Are you currently in a seller’s market? Or is there a good possibility that spring’s thaw will bring a fresh crop of motivated buyers into your neighborhoods? After extended doldrums, numerous real estate markets are experiencing new competitive pressures—a shift in the tides that may reach more areas soon.

While every real estate agent welcomes healthy transaction volume, seller’s markets also introduce potential complications in the form of multiple offer scenarios. Are you prepared to help your buyers meet those challenges?

When confronting a multiple offer situation, buyers must consider not only their own interests and capabilities along with the property’s condition, but also the unknown factor of other buyers’ interests and capabilities. In this situation, what are your responsibilities to buyer-clients and how do you best meet your responsibilities?

This issue of Today’s Buyer’s Rep examines these questions from three perspectives:

1. **Education**: What buyers should know before they submit an offer.

2. **Negotiation**: Ways to improve your buyer’s odds of winning in a competitive situation.


Even if you aren’t currently experiencing a seller’s market, hold onto these tips. After all, you never know when they’ll come in handy!

*Continued on page 3*
MEMBERSHIP UPDATE

Mark your calendar for new NAR Tech Edge events!

NAR’s e-PRO® Certification is hosting several one-day technology conferences across North America, starting in April, 2014. NAR Tech Edge is geared toward agents who are eager to learn how current mobile and web-based technologies can benefit their business and clients. Topics include:

- mobile marketing
- online reputation management
- Google and cloud computing
- content strategy
- social media
- the importance of photos and video, and much more!

Speakers include Bill Lublin, CEO of the Social Media Marketing Institute and Century 21 Advantage; Nobu Hata, NAR Director of Digital Engagement; Maura Neill with RE/MAX Around Atlanta and other technology experts.

Mark your calendar
for new NAR Tech Edge events!

WORTH QUOTING…

“Now and then it’s good to pause in our pursuit of happiness and just be happy.”

-Guillaume Apollinaire, French poet and playwright

Current dates/locations include:

<table>
<thead>
<tr>
<th>Location</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chicago, IL</td>
<td>April 3</td>
</tr>
<tr>
<td>Greater Detroit, MI</td>
<td>June 6</td>
</tr>
<tr>
<td>Atlanta, GA</td>
<td>June 20</td>
</tr>
<tr>
<td>Sacramento, CA</td>
<td>August 15</td>
</tr>
<tr>
<td>Cleveland, OH</td>
<td>September 7</td>
</tr>
<tr>
<td>Greater Phoenix, AZ</td>
<td>September 24</td>
</tr>
</tbody>
</table>

More locations are being added!

Connect online with fellow ABR®s for news, tips and referrals!

Facebook  @abrebac  LinkedIn  ABR® Network  REBAC.net

Connect online with fellow ABR®s for news, tips and referrals!

2  TBR • March 2014
Anticipating possibilities and managing expectations. These are two of the most essential skills for successfully representing buyers in any real estate transaction, but become even more important in multiple offer scenarios. If your buyer is interested in a “hot” property—or if general market conditions raise the odds of competitive bidding—you better sit down early, well before submitting any offers, and take time to explain how a few things work.

Once your buyer has been educated on the factors that should be considered in a multiple offer situation, it will be much easier to manage their expectations and work together on a plan that anticipates various scenarios. You’ll also be less likely to encounter negative surprises or feel sudden last-minute pressures.

Continued on page 4 ➔
What items belong on the list of things buyers need to know?

Since real estate license laws vary by state, your list may look a little different. However, here are several of the most important and broadest considerations to discuss and explain.

1. You won’t necessarily know if you’re in a multiple offer. The seller has total prerogative about letting their listing agent inform buyers if they’re in a multiple offer situation. (See Standards of Practice 1-15 in the NAR Code of Ethics.)

2. Sellers aren’t obligated to consider offers in the order they are received. Being first in line may help, in terms of getting a seller’s attention and potentially engaging them in a negotiation. But it doesn’t accomplish anything in terms of superseding offers from other buyers.

3. A seller is free to disclose the existence and terms of your offer to other buyers. The only way to prevent this is by asking the seller to sign a confidentiality agreement prior to presenting your buyer’s offer. (See SOP 1-13, item 5)

4. Sellers aren’t obligated to accept the highest bid. Price is certainly an important factor, but there are many other contract terms that could tip the scales in favor of one buyer over another. (See page 5 for more details.)

5. The house is still on the market while you’re negotiating on it. Until a contract is accepted, new offers can continue to be presented to the sellers. In this sense, a single-offer negotiation could suddenly and unexpectedly turn into a multiple-buyer situation.

6. A seller can’t counter-offer to two different buyers. Doing so sets up a scenario where a seller is entering into two different contracts on one house. Sellers can, however, tell a buyer what they have to do to sweeten an offer.

