

## MULTIPLE OFFERS

Purpose: To assist real estate professionals in handling multiple offer situations.

**This bulletin applies to real estate brokerages, brokers, associate brokers and associates.**

As a general rule, sellers or buyers, or their real estate representatives, do not have a duty of "fairness" to each other during the buying and selling process. Ultimately, in a multiple offer situation, the seller determines what process will be followed.

It is critical for a brokerage and all of its associates to conduct themselves in a way that maintains the trust and confidence of the client in a multiple offer situation. This includes:

- maintaining utmost loyalty,
- avoiding conflicts of interest,
- exercising care and skill,
- not misusing a client's confidential information,
- acting honestly and obeying a client's lawful instructions,

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### Seller's Representative

- immediately inform the seller of the multiple offer situation
- explain to the seller the choices and strategies available for offer presentation before getting seller's direction
- recommend the seller look at each offer before making a decision
- advise the seller of the buyers' options and indicate that buyers may, and often do, remove their offer in a multiple offer situation
- it is the seller client's choice whether to disclose the multiple offer situation to the buyers
- seller's representative must not disclose a multiple offer situation without the seller client's consent
- seller's representative must follow the seller's lawful instructions
- if the seller tells you to advise the buyer's representatives, do so
- try to present all offers in the same time frame
- if one of the offers includes a commission adjustment, discuss with the seller whether they wish to share this information with all other buyer

representatives. A seller's representative can't disclose this information to other buyer representatives without the seller's consent

- continue to present all offers to the seller up to the end date of a previous offer or to the end of the seller representation agreement

### Buyer's Representative

- tell the buyer of the multiple offer situation
- advise the buyer of the seller's options
- attempt to personally attend the offer presentations
- advise the buyer of his/her options, including:
  - increasing the offer prior to presentation.
  - leaving the offer as it is.
  - withdrawing the offer.
  - reconsidering the fixtures, chattels, terms and conditions of the offer.
- Other considerations that could improve the buyer's position include:
  - a term or condition that will compel the seller to deal with the offer at the time of presentation or face withdrawal
  - a requirement that the seller not disclose the price and terms to any other buyer or face withdrawal

### Special Considerations – Multiple Offers & Conflict of Interest

If a real estate broker is registered with a common law brokerage and represents the seller, and one of the offers comes from a buyer who is represented by an industry professional at the same brokerage there is a conflict of interest. This type of conflict of interest requires extreme care.

Implementing designated agency within a brokerage can help reduce the occurrence of these conflicts. The seller and interested buyers will have written service agreements that have designated agent(s) within the brokerage as their sole agents and each client can continue to benefit from representation, even in a multiple offer situation, as long as the same designated agent(s) is not representing both parties.

If the designated agent(s) is representing the seller and also represents one of the buyers (in a multiple offer situation), under these circumstances, the best option is to refer one of the parties to another real estate professional within the brokerage.

### Related information

#### Legislation

- *Real Estate Act* Rules: sections 54, 55, 57, 58, 58.1

## Information bulletins

- Conflict of Interest
- Conflict – Representing Competing Buyers
- Conflict – Representing Seller and Buyer
- Disclose – Conflicts of Interest

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