



BCrea

MULTIPLE OFFER RESOURCES

Adapted from BCREA's Course: Multiple Offers – The Strategies, The Tactics and The Game Plan

MULTIPLE OFFER RESOURCES

Adapted from BCREA's Course: *Multiple Offers – The Strategies, The Tactics and The Game Plan*

Table of Contents

| | |
|---|----|
| INTRODUCTION | 4 |
| GUIDING PRINCIPLES WHEN IT COMES TO OFFERS ¹ | 5 |
| <i>Communicate Early and Often</i> | 5 |
| <i>The Licensee Advises – The Client Decides</i> | 5 |
| <i>Offers and Counter-Offers in Writing</i> | 5 |
| <i>Disclosure of Terms of Offers and Counter-Offers</i> | 5 |
| <i>Licensee Communication</i> | 6 |
| WORKING WITH BUYERS - OFFER CHECKLIST – BUYERS | 7 |
| TIPS FOR BUYERS – WRITING A WINNING OFFER | 8 |
| <i>Price</i> | 8 |
| <i>Deposit</i> | 8 |
| <i>Conditions Precedent/Due Diligence</i> | 8 |
| <i>Completion Dates</i> | 9 |
| <i>Inclusions</i> | 9 |
| <i>Offer Open for Acceptance</i> | 9 |
| <i>The Personal Touch</i> | 9 |
| <i>Additional Info</i> | 9 |
| SAMPLE: DOCUMENTING INFORMATION TO A BUYER..... | 11 |
| BUYERS' ACKNOWLEDGEMENT OF INFORMATION | 11 |
| WORKING WITH SELLERS | 12 |
| OFFER CHECKLIST – SELLERS..... | 12 |
| <i>When taking the listing:</i> | 12 |
| <i>When the offer is received:</i> | 12 |
| <i>Seller's options – one offer:</i> | 12 |
| <i>Seller's options – competing offers:</i> | 13 |
| SAMPLE TEMPLATE: DOCUMENTING SELLERS' INSTRUCTIONS..... | 14 |

| | |
|--|----|
| <i>SELLERS' INSTRUCTIONS</i> | 14 |
| SCENARIO 2: EXAMPLE OF COMMUNICATIONS OF MULTIPLE OFFERS | 15 |
| OFFER COMPARISON TEMPLATE | 15 |
| REAL ESTATE ERRORS AND OMISSIONS INSURANCE CORPORATION | 17 |
| LOSS PREVENTION TIP: KEEP GOOD RECORDS..... | 17 |
| <i>Why things go wrong – and how to prevent it</i> | 17 |

Introduction

There may be times when you receive multiple offers on a property. Multiple offers can be stressful and challenging.

BCREA wants to support you! Attached you will find some of the resources available in BCREA's Course: *Multiple Offer - The Strategies, The Tactics and The Game Plan*, including checklists, guidance on working with buyers and sellers, and resources to help inform and document your conversation with clients to help mitigate risk.

With multiple offers, it's important to comply with the Real Estate Rules, your real estate board's rules and regulations, the REALTOR® Code and any brokerage policies.

DISCLAIMER:

Although the British Columbia Real Estate Association believes that the information contained in this resource is reliable, this cannot be assured. The Association assumes no liability for any errors in the material or any reliance placed therein. Professional advisors should be consulted before acting upon the information contained herein.

GUIDING PRINCIPLES WHEN IT COMES TO OFFERS¹

Communicate Early and Often

When you take a listing or begin working with a buyer, explain to the client how offers and counter-offers are handled. If competing offers are a possibility, discuss strategies.

The Licensee Advises – The Client Decides

The clients are the ultimate decision makers. A seller makes the decisions about how and when offers will be negotiated and if they will be accepted, rejected, or countered.

A potential buyer makes decisions about when his or her offer will be written. Based on the licensee's advice and the buyer's decision, the duration of the time the offer will be open for acceptance must be considered. A potential buyer can accept, reject, or counter any counter-offers received from a seller.

All offers and counter-offers must be presented to the seller and the potential buyer, as the case may be.

