

Real Estate Settlement Procedures Act Letters

Part of the Real Estate Settlement Procedures Act (RESPA) regulates the servicing of mortgage loans. You can send a “qualified written request” under RESPA for information about the mortgage such as settlement documents, a payment history or an explanation of miscellaneous charges on an account. The mortgage company must provide a written response.

In order for the letter to be considered a proper RESPA request, it must include:

- The correct address of the mortgage company. Technically, the proper contact address must be on the monthly mortgage statement – usually, it is listed as the address for Written Correspondence, Customer Contact, or Customer Service. Sometimes it is useful to call the mortgage company’s customer service number and ask for the proper address for written correspondence.
- The account or loan number of the client
- Authorization from the homeowner to write on their behalf
- **Include the phrase:** This is a *qualified written request* pursuant to RESPA.

How it works

Once you send a written request, the servicer must respond acknowledge receipt of your letter in writing within 30 days. They have another 30 days after to comply with your request (either by sending you information or correcting the account) or provide you with a written explanation as to why they can’t comply. You should always send a RESPA request by certified mail. Often, it is useful to send it by fax as well (and quicker!), but if you send it by certified mail, you have definitive proof that the servicer received your letter. If they don’t respond properly, you’re setting them up for a lawsuit that can benefit the client. Keep in mind that mortgage companies might send the response directly to your client, so if you’ve haven’t received anything within the proper time frame, check in with your client before following up with the mortgage company.

Times when you might want to write a RESPA letter

- Payment disputes. Example - if your client dispute how far behind he or she is. You can get a payment history to compare your client’s story with the servicer’s records. If your client has receipt of payments made, send copies with your letter.
- Escrow account disputes. Example – your client has insurance, but the servicer has added their own policy. Send a copy of the insurance declaration page with your request. Sometimes this problem can be resolved with a phone call to customer service, but you may want to send a RESPA letter to make sure that the fees related to the forced-place policy aren’t sitting around on the account.
- Getting settlement documents (although sometimes a mortgage company will provide these more quickly with a phone call to the customer service department with your client on the line; this varies by servicer).
- Miscellaneous fees – if your client’s statement is showing misc. fees on the account and your client doesn’t know what they are. You can request a breakdown and, if those fees are inappropriate, you can send a second letter asking the servicer to remove or validate those fees.
- Any other time you need information about the account or if something fishy is going on with the servicing.

Problems you may encounter when writing RESPA letters

- **No response from servicer.** This is probably the most common problem. If 60 days have passed and you haven't heard anything, first call your client to see if he or she has gotten anything (servicers sometimes send their answers directly to their customer). If your client has received an answer, call the customer service number and ask if they have received your request. Often, you will receive a response shortly after making the phone call. However, if you still don't receive a response, try sending a second RESPA letter requesting the same information, but adding that the servicer may already be in violation of RESPA. Then follow up and if you still don't receive a response, congratulations – you have successfully set up a RESPA lawsuit for your client.
- **You haven't received all of the information you requested.** Send a second RESPA letter explaining that you didn't receive everything and stating that the service may be in violation of RESPA.
- **You receive a breakdown of fees on the account but they seem inappropriate** (ie, there is a \$500 charge for attorney's fees, but client was never served with a complaint). Send a second RESPA letter requesting that the servicer remove the charge and provide proof they have done so. Explain why this charge is inappropriate and, if applicable, cite the law the charge violates (Act 6, in the example). When the servicer fails to remove the charge, send a 3rd RESPA letter demanding that the fee be removed. The servicer probably won't comply, but you may now have a good lawsuit against the servicers.

Useful phrases/citations:

- This communication is a “qualified written request” for information regarding the servicing of this loan and for account correction, pursuant to the Real Estate Settlement and Procedures Act, 12 U.S.C. § 2605 (e).
- Finally, pursuant to 12 U.S.C. § 2605(e)(2) & (3), do not take any action such as initiating a complaint in mortgage foreclosure, or reporting the default to a credit reporting agency before complying with and responding to this request.
- Furthermore, to ensure that these fees and costs are not hidden in some other form, please provide a breakdown of all corporate advances, escrow advances, property preservations, or other charges assessed against the account.
- If the supporting documents are coded, please provide any keys or other reference information necessary to interpret the breakdown.
- Please provide any telephone log concerning this account for the last 18 months prior to the default.