7. How to withdraw from a multiple offer scenario. Buyers can revoke an offer as long as the seller hasn’t already accepted it (without changes to the terms) by delivering notification to the seller.

It’s not unusual for buyers to panic or hesitate in a multiple offer scenario. “Typically, a buyer will hesitate once,” says Kelley Skar of Kelley Skar and Associates in Calgary, Alberta. “But they don’t do that twice.” Counsel buyers to anticipate possibilities—know their limits on price and other terms. Remain objective and stay in the negotiations until their terms have been exceeded.

Presentation of Multiple Offers

There is no standard approach for presenting multiple offers, although NAR does provide general guidance. You’ll want to explain to your buyers how each scenario works and discuss implications to your negotiating strategy.

Individual presentations
Each contract is presented to the seller and the listing agent, but the contents of each offer are not shared with anyone else.

Group presentations
All offers are presented at the same time in the presence of all representatives. Since some buyers may not want their information disclosed to other parties, buyers should be notified if this method has been chosen (they may want to revoke their offer).

Once offers have been presented, the seller’s options include:
- Accept (or counter) one offer
- Reject all offers
- Reject all offers, but request interested parties to resubmit their “highest and best” offer

New Consumer One-Sheet

Check out the new handout on page 7 which can be used to discuss multiple offer scenarios with buyers. To download full color and low ink versions of this and many other consumer one-sheets, go to the Members area of REBAC.net.
2. Negotiation: Ways to Put Together a Winning Offer

When buyers face the prospect of competing with other buyers, there are a number of steps they can take to improve their odds of coming out on top. As a buyer’s rep, your job is to explain options to your clients, discuss the steps in the negotiating process and help them formulate a negotiating strategy. Ultimately, however, it’s up to buyers to decide how much they want to put on the table (now and later) and how to play their cards.

Beyond paying more for a home, buyers can improve an offer by modifying one or more of these contract terms:

- **Pay cash** (eliminate a seller’s concern that the transaction may fall apart from a financing glitch)
- **Increase your earnest money deposit** (demonstrate a higher level of commitment than other buyers)
- **Pay “extras” such as closing costs** (another way to put more money on the table)
- **Minimize or eliminate contingencies like home warranties, repairs, etc.** (remove additional potential closing hurdles)
- **Offer flexibility on dates for closing or taking possession** (reduce any time pressures the seller may be experiencing)

**Escalation Clause**

Another approach is to include an escalation clause in the contract, indicating that the buyer is willing to go $___ higher than another verifiable offer (up to a maximum price). In theory, this could give a buyer the upper hand, at least in terms of price, but ignores other contract terms that may be more important to a seller (like a cash buyer who can complete the purchase without a lender’s involvement).

As John Kmiecik, owner of Century 21 Kmiecik in Chicago, points out, “the best contract is the one that will close.” Even though an escalation clause may seem like a good negotiating strategy, it could also introduce complications, like obtaining proof that other legitimate offers were made. Further, buyers could encounter problems determining if their offer was actually rejected, leaving them in limbo and unable to make offers on other properties.

**Working with Lenders**

If a buyer is financing their purchase, they’ll be able to compete more strongly against other buyers if they work closely with their lender. Pre-qualification letters are a great start, but encourage buyers to demonstrate they’re serious by securing full lender approval of a mortgage. Then, when submitting an offer, buyers can ask their lender to provide a letter verifying that they’re already approved to borrow $_____.

Having a current date on such correspondence will also signal that a buyer and their lender are completely in synch, which means a lot in today’s mortgage environment. A buyer may also want to instruct their lender to give the listing agent access to the online platform where the mortgage is being processed. This won’t divulge the buyer’s private information, but will provide further assurances that mortgage problems shouldn’t torpedo the transaction.

**Beyond Contracts and Lenders**

As every agent knows, real estate transactions often have a strong emotional component, which can tip the scales in one buyer’s favor if a bond can be cemented between old and new owners. A buyer could write a heartfelt letter to the seller, for example, explaining how much they’d like to move into the neighborhood. Just be sure your buyer doesn’t say anything that would hurt their negotiating position. Also, don’t attach personal photos, since this could backfire in various ways, including inadvertently stirring up Fair Housing issues.

Agents can also facilitate emotional connections by sharing their client’s story with the listing agent. Kelley Skar once represented a couple who wanted to purchase a larger home after opening their hearts and adopting two young children with special needs. Skar’s clients’ offer was accepted, in part because the owners were touched by this couple’s commitment to provide a better future for these children.
3. Risk Reduction: Six Simple Rules

Buyers aren’t the only ones who worry about multiple offers. Buyer’s agents also know that competitive negotiations can introduce unique challenges. As a buyer’s representative, it’s more important than ever to ask yourself if you’re doing everything possible to support your buyer’s position. As long as you remain focused on the tenets of buyer agency and take certain precautions, everything should go fine. This includes:

1. Get your broker involved. Often, agents make the mistake of not talking to their broker about a multiple offer scenario until the agent has already encountered a problem. By then, the problem can easily compound into something bigger. Never forget that a key component of a broker’s job is to coach agents on ways to successfully manage various situations. Your broker should be in your court, providing important perspectives on the best ways to represent your buyers and look out for their interests.