Offers and Counter-Offers in Writing

Offers and counter-offers should be in writing to ensure that the terms, time frames and legal obligations of the parties are understood.

Written counter-offers should include a specific time period for acceptance.

Withdrawal of a written offer or counter-offer should be made in writing. It is critically important to have written evidence of the revocation.

Disclosure of Terms of Offers and Counter-Offers

A listing licensee may not disclose the terms of an offer or counter-offer from one potential buyer to another potential buyer without the prior consent, preferably in writing, of the seller. Some real estate boards may have bylaws that prohibit the disclosure of the price and terms of a competing offer.

¹ British Columbia Financial Services Authority, ["Guiding Principles for Offers and Counter-Offers"](#), online.

If the seller has agreed with a buyer to maintain the confidentiality of the price and terms of an offer, no information may be disclosed. A seller who is not bound by a confidentiality agreement with a buyer may decide that a better offer could be obtained by disclosing the terms. Should this occur, the listing licensee is obliged to follow the lawful instructions of the seller.

Full-Price Offer Does Not Obligate the Seller To Accept the Offer

Listing property for sale is an invitation from the seller for buyers to make offers. The seller is not obligated to sell the property even if a buyer makes a full price, unconditional offer.

No Priority to Offers

The first or highest offer made does not bind or otherwise limit the seller to act upon any offer before considering any other offers.

Licensee Communication

Licensees should make reasonable efforts to keep cooperating salespersons informed, consistent with client's instructions.

Licensees Are Not Lawyers

Licensees should advise clients to seek legal advice regarding any questions about the legal status of an offer or contract.

WORKING WITH BUYERS - OFFER CHECKLIST – BUYERS

The Buyer Client – An informed buyer will be ready to make the right decision when making an offer.

- Discuss with the buyer their motivation for purchasing. Remember, this is confidential information.
- Discuss current market conditions, e.g., season, types of financing, average length of time for properties on the market.
- Review Guiding Principles.
- Explain that competing offers may be made — realize that in a competing offer situation only one offer will result in a sale and one or more buyers may be disappointed.
- Explain that the seller is not obligated to acknowledge, counter, or reject an offer and may inform other buyers of the existence and/or terms of an offer to obtain better terms or price; or may not accept any offer.
- Confirm that the buyer — not the licensee, will make decisions about how and when offers will be negotiated and presented or withdrawn.

When the offer is made — discuss with the buyer the possibility of competing offers:

- Initial offer may be the only opportunity to buy.
- Sellers may choose not to inform buyers of the existence of other offers.
- Seller has the right to choose to negotiate with only one buyer at a time and not reveal this to other buyers and this negotiation may continue until seller accepts an offer.
- The terms of buyer's offer may not be treated confidentially by the seller, or the seller's licensee acting upon the instructions of the seller, and the price and terms contained in the offer may be communicated to other buyers to obtain better terms or price.
- If the buyer wishes the terms and conditions of his or her offer to remain confidential, the buyer can require the seller, prior to the presentation of the offer, to sign a confidentiality agreement. If the seller refuses to sign such an agreement, the buyer can decide whether the offer is to be presented regardless.
- Seller may accept an offer on terms other than the price.
- All buyers may be notified to present their highest and best offer - a buyer may choose to:
 - make better offer.
 - leave original offer.
 - revoke offer in writing if period for acceptance is current.

TIPS FOR BUYERS – WRITING A WINNING OFFER

When notified of a multiple offer(s) you have an opportunity to revise the offer, should you choose to do so, provided you can meet the timelines they set for presentation.

As a general rule, it's a good idea to make your best offer in these circumstances, as you may not get a second chance. Things the seller might consider are; if they have a preference in completion dates, the offer price, the deposit amounts, and what conditions (if any), and how long the due diligence period is for.

Price

With the offer price, only you know how much the property means to you, and what is the most you are willing to pay. It's important to consider and understand that if it sold for even a slightly greater amount than you offered, it was beyond what you were willing to pay.

