

The Revised Pennsylvania Association of Realtors' Oil/Gas Forms

What Real Estate Agents Need to Know
April 16, 2024

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The “Revised” Oil/Gas Forms:



In July 2017, the Pennsylvania Association of Realtors released three new oil/gas forms:

- i) The Oil, Gas and Mineral Rights Addendum to Agreement of Sale (“OGM”)
- ii) The Oil, Gas and Mineral Rights Disclosure Form (“OGMD”)
- iii) The Oil, Gas and Mineral Rights Addendum to Exclusive Listing Contract (“OGMX”)

The “Revised” Oil/Gas Forms:

Why three? When do we use them?

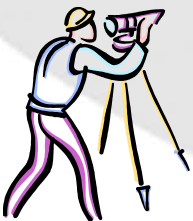
- i) The OGM – updated and expanded form to be attached to Agreement of Sale
- ii) The OGMD – updated and expanded form to be given to BUYER as part of the disclosure process
- iii) The OGMX – removed from PAR inventory



The Revised OGM: The Good, The Bad and The Ugly...

Key changes:

- i) Paragraph 2(C)(2) – title search contingency [UGLY]
- ii) Paragraph 3 – exceptions? [BAD]
- iii) Paragraph 4(A) – seller reservations? [UGLY]
- iv) Paragraphs 4(D), 4(E) and 4(F) – timeline and costs [UGLY]
- v) Paragraph 5 – surface damages/consent [GOOD]
- vi) Paragraph 6 – free gas [UGLY]
- vii) Paragraph 8 – notice to lessee [GOOD]



The Revised OGM: Paragraph 3

35 3. EXCEPTION (IF APPLICABLE)

36 (A) Buyer is aware that the following oil, gas, mineral and/or surface rights/interests have been previously leased, assigned, sold or
37 otherwise conveyed by Seller or a previous owner of the Property (exceptions) and cannot be transferred to Buyer: _____

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42 (B) Buyer acknowledges that Seller may not own 100% of all oil, gas, mineral and/or surface rights/interests to the Property and agrees
43 that, notwithstanding the default language of the Agreement of Sale regarding title to the Property, Buyer will accept only the
44 rights/interests and title that Seller is able to convey, free and clear of all other liens, encumbrances, and easements, subject to the
45 exceptions referenced above.

- Paragraph 3 is problematic because oil/gas rights can be conveyed *even if* under lease – be careful!
- Distinction between prior severance of oil/gas and prior lease

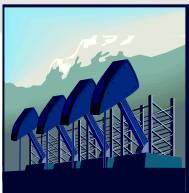


The Revised OGM: Paragraphs 2(B) and 2(C)

- 22 ELECTED. Investigation Period: _____ days (60 if not specified) from the Execution Date of the Agreement of Sale.
23 1. **Within the Investigation Period**, Buyer will have completed an investigation of the ownership rights/interests and status
24 of the oil, gas and/or mineral rights/interests to the Property. Buyer will pay for any and all costs associated with the title
25 search.
26 2. If the result of the investigation demonstrates terms that are unsatisfactory to Buyer, Buyer will, **within the stated Investigation**
27 **Period:**
28 a. **Accept the Property** and agree to the RELEASE in the Agreement of Sale, OR
29 b. **Terminate the Agreement of Sale** by written notice to Seller, with all deposit monies returned to Buyer according to the
30 terms contained in the Agreement of Sale, OR
31 c. Enter into a mutually acceptable written agreement with Seller as acceptable to the lender(s), if any.

- Prior version (Paragraph 7) was based on ability “to convey full and marketable title”
- What does “unsatisfactory” mean?
- Paragraph 2(B) is new!

Remember Paragraph 1 – No Warranty!



The Revised OGM: Paragraph 4(A)

46 **4. RESERVATION OF RIGHTS/INTERESTS (IF APPLICABLE)**

47 (A) Buyer acknowledges that Seller is reserving and retaining ownership of the following oil, gas and/or mineral rights/interests and
48 royalties and is not transferring them to Buyer. The rights/interests being reserved and retained by Seller include the right to receive
49 royalties regarding the same, unless otherwise stated below. This reservation will be executed in its entirety at settlement.

50 Oil _____
51 Gas _____
52 Minerals _____
53 Coal _____
54 Other _____

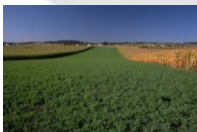
- Make sure you “check” the correct boxes – oil and gas are **separate** estates
- What about natural gas liquids (“NGLs”)?
- When to use the “other” box?



The Revised OGM: Paragraph 4(F)

75 (F) If Seller fails to deliver the proposed reservation language as specified in Paragraph 4(D), and Buyer exercises the right to terminate
76 this Agreement as a result, all deposit monies shall be returned to Buyer according to the terms of the Agreement of Sale. Upon
77 termination, Seller will reimburse Buyer for any investigative costs incurred by Buyer to verify the title, status and ownership of the
78 oil, gas and/or mineral rights/interests underlying the Property.

- Why triggered only if SELLER is reserving?
- If SELLER is reserving 100% oil/gas rights, less need for title search under Paragraph 2(C) – but get copy of underlying leases under Paragraph 7
- If SELLER is reserving less than 100% of oil/gas, then BUYER should always elect under Paragraph 2(C)

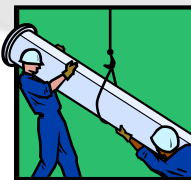


The Revised OGM: Paragraph 5

79 5. SURFACE DAMAGES

80 In the event Seller is reserving and retaining oil, gas and/or mineral rights/interests as set forth in Paragraph 4(A), then Seller fur-
81 ther agrees to convey, assign and/or transfer to Buyer: i) the exclusive right to receive compensation for any and all damages, which
82 include, but are not limited to, pipeline rights-of-way, well pad sites, compressor sites, and standing marketable timber, and ii) any and
83 all surface consent or surface remediation rights set forth in the applicable oil, gas, and/or mineral rights lease, pipeline right-of-way
84 agreement or other surface use agreement pertaining to the Property. A copy of the applicable language of the lease is attached to this
85 Addendum or will be provided to Buyer within ____ days (10 if not specified).

- Improvement over prior form (Paragraph 4)!
- Still should review underlying lease or pipeline right-of-way agreement – reference correct clause!
- What if no lease?



The Revised OGM: Paragraph 8

96 **8. ASSIGNMENT OF INTEREST**

97 Buyer, or someone acting on Buyer's behalf, will be responsible for promptly notifying any and all lessees in writing of the assignment
98 of any oil, gas and/or mineral rights/interests to Buyer. This paragraph will survive settlement.

- Is Paragraph 8 triggered only if SELLER is conveying oil/gas rights to BUYER? No
- Most leases contain a clause which requires notice of any ownership change
- What does "promptly" mean?



Any Questions?



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