

The Revised Pennsylvania Association of Realtors' Oil/Gas Forms



What Real Estate Agents Need to Know
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Presented by

Robert J. Burnett, Esq.

rburnett@hh-law.com

412-288-2221



Houston Harbaugh
ATTORNEYS AT LAW

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 – new form to be completed by SELLER and given to SELLER’s agent (???)



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

Key changes:

- i) Paragraph 2 – exceptions? [BAD]
- ii) Paragraph 3(B)(2) – [UGLY]
- iii) Paragraph 4(A) – seller reservations? [UGLY]
- iv) Paragraph 4(F) – costs? [UGLY]
- v) Paragraph 6 – surface damages/consent [GOOD]
- vi) Paragraph 8 – notice to lessee [GOOD]



The Revised OGM: Paragraph 2

8 **2. EXCEPTION (IF APPLICABLE)**

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

14 (B) Buyer acknowledges that Seller may not own 100% of all oil, gas and/or mineral rights/interests to the Property and agrees
15 that, notwithstanding Paragraph 17 of the Agreement of Sale, Buyer will accept only the rights/interests and title that Seller is
16 able to convey, free and clear of all other liens, encumbrances, and easements, subject to the exceptions referenced above.

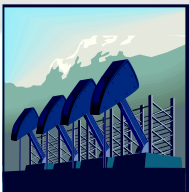
- Paragraph 2(A) is problematic because oil/gas rights can be conveyed *even if* under lease – be careful!
- Distinction between prior severance of oil/gas and prior lease



The Revised OGM: Paragraph 3(B)(1) and (2)

27 ☐ **ELECTED.** Investigation Period: _____ days (60 if not specified) from the Execution Date of the Agreement of Sale.
28 1. Within the Investigation Period, Buyer will have completed an investigation of the ownership rights/interests and status
29 of the oil, gas and/or mineral rights/interests to the Property. Buyer will pay for any and all costs associated with the title
30 search.
31 2. If the **result** of the investigation demonstrates **terms that are unsatisfactory** to Buyer, Buyer will, within the stated
32 Investigation Period:

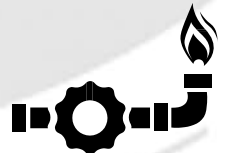
- Prior version (Paragraph 7) was based on ability "to convey full and marketable title"
- What does "unsatisfactory" mean?



The Revised OGM: Paragraph 4(A)

40 **RESERVATION OF RIGHTS/INTERESTS (IF APPLICABLE)**
41 (A) Buyer acknowledges that Seller is reserving and retaining ownership of the following oil, gas and/or mineral rights/interests and
42 royalties and **is not transferring them to Buyer**. The rights/interests being reserved and retained by Seller include the right to
43 receive royalties regarding the same, unless otherwise stated below. This reservation will be executed in its entirety at settlement.
44 ☐ Oil _____
45 ☐ Gas _____
46 ☐ Minerals _____
47 ☐ Coal _____
48 ☐ 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)

39 (F) If Seller fails to deliver the proposed reservation language as specified in Paragraph 4(D), and Buyer exercises the right to
70 terminate this Agreement as a result, all deposit monies shall be returned to Buyer according to the terms of Paragraph 26 of
71 the Agreement of Sale. Upon termination, Seller will reimburse Buyer for any investigative costs incurred by Buyer to verify
72 the title, status and ownership of the 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 3(B) – 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 3(B)

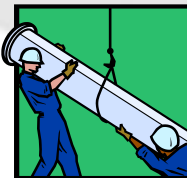


The Revised OGM: Paragraph 6

76 6. SURFACE DAMAGES

77 In the event Seller is reserving and retaining oil, gas and/or mineral rights/interests as set forth in Paragraph 4(A), then Seller
78 further agrees to convey, assign and/or transfer to Buyer: i) the exclusive right to receive compensation for any and all damages,
79 which include, but are not limited to, pipeline rights-of-way, well pad sites, compressor sites, and standing marketable timber, and
80 ii) any and all **surface consent or surface remediation rights** set forth in the applicable oil, gas, and/or mineral rights lease, pipeline
81 right-of-way agreement or other surface use agreement pertaining to the Property. A copy of the **applicable language** of the lease is
82 attached to this 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!



The Revised OGM: Paragraph 8

12 8. ☐ Seller/Seller's agent ☐ Buyer/Buyer's agent will be responsible for promptly notifying any and all lessees in writing of the
93 assignment 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?



Robert J. Burnett, Esquire
(412) 288-2221
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