

My Buyer's Offer Did Not Get Accepted. What Can They Do?

Part 4 of 4: The MLS, Seller and Listing Agent

Whether you are starting the process of buying your first or “next” home, engaged in the process of house-hunting or you have already been denied a house you really wanted to own, I want to share some time-tested advice. I am going to address the main question in three parts. This is not intended as legal advice and not intended to interfere if you have an existing business relationship.

Let's start with the premise that you have made an offer and it was rejected. You may have had no response or you may have been given an opportunity to negotiate that did result in a signed contract. If a buyer makes what they think is a reasonable offer and the seller did not accept it, they should have no regrets. Easy for me to say. However, did the buyer have the right expectations and understanding about the process? Could or should their agent or the listing agent or the seller have done anything differently?

If the seller was given the opportunity to review all offers and was properly informed of any possible interest that could generate additional offers and they accepted what they thought was the best offer, who has any reason to complain about the process? Every executed agreement will not close so it may be best to remain on good terms with everyone involved. You may get another chance to get a house you want to own, if you want one, but do not assume you will.

I provide my buyer-clients with a few pearls of wisdom I have gained through experience, training and education. The process of buying or selling Real Estate is typically an emotional decision justified with logic. It should be treated as “business” and not taken personally. It is also not retail. Looking for a house can be a full-time job but it is worth the investment of time and effort. Your life will get back to normal after you succeed. Bad decisions are costly and their effects can last a long time. Real Estate is typically our biggest asset and requires our largest ongoing investment so buying or selling it deserves a lot of attention.

I have already discussed how a buyer might manage their search and making their offer in a previous post. Those are both important but there is more work required to get the house you like under contract. Respectfully, you may have had the best planning and preparation and made your best offer but there are still two potential obstacles to having a signed contract: they are the listing agent and the seller.

As a buyer agent, it can be very frustrating just trying to show properties to our clients. Add to that possibly waiting for a buyer to decide if they want to make an offer, their trying to assess how to do that and then trying to ensure that your buyer's offer is properly presented to the seller. My intent is not to criticize acceptable business models but I do question some business practices. Article 1 of our REALTOR Code of Ethics requires that we protect and promote the interest of our clients and that we be honest with others. Not all Real Estate agents are REALTORS.

The MLS has rules and regulations which member agents are *required* and expected to follow. Listing statuses and their definitions are a major part of them. For example, Bright MLS requires that properties are listed in the MLS within three business days of having an executed listing contract and within one business day once it is advertised if not already uploaded to the MLS. There is status called “Coming Soon” which offers agents an opportunity to advertise properties before any showings are

allowed. There is a publicized date when showings will start. Those dates change so buyer agents need to monitor them as they should when a listing agent specifies when offers are due and going to be presented to sellers. There is no rule that you cannot submit an offer sooner than required or that you can't have it "expire" before they intend to present it. Obviously your buyer must agree with what you do.

The "Coming Soon" status can be effective with generating interest but frustrates some waiting for showings to start. Listing agents and sellers tend to like this status as it can reduce the actual marketing time while maximizing competition and the selling price. Buyer agents and buyers are less enthusiastic. Should a buyer wait to make an offer on another house, especially if the listing agent of a "Coming Soon" property has not shared pictures or provided a decent write-up? Is this property better than what they have already seen? Competition and a lack of knowledge can create anxiety. However, a major concern is that some listing agents may be allowing some people to see inside, against the rules, while others are left out. Some buyers are willing to make offers "sight unseen". However anyone views that, it is perfectly fine even if some refuse to do so. Some think it "unfair" and risky.

Some agents have suggested eliminating this status saying that a property is either "active" and available for showings or it isn't. I can see their point but I do not agree. Even now, some houses are listed as active and immediately placed "under contract", suggesting that it never got full market exposure. I think the issue is how the status is handled and that is a "people problem". There is no perfect system. What guarantee is there that every interested buyer would be able to see every "active" and available house?

