

## The offer to purchase your home

When you get an offer on your home, we will explain to you the process of receiving and reviewing offers. Do not be surprised if you are presented with offers which differ dramatically from your asking price: listing agents are under an obligation to bring all written offers to you for your consideration, what you do with those offers is your decision.

### What should the offer contain?

All offers to purchase your property will contain a number of important details, which you must consider. The offer should include:

- Date of the offer
- Full legal names and addresses of both the buyer and the seller
- Full legal description of the property
- Amount of the deposit
- Purchase price
- Amount of the cash down payment and details as to how the remainder of the purchase price will be financed
- Date for completion of the sale
- Completion, adjustment and possession dates of the property
- A list of the conditions which must be fulfilled before the sale can take place (normally called subject clauses)
- A list of items not attached to the building (normally called chattels) but which are to be included in the sale price; for example, drapes, refrigerator, stove, etc
- Date and time at which the offer expires
- The signature of the buyer

Once the offer is made and accepted, and after any conditions/subjects of the offer are met, the offer becomes a legally binding contract, both buyer and the seller are obligated under law to hold up their ends of the agreement and complete the transaction. For that reason, you must be very sure you understand what's in the offer before you sign it.

### Vendor/Seller:

That will be you, the seller. If jointly owned, each seller's name should be listed in full, exactly as shown on the existing ownership document.

Real Property: This is the exact legal description of the property you intend to sell. It should include the postal address, lot and plan numbers, your Realtor and lawyer/attorney (some areas it is the title office or escrow officer) will make sure the property description is specific and accurate. This is most important.

### Deposit:

When you receive an offer to purchase, you will want to make sure it includes a deposit, this will demonstrate a serious intent to buy the property. This deposit will usually be in the form of a cheque, made payable to the listing broker, who will place it in a trust account until the sale is completed or terminated. The deposit provides the seller with some assurances that buyer will go through with the purchase when the day of completion arrives.

### Chattels included and Fixtures excluded:

Fixtures are permanent improvements to a property that normally stay with the property as part of the sale. However, it isn't always clear what constitutes a fixture or whether it will stay. For example, if you want to retain a dining-room chandelier that is a family heirloom, it needs to be mentioned. Since the chandelier could

be defined as a fixture, it SHOULD be listed as an exclusion in the offer. From a legal standpoint, if it is a fixture and not mentioned in the agreement as an exclusion, it is then considered part of the purchase price. If there is any doubt in your mind as to whether chattels are fixtures and part of the agreement, specifically list the items you are concerned about in writing in your offer. Where appropriate, give make and model numbers, or describe the items by color and location. Leave nothing to chance.

### **Irrevocability of the offer:**

This is the period during which the offer is open for consideration by the seller/buyer. If you are not notified before the precise time and date specified that the offer or counter-offer has been accepted, the offer becomes "null and void" (no longer valid). The Realtor can assist you in determining how long you should let the buyer think about your counter-offer, but it is often a period of less than 48 hours.

### **Completion Date:**

This date, often referred to, as the "closing date" is the glorious day when the parties expect to complete the transaction. All documentation is filed, all monies are paid out, and the property is transferred to the buyer. Closing dates are often scheduled for 45-75 days from the date of the agreement (and some as long as 90 days unless it is a new home and this date could be substantially longer), although this period will vary with circumstances. Your Realtor can help to negotiate a mutually acceptable closing date.

### **What are your options?**

When you receive one or more offers to purchase your home, it is in your own best interest to give considerable time and attention to viewing each offer carefully. We will as your listing agent, gladly assist you in understanding the terms and conditions contained in the offer, and will provide you with any advise you request, but ultimately the decision is yours.

We can prepare a revised estimate of the net cash proceeds you will potentially receive upon completion of the sale, based on the sale price and financing arrangements stated in the offer, in order to help you make your decision. You will have three options:

#### **1. Accept an offer EXACTLY as it stands:**

If you decide that you would like to accept an offer, together we would make sure you know the precise meaning of each term in the written offer BEFORE you sign the document.

Once you, the seller, sign a Contract of Purchase and Sale agreeing to its terms, and your acceptance has been conveyed to the buyer, it becomes a legally binding contract.

Legally binding means both you and the buyer will be bound by the terms of the contract and must perform your respective obligations as stated. Your performance can be enforced in a court of law.

If you are uncertain about any of the clauses contained in the offer, you may wish to consult a lawyer before signing the contract; however, keep the expiry date of the offer in mind if you decide to postpone acceptance!

#### **2. Make a counter-offer:**

If you change anything at all in the original offer, you are considered to have rejected that offer and to be making a new offer from you to the buyer. This new offer is usually referred to as a "counter-offer."

The risk in making a counter-offer is that if the buyer has changed his or her mind and rejects the counter-offer, you do not have the option to return to the original offer and accept it.

But, the buyer may decide to make another counter-offer back to you and the process of counter-offers could continue until an agreement is reached.

#### **3. Reject the offer:**

You are under no obligation to accept any offer or to make a counter-offer. If, however, you reject an offer which exactly meets all the terms you agreed to in the Listing Contract which you signed with your listing agent, you could be legally obligated to pay the commission.

**For assistance in selling your home, contact:**

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