

Negotiating Basics

Negotiating your contract will be the most challenging and exciting part of your home selling experience. It also will be satisfying to see the effort that you have spent assembling the team, mapping the strategy, and executing the plan come to fruition. **The most important part of your agent's job is managing the negotiations to a successful conclusion.** You might visualize the process as traveling down a road. A proposal or offer to buy your home marks the beginning. You have no direct control over the timing or content of this offer. It merely represents the buyer's wildest wish. At the end of the road is a contract to sell your home. It must be mutually acceptable to both buyer and seller, a meeting of the minds. If it is to be legally enforceable, which is highly desirable, it must be written. You have a good deal of control over the final content of the contract, and you will exercise this control with the help of your agent during the negotiation phase. But the road can be filled with bumps and potholes (surprises), can wind up hill and down dale (confusion), surely will contain many forks (decision points), and could run close to steep cliffs.

You might recognize at this point that it would be rather cumbersome if we had to negotiate a written contract each time we wanted to buy a loaf of bread. So, what's the difference? One difference is that homes are unique in comparison with loaves of bread, and neither the seller nor the purchaser has nearly as much experience with the transaction (assuming that you either eat bread or own a bakery). A home's price is less certain, hence the need for negotiation. In addition, home purchases are more complex and involve more details, hence the need for writing. But it is also important to consider the length of time between the agreement, and the consummation of the agreement, called closing or settlement. If your buyer came in and you agreed on a price and other pertinent details and went immediately to closing, with all of the necessary information and funds being available, then written contracts might be avoided. Negotiation and written contracts, of course, will continue to be an essential part of the home selling process.

The phone rings. It's your listing agent with an offer. Your mind starts churning out alternating dreams and nightmares. You have waited so long for this event. What if it is totally unacceptable, the talks end in a stalemate, and the buyer runs off to buy someone else's home? Perhaps the offer is sent from heaven, full price and otherwise acceptable in every detail. If this happens, then the time you spend reading this can be considered recreational, and you can thank your lucky stars. In most cases, however, buyer and seller reach a meeting of the minds after some back and forth discussions, namely, negotiations.

During the negotiations, always keep in mind that *you* are determining how much of the money *you* will end up with. *You* are paying for professional advice. *You* will make critical decisions and *you* will live with the outcome. This is where your talented and experienced agent pays off

handsomely, being *at* your side and *on* your side. Your rigorous investigations on your choice of an agent will not be confirmed fully until this point. Those who have not followed the [selection process](#) carefully should watch for danger signals and prepare a plan to minimize their losses during the negotiating process.

Details of each transaction are very different. Some negotiations are quite simple, some impossible. To treat real estate negotiating exhaustively would fill several volumes. So we will discuss only the most important considerations. During the negotiation stage, your agent's experience and expertise will prove invaluable.

The term "negotiating" has a nasty ring to some people. The offer is an insult! The buyer obviously wants to steal your home while you are not prepared to take a penny less than the asking price. Feelings seem to be overpowering thoughts. A totally adversarial yelling and screaming match is imminent. Even the agents are getting emotional. Although the above scenario is possible, it rarely happens. Skilled agents focus on the facts and concentrate on resolving differences. Buyers and sellers usually will settle for what they believe to be fair and reasonable.

Negotiation is the process of give and take during which a fair and reasonable set of terms and conditions is defined into an agreement or contract. Your objective is to convince the buyer that your position is fair and reasonable. It will be a major advantage if your position is close enough to fair and reasonable in order for it to seem so. Stretch the credibility of your position too far and the negotiations will fracture.

The secret of successfully negotiating the negotiating process is **control**. To control the negotiation, control yourself. Never let the tone reach a state of emotional strain. To do so will always cost you time and money. Your agent will be a big help. If emotions start to creep in, consider slowing the process by tabling all issues, perhaps to seek additional information, for a few minutes, hours, or even days. Usually, delays in negotiations are best avoided, but make an exception in this case.

Develop an idea of timing or the rate of progress. Always move ahead in discussions whenever possible in order to avoid losing momentum. Negotiations generally proceed quickly in a sellers' market, and at a slower pace in a buyers' market. Be alert for that rare occasion when it is preferable to delay your response, assuming that time is on your side. Be prepared to give. It is expected in all but the hottest of sellers' markets. But give little and give slowly. Try to give on terms that are of lesser importance to you. When you give, you will be able to get something in return, if only one step closer to a contract. At each stage, consider carefully whether to compromise or to say "NO." Develop a workable plan to reach an attainable goal and stick with it. So much for the generalities, next we will gain insight into the *process*.

*This series is excerpted from David Rathgeber's **SELLING YOUR HOME in the Washington, DC Metropolitan Area** Copyright © David Rathgeber. All rights reserved.*

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