Be aware that even a full-price offer or better than a full price offer does not guarantee your purchase of the property - other offers may be for above the asking price or may have less or no conditions. The seller is not obligated to "sell" their home even if the offer is unconditional and full price.

A property is worth what someone is willing to pay for it. As a buyer you need to put yourself in the position that you will have no regrets if someone else gets it, knowing you put your best offer forward. Knowing what to offer and being confident in your offer price makes the process less stressful.

Deposit

Some sellers will see a large deposit as a stronger offer.

Considering paying the deposit in a quick timeframe and with certified funds – this can reassure the seller of your intent and may set you apart from other offers.

Conditions Precedent/Due Diligence

The strength of your offer is not based on price alone. You need to seriously consider the value of having those conditions, versus making your offer firm and binding upon acceptance by the seller. If conditions are even accepted in a multiple offer situation, they need to be minimal and removed sooner rather than later. You may want to consider consulting with the service providers you will engage to do your due diligence, and finding out when the next available spots are, or consider "booking/holding" dates, depending on cancellation policies. If timing and the seller allows, prior to offers being presented, you could consider a pre-inspection risking that you may spend funds on due diligence without getting the home.

If time allows, prior to the presentation of offers, you may want to consider seeking permission of the seller, to do the due diligence in advance, with the understanding that you may be investing monies into the due diligence, without the assurance that your offer will be successful.

With the due diligence, remember if these are NOT listed as conditions, you will not have the ability to do them prior to purchase. There is a risk that should be considered in not doing due diligence, (i.e., if items are discovered at a later date), unless the seller didn't disclose a material latent defect that they were aware of and you can prove the same – there may be no recourse.

Completion Dates

Timing matters with closing dates and these can have a huge impact. As such, if you have flexibility, you may wish to consider asking the seller as to their preferred completion dates.

Inclusions

When you are in a multiple offer situation as a buyer, you might want to consider leaving out that extra fridge, or whatever else you were hoping would be thrown into the deal.

Offer Open for Acceptance

The period given with an offer (the time a seller has to accept the offer as delivered) can also play an enormous part in the way a multiple offer situation is handled.

However, pressing a seller to respond quickly can backfire on you, or, with the right dollar amount, can put you ahead of the competition.

The Personal Touch

There are many tactics being used by home buyers to stand out from the crowd. While not all sellers will read them, personalized letters are the most-accepted and popular form of unique buyer strategies available.

So, there are a LOT of considerations. In multiple offers situations there is one lucky buyer who has the opportunity to buy the property.

Additional Info

Offers are normally presented to the seller in the order they were received. It's very important to remember that under most circumstances the seller is under no obligation to consider, respond, or counter your offer. Just because it may have been the first offer presented does not mean the seller is obliged to consider it, and respond to it, prior to considering and dealing with other offers.

The seller may have given instructions to the listing agent not to divulge to the REALTORS® acting for potential buyers that multiple offers exist – therefore, other offers may exist that you are not aware of.

Unless you enter into a “confidentiality” agreement, prior to submitting your offer, the seller may share details of your offer with other buyers.

If the seller counters your offer, your offer remains at risk, as there is always the possibility that the seller could rescind the counter-offer and accept another one before you have had an opportunity to consider and respond to the counter-offer. Therefore, being able to respond quickly, and in writing, is paramount.

If your offer is unsuccessful you may choose to make a back-up offer which, if accepted, would come into effect should the accepted offer collapse for any reason.

SAMPLE: DOCUMENTING INFORMATION TO A BUYER

BUYER'S ACKNOWLEDGEMENT OF INFORMATION - RECOMMENDED CONDITIONS

Date: _____ Brokerage: _____

REALTOR®: _____

Buyer(s): _____

Address: _____ ("the Property")

The buyer acknowledges that they are aware of and understand the increased risks and possible consequences of not including some or all of the recommended, typical conditions and not completing the related due diligence for real estate transactions in BC. The buyer further acknowledges that despite these increased risks, they have instructed the REALTOR® to make an offer for this Property without the conditions initialed below.

