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Rules of Negotiation

The most critical – and often the most frustrating – part of the home buying and selling process is the negotiation, during which the specific terms and conditions of the transaction are hammered out.

Negotiation may take a few hours, or a few days, or even – especially lately, as the market has become more difficult – several weeks or longer. Negotiation may be predictable, calm and smooth, ending up with terms and conditions that represent a middle ground between the initial positions of buyer and seller. Or it may be drawn out, laborious and contentious, with one party standing firm throughout and the other party making all the concessions.

You see, when it comes to putting real estate deals together, there really are no rules of negotiation. Except that when the other side offers something, you have three choices. You can accept. You can reject. Or you can counter.

Lack of a predictable negotiation process may be frustrating. Clients of mine recently made what I considered a respectable offer, but the sellers rejected it out of hand. Though I had counseled these buyers that any offer can be rejected without a counter, they felt snubbed and ignored when the seller did not come back to them with something – anything – to work with. “How dare they not respond to us,” they said, “especially in this market!” In disbelief, my clients started making judgments about the sellers which were not necessarily accurate. All because the sellers chose not to entertain their offer, which of course was their right to do.

Although there are no rules of negotia-

tion, there are guidelines that may make the process more manageable – and hopefully less stressful.

1. Don't have preconceived expectations about how the negotiation should go. If it goes smoothly, consider it a bonus.

2. Don't take things personally.

Attempting to strike a real estate deal is just business. Thus it's important to react in a businesslike a manner to counter-offers from the other side.

3. Try not to judge. You have no idea where the other side is coming from. A “difficult” seller may be facing financial, medical or personal issues that color his behavior. An “unrealistic” buyer may be represented by an inexperienced agent, or misinformed about market conditions.

Maybe the agent on the other side is counseling his or her clients properly, but they won't listen. Maybe one spouse is reasonable, but the other is a hothead. Maybe the other party believes – as many people do – that unless a negotiation is tough and nasty, it's not being conducted properly. It's hard to know. You probably can't change any of this. But you don't have to buy into it, either.

4. Know when you have the advantage, and when you don't. If the seller doesn't have to sell, and his property is the only one you want, then he - not you - is in the driver's seat. Likewise, if you do have to sell, and the only interested party after six months on the market offers less than you expected, then the buyer has the advantage. Different negotiation strategies are appropriate depending on whether your side has the advantage, or not.

5. Do your best, then walk away. Sometimes this will get the other side's attention and bring about progress in the negotiation. Other times it's best to move on to another property.

6. Understand that timing is everything. A seller may reject your offer today but accept the same one – or a lesser one – 60 days from now. If you're still in the

market at that time, your patience may be rewarded. But many buyers who purchase something else feel frustrated when they hear that a property they bid on sold for ten percent less than they offered six months ago.

7. Remember that proper etiquette will always be to your advantage. No matter what happens, it's important to be straightforward, polite and respectful in your dealings with the other side. There's a big difference between an offer that disappoints a seller made by a polite, earnest buyer...and the same offer made by a buyer who comes off as arrogant, negative or know-it-all.

Negotiation is a process. Letting it unfold, and stepping back and trusting an experienced agent to interpret what's happening based on having negotiated many deals, is the smartest thing you can do.

When selecting an agent, make sure you understand up front how she or he views the negotiation process. You want someone tough but measured. Someone who looks forward to rather than dreads the process. Someone who can sort out the situation and help you understand what may be happening behind the scenes on the other side. You want someone who will help you understand your options at every point in the negotiation, and counsel you on the pros and cons of each move you consider making. Someone who is well respected in the agent community – since one of these individuals will be representing the other side.

Negotiation is where your agent earns his or her commission. Make sure you hire someone who is up to the task.

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