2. Remember who you work for. Always keep in mind that you can’t disclose any material information that could negatively impact your client’s negotiating position or that your client hasn’t authorized you to divulge. If the listing agent inquires about your client, don’t feel obligated to answer their question. (Simply say “I’m not at liberty to discuss that.”)

3. Triple-check all documentation. Make certain there are no gaps in your buyer’s contract or any related documents. “In a multiple offer situation, one buyer’s offer could suddenly get pushed back because of something as simple as forgetting to get a signature on a disclosure form,” says John Kmiecik. “It’s essential to make sure you’ve dotted all the i’s and crossed the t’s.”

4. Take detailed notes. Exactly when and how was your buyer’s offer submitted? When did the listing agent reply and what did they say? Take detailed notes on every exchange of documents and related communications (including interactions with your client). If problems arise, this could prove invaluable in supporting your buyer’s position, by being able to elaborate on who said what, when and how.

5. Educate your buyers. Helping your buyers understand important details regarding multiple offer scenarios will help you get on the same page faster and work as a team. Refer to the other articles in this issue for important topics to discuss and consider giving clients a copy of the consumer one-sheet on page 7.

6. Avoid even the appearance of impropriety. Don’t invite trouble by doing anything that could mistakenly be construed as being out of line. Understand and follow the REALTOR® Code of Ethics as closely as possible, as well as the Golden Rule, treating everyone involved in the transaction the same way you’d like to be treated.

Want to learn more? Check out the REBAC Connection Webinar titled Multiple Offers: Negotiation Tips for Buyer’s Reps (April 2013) hosted by Alec Hagerty, ABR®, CRB, SRES® with Howard Hanna in Elyria, OH. You’ll find it posted in the Members area of REBAC.net along with numerous other helpful topics.
Multiple Offers: Questions to Consider in a Seller’s Market

When home buyers outnumber sellers, the result can be a multiple offer scenario. If you’re searching for homes in a competitive market environment, you’ll want to take time to understand the dynamics of multiple offers and understand how this might impact your negotiating strategy. Some questions to discuss with your buyer’s representative:

Will I know if I’m in a multiple offer situation?
Not necessarily. Typically it works to a seller’s advantage if buyers are told they are competing with one another. But a seller must give their agent permission to disclose the existence of other offers before this can be shared with your buyer’s rep.

How will offers be presented to the seller?
The seller decides how they want this handled, either individually or as a group presentation. Once presented, a seller can elect to accept (or counter) one offer, reject all offers, or reject all offers in conjunction with a request to resubmit a “highest and best” offer.

Will the details of my offer be kept confidential from other buyers?
The only way to preserve confidentiality is to ask the sellers to sign a confidentiality agreement before presenting your offer (which also applies to their agent). However, if the seller decides to have a group presentation of offers, you’ll either have to withdraw your offer or revoke the confidentiality agreement.

If my offer has the highest price, can I be confident that I’ll beat out other buyers?
No. Sellers can accept whichever offer they consider “best” and that may be based on other factors, like the certainty of closing (e.g., the buyer is already approved on their mortgage) or flexibility on closing dates.

What are my options for writing a stronger offer?
In addition to firming up your financing (or paying cash) and offering flexibility on timing, there are a number of other things you can do, including eliminating contingencies, increasing your earnest money deposit or paying closing costs, to name a few. Discuss your options with your buyer’s rep.

If I don’t want to compete with other buyers, can I withdraw my offer?
Yes, as long as you deliver notification to the seller revoking your offer before they’ve accepted it.

Every home buyer benefits from having their interests represented in a real estate transaction, but in a multiple offer scenario, you’ll gain even more if you’re working with an Accredited Buyer’s Representative. Discuss these and other questions with your buyer’s rep so you can anticipate each step in the negotiation process and improve the likelihood of a successful outcome.
Register Now!
Courses at the REALTOR® Party Convention & Trade Expo

The REALTOR® Party Convention & Trade Expo (previously called the Midyear Legislative Meetings) is where NAR members take an active role to advance the real estate industry, public policy, and the Association. It’s also an opportunity to attend valuable course offerings, including:

- e-PRO® Day 1 Course
- New-Home Construction and Buyer Representation: Professionals, Product, Process
- NAR’s Military Relocation Professional Certification Core Course

All three courses will be held May 13, 2014, from 8:30 am to 5:00 pm. Take advantage of early registration discounts, which end April 15, 2014. ($75 early; $95 thereafter)

For additional details, information or to register, please visit REBAC.net.