BUYER'S INITIALS

Home Inspection - The Buyer(s) has been advised that making an offer to purchase that is not conditional upon obtaining and approving a home inspection for the Property will result in increased risks for the Buyer.

Financing - The Buyer(s) has been advised that making an offer to purchase the Property that is not conditional upon confirming any financing approvals necessary for the Buyer to complete on the Contract will result in increased risks for the Buyer.

Insurance - The Buyer(s) has been advised that making an offer to purchase the Property that is not conditional upon confirming the ability to arrange for insurance for the Property to their satisfaction will result in increased risks for the Buyer.

Strata Documents (if applicable) - The Buyer(s) has been advised that making an offer to purchase the Property that is not conditional upon receiving, reviewing and approving strata documents (including, but not limited to: special levies, verification of parking/storage locker, Strata Bylaws and Rules and proposed changes thereto) will result in increased risks for the Buyer.

Other:

The Buyer has been advised to seek independent legal advice regarding making an offer that is not subject to one or more of the recommended conditions described in this form.

Dated this _____ day of _____, 20____

BUYER'S SIGNATURE

BUYER (PRINT NAME)

BUYER'S SIGNATURE

BUYER (PRINT NAME)

WORKING WITH SELLERS

OFFER CHECKLIST – SELLERS

The Seller Client – An informed seller will be ready to make the right decision when an offer or competing offers are received.

When taking the listing:

- Discuss with the seller their motivation for selling. Remember, this is confidential information.
- Discuss impact of current market conditions, e.g., season, types of financing, length of time on market.
- Review Guiding Principles.
- Explain that competing offers may be received and that the seller decides whether to disclose the existence and/or terms of offers to other licensees and/or buyers.
- Confirm that the seller – not the licensee, will make decisions about how and when offers will be presented, negotiated, and ultimately accepted or withdrawn.

When the offer is received:

- Advise the seller of the receipt of the offer(s).
- Promptly present the offer(s) unless otherwise instructed (preferably in writing) by the seller.
- Discuss the terms of the offer(s) – if competing offers, compare terms
- Inform seller of any other interest in the property.
- Potential of other offers.
- Scheduled showings.
- Recent showings that may require follow-up.

Seller's options – one offer:

- Accept, reject, counter, delay during time for acceptance to seek out other offers.
- Explain pros and cons of each option – including the potential of a buyer withdrawing an offer during a delay.

OFFER CHECKLIST – SELLERS CONTINUED

Seller's options – competing offers:

- Accept one offer.
- If an offer is accepted, the seller may also accept back-up offers.
- Reject all offers and encourage better offers.
- Counter one offer (may withdraw counter, in writing, prior to acceptance) – do not inform other buyers.
- Delay acceptance waiting for another offer.
- Ignore an offer or all offers. The seller is not obliged to respond to potential buyers.
- Alert one or more buyers that they are in a competing offer situation.
- Alert all buyers that they are in a competing offer situation.
- Do not alert any buyers that they are in a competing offer situation.
- Consider the pros and cons of each option – delaying or inviting all buyers to make their “best” offer may produce better offer(s) or may discourage buyers, who may withdraw.

SAMPLE TEMPLATE: DOCUMENTING SELLERS' INSTRUCTIONS

SELLERS' INSTRUCTIONS

Property: _____ Dated: _____

The Seller(s) hereby instruct the Listing REALTOR® as follows:

INITIALS

_____ Seller will look at offer(s) on _____ (date) and time _____ am/pm.

_____ Seller wishes to be informed of any pre-emptive or Bully offers.

_____ Seller does NOT wish to be notified of pre-emptive or Bully offers.

_____ OR Seller wishes to be presented offers as submitted.

Seller allows the following information to be disclosed to potential buyers:

Sellers' preferred completion date: _____

Sellers' preferred possession date: _____

Any other favourable terms seller would consider favourably:

INITIALS

_____ Seller will allow other REALTORS® to present offers.

_____ Seller wishes that presentation of all offers is through the listing REALTOR® only.

SELLER

SELLER

LISTING REALTOR®

LISTING BROKERAGE

EXAMPLE OF COMMUNICATIONS OF MULTIPLE OFFERS

Subject: 99 Olympia Way - Offers to be presented at 3 pm 23 March 20XX.

