

Real Estate Today

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Everything Is Negotiable In A Contract for Real Estate

By **JIM SMITH, Realtor®**



In negotiating a contract for the purchase or sale of a home, it's important to get professional advice in interpreting and countering it. It's easy to forget that marketing your home and securing a buyer is only the first task of us listing agents. We really "earn our wings" when we negotiate the contract that is best for you.

As I write this, I have been told to expect several offers on a listing which has been on the market longer than usual for me — since March. The reason I have several offers is that the first thing I do when I receive or hear about a coming offer is to call appropriate agents or buyers to inform them of the expected offer. Our showing software at RE/MAX Alliance — and our feedback calls — makes it easy to identify those agents. We also have contact information on open house visitors who showed particular interest..

To level the playing field, I make sure that all parties know there are competing offers, without revealing the level of interest of any one party. NOTE: Beware of agents who will falsely claim competing offers. This happened to me, I suspect, when I bought two homes before I was an agent myself, but it was my own buyer's agent who claimed there was another offer to induce me to make a full-

price offer. When I tell agents there are competing offers, I like to tell them who the other agents are, because I don't want to be suspected of this deceit myself.

You can protect yourself from this scam by telling your agent you want to submit the offer that you'd submit if there were no competing offer, but with an additional provision that you'll beat any **provable** competing offer by, say, \$1,000, up to full price (or up to another specified maximum price).

Now let's discuss the contract provisions. It matters not what is on the MLS in terms of price, earnest money, inclusions or exclusions — or anything else. What matters is what you choose to put in the contract. A good buyer's agent will call the listing agent to find out what's important to the seller in terms of closing date and possession, to make the offer as attractive as possible in those respects.

Do you want that excluded hot tub? With a full-price offer, you might be able to get it. Is the earnest money demand unreasonable? Offer less. (I favor pegging it at 1% of the purchase price.)

From the seller's side, remember that everything can be countered — deadlines, closing date, possession, inclusions, you name it. You need someone — a Realtor — who can spot hard-to-notice provisions and who knows how to counter them, as well as how to negotiate multiple offers if he or she has been able to generate them for you.

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