the property for sale can be accomplished in accordance with applicable law. Finally, keep in mind that some MLS's have rules governing the listing of property that the seller is in the process of subdividing.

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