



## Contracts Contingent on the “Satisfaction of the Buyer”

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A “satisfaction” clause is a fairly common provision in a variety of contract types. You have likely seen such a clause before or perhaps been a party to a contract involving one. Satisfaction clauses can cover a wide range of subjects, but they often appear as contingencies in contracts for the sale of real property. For example, the buyer of a large tract of land may include in the contract a provision stating that the sale is contingent on a survey to his satisfaction. This provides an added protection to the buyer that the land is truly what the seller claims it is and what the buyer wants to buy.

In the recent case *Smith v. Crimson Ridge Development, LLC*, 410 S.W.3d 619 (Ky. App. 2013), the Court of Appeals interpreted the extent of a satisfaction clause under facts similar to the example above. Specifically, the contract in *Smith* made the sale of a 46-acre tract of undeveloped land contingent on a “survey of the Property satisfactory to the Buyer.” The survey revealed that a county road was not directly abutting the land, despite a prior description from the seller otherwise. Consequently, the buyer invoked the satisfaction clause and demanded rescission of the contract. The seller refused, and the parties litigated the dispute.

The trial court agreed with the buyer and ordered rescission of the contract. In affirming the trial court’s judgment, the Court of Appeals held that “Kentucky law has consistently interpreted a satisfaction contingency in a contract as meaning subjective satisfaction, albeit subject to a good faith requirement.” Holding that satisfaction is subjective, as opposed to objective, provides very broad latitude to the buyer. In other words, it does not matter whether the buyer should be satisfied or whether a reasonable person would be satisfied. Rather, it matters only whether the buyer himself is satisfied, so long as he is not acting in bad faith (i.e., the buyer is not faking dissatisfaction).

Both the example above and the *Smith* case illustrate potential benefits and pitfalls of a satisfaction clause. On one hand, it can help reduce the risk of incomplete information, which otherwise can be an obstacle to an efficient transaction. This includes reducing the risk of litigation. On the other hand, making the transaction contingent on the buyer’s satisfaction leaves a great deal of subjective discretion up to that buyer. Thus, satisfaction clauses may cause uncertainty for the seller as to whether the transaction will be completed.

The prudence of utilizing a satisfaction clause ultimately depends on the particular circumstances of the transaction. Understanding the legal and practical effect of these contracting tools puts you in a better, more informed negotiating position.

*If you would like to know more about these issues, please contact Ryan McLane, a [Northern Kentucky associate](#) in the [Construction](#), [Medical Malpractice](#), [Administrative Law](#), and [Civil Litigation](#) Practice Groups at [Dressman Benzinger LaVelle psc](#). Ryan can be reached at (859) 426-2143 or via email at [rmclane@dbllaw.com](mailto:rmclane@dbllaw.com).*