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Real estate is all about negotiation: here's help

By Curtis Seltzer

BLUE GRASS, Va.—A few individuals love negotiating over property. Others prefer it to back pain but not by much. Most consider it another one of the endless, necessary miseries of adulthood.

I've found that negotiating is easier when I can figure out which one of four buyer-seller bargaining relationships I'm in. The four are:

- 1) both sides are motivated to make a deal;
- 2) both sides are not highly motivated, but willing;
- 3) buyer is motivated, seller is not; and
- 4) seller is motivated, buyer is not.

Price changes motivation. A better offer will move an indifferent seller, just as a lowered price will help a kick-the-tires-type buyer.

I've found that non-price factors -- terms, seller-financing, upfront financing costs, irremediable negatives, sweeteners and so on -- can be as important as price. Lack of physical or legal access, for instance, will stop a land deal, no matter how cheap the price.

A seller stuck on a price can sometimes be jiggled off it by making a point lightly: "I'll meet your price, if you meet my terms."

In a buyer's market where credit is tight and sales are slow, desperate sellers may find themselves in such a bad bind that it's better for them to accept the pain of continuing to hold out rather than accept a low-ball offer that is predictably ruinous. Low-ball buyers cannot assume that pressured sellers are without options that feel slightly better, even though they're pretty bad.

I've seen back-to-the-wall sellers reject insultingly low offers out of pride.

If you hate to haggle, you're probably not much good at it. Doing a good job for yourself is partly about the attitude and confidence you bring to the table.

You can build confidence through preparation and research. Buyers need to know as much as possible about the property, their sellers and their own objectives and resources.

Successful bargaining is also about civility. Gloating, belittling and end-zone dancing are what little kids and professional athletes of the same age do. Issues in negotiations are problems to be solved, not platforms to show that you're smarter than the other side. It's much easier to concede a point to

someone you're okay with than to someone you loathe.

And then there's fair play. I know an FSBO seller who rejected three full-price offers from a buyer, each \$100,000 higher than its predecessor, because he knew the buyer would go higher. Some think that's admirable negotiating; I don't.

Where brokers are orchestrating a sale, a buyer can request face-to-face negotiation with the seller during which the buyer can directly present an offer. Large real-estate deals are often handled this way.

Certain buyers will do better for themselves by allowing the broker to present an offer; others will be disadvantaged. The rule is: it depends on the personalities.

I've generally found that it helps both sides to negotiate directly, face to face. It's the best way to get a sense of the other side.

If you feel uncomfortable negotiating for yourself, **negotiation helpers** are available to provide counsel.

Whether buyer or seller, you're looking for a helper who is experienced in negotiating, knowledgeable about the issues that will be raised and, ideally, is not invested in your sale, either emotionally or financially.

Your local lawyer. Good