If you were going to design a perfect, "neutral" system, meaning it levels the playing field rather than favoring or potentially harming buyers or sellers, several things would have to be in place. I will suggest a few although many will see the folly:

- 1) Perhaps no showings should be allowed until a property is "active" in the MLS. PERIOD. This makes sense but how do you implement it or prove it was violated?
- 2) Once "active", a property should be kept available for showings and offers for some "reasonable" amount of time to allow any interested buyer and their agent an opportunity to visit and make an offer. In theory, this should maximize the selling price but some sellers are more interested in a quick sale. Only a seller gets to decide what is in their best interest and which offer to accept. Either way, there is no way to force this on a seller. What about buyers unable to see a house for whatever reason? Even then, how do you know that your offer was properly presented to the seller for their consideration?
- 3) All listing agents should be required to use a third-party showing service to schedule appointments. I have had to call listing agents to schedule showings on numerous occasions. That tends to take longer as far as getting an answer and a confirmation than contacting an appointment scheduling service. Are these listing agents too busy to promptly respond or are they trying to keep out competition, hoping to sell their listings to their own buyers? I do not know but that is the suspicion. Calls for showings can go unanswered for days. Even worse, some listing agents, for whatever reason (some are valid!) need to attend showings. A buyer and their agent should not have to work around a listing agent's schedule. Granted, they have to work around a seller's schedule but it is the seller's house.
- 4) Many agents have wondered whether their buyer's offer was actually presented to the seller. In PA we have forms which attempt to document that an offer was presented but you never really

know. I once had a sealed offer returned to me unopened. That buyer never had a chance to compete. In multiple-offer situations, I have been told by several agents that their seller-client reached a point where they wanted to stop looking at additional offers that they had in front of them. I do empathize! The real question is how many offers is too many to open, evaluate and compare? My experience has been that after awhile the offers tend to seem very similar but you never know about any offers you do not actually look at. What about the time and effort the agent and buyer took to see the house and prepare and deliver an offer?

The bottom line is that we have to rely on and trust each other to do our job. Technology has made our job easier as far as creating, executing and delivering paperwork than in the past but you still have to print them out and look at them. Some buyer agents do not submit complete packages. Some use formats that are difficult to work with. Do all agents really explain what their clients are reviewing and signing? Do our clients really understand the paperwork and their potential obligations? Electronic signing and delivery have made life easier but it has also increased the possibility of a client not fully understanding what they are doing in a rush to sign documents. Can Real Estate really be conducted electronically instead of face-to-face, at least for major documents like representation agreements and agreements of sale?

My best hope is that a seller hires an experienced, trained and educated agent that has the ethics and integrity to do their job and that a buyer does the same. If they have both hired the same agent, that is fine but that creates an inherent conflict called “dual agency”. If, as is more likely, they have hired separate agents, my best hope is that they do everything in their power to promote and protect the best interest of their client while being honest, at least as allowed by their representation agreement, with everyone else.

The simple facts are these:

- 1) houses will come on the market. They may or may not be overpriced or poorly marketed which could prevent their exposure to the full market which can lower activity and selling prices;
- 2) some buyers will miss opportunities because their search criteria do not “capture” every real possibility, they simply miss listings as they rush through an email, they are not able to schedule a showing before a house sells or they are not in a position to make a serious offer for whatever reason. Much of this falls on the buyer. Many “shop” online for weeks before contacting a professional who can better explain the planning and preparation needed;
- 3) sellers may make it more difficult than it should be to see their house or they might be expecting too much from the market;
- 4) agents may frustrate their clients’ efforts to sell or buy.

There is a lot more to buying or selling Real Estate than marketing, showings and writing offers. This is NOT retail! There is no online “shopping cart” or a “Buy It Now” option. Again, this is a business decision which is often emotional and justified with logic. While the public has endless access to data and information, it takes an experienced, trained and educated professional to bring the knowledge and insight that Real Estate sales often require.

There is no time for inexperience, empty promises or false expectations.

HIRE WISELY: We are not all the same!