Thank you for your interest in the property at 99 Olympia Way. We are emailing as you had asked us to keep you informed on the property, as your clients may be interested in submitting an offer. I wanted to ensure that in advance of writing you have a copy of the title, title notations, and the attached property disclosure statement (which includes the disclosure of the material latent defect, namely the unauthorized suite). If there is any additional information you would like, please let us know.

The seller has instructed that they will not look at or consider any pre-emptive offers. I have confirmed with two colleagues that they do have written offers ready to present for 23 March 20XX at 3 pm, which means it will be a multiple offer situation.

For your clients' consideration, the sellers preferred the completion date is 1 June 20XX with possession on 2 June 20XX. The seller would consider favourably an opportunity to rent back the suite for a six-month period. The seller has requested that all offers be left open for consideration for 24 hours.

The seller will allow the buyers' REALTOR® to present the offers. If you intend to present, please let us know. If you do not intend to do so, I would ask that I receive your offer via email, or to my office, by no later than 2 pm on 23 March 20XX. Offers will be presented in the order that they were received.

An update will be sent by 11 am on 23 March 20xx indicating the number of competing offers in hand. If there is any doubt about the number communicated; competing agents will be confirmed after offers are submitted. Any additional offers being brought prior to presentation will be communicated to the group via email - you will be bcc'd. Prepare accordingly to revise quickly if you must.

Best of luck to all and thank you for your interest!

Sincerely,

OFFER COMPARISON FOR PROPERTY: _____

Date: _____

| <i>Notice to Seller of Expected Remuneration</i> | Offer #1 | Offer #2 | Offer #3 | Offer #4 |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
| | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Buyers' REALTOR® | | | | |
| Brokerage | | | | |
| Contact | | | | |
| Offer Price | | | | |
| Deposit Amount & Terms | | | | |
| Conditions & Terms | | | | |
| <i>Notice of Assignment</i> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| Completion Date | | | | |
| Possession Date | | | | |
| Adjustment Date | | | | |
| Inclusions | | | | |
| Exclusions | | | | |
| Time Open for Consideration | | | | |
| Notes/Other | | | | |
| Reviewed by Seller | | | | |

REAL ESTATE ERRORS AND OMISSIONS INSURANCE CORPORATION LOSS PREVENTION TIP: KEEP GOOD RECORDS

Follow these tips to improve your record-keeping:

1. Confirm in writing any advice you give to your client, particularly when your advice is rejected.
2. When you provide information to your client verbally, confirm it in writing and make sure you provide the source of the information.
3. Ask your clients to provide written documentation to support any information they provide to you, such as permits, invoices, or receipts.

Why things go wrong – and how to prevent it

As reported by your Real Estate Error and Omissions Corporation, here are some classic mistakes: A licensee misread the price on one of several offers, thinking it was lower than it was, and failed to present it to the seller.

One licensee who had received several offers on a listed property failed to present one of the offers. The name of the buyer's agent on it was similar or the same as the agent's name on another offer, and the licensee mistakenly thought they were duplicates.

Don't ever make assumptions! Read the entire offer to avoid making mistakes like this one. Another licensee acting for the buyer accidentally emailed the client's subject removal addendum to his own office instead of the seller's agent's office. By the time he discovered the error, the deadline had passed, the seller took the position that the deal was dead, and he was free to sell to someone else.

This is another case where the licensee needed to slow down and re-read what he was sending, including the addresses.

In the first case, the licensee acting for the seller didn't carefully review all the terms in a back-up offer, resulting in the seller agreeing to a back-up offer without the protection of the back-up clause. Two buyers then claimed valid contracts to purchase the property.

In another case, after several offers and counter-offers had been made, the licensee didn't notice that the completion date on the final, accepted document had the wrong year in it. The buyer insisted on a completion date a year later than the one that the parties had discussed.

Proofread offers and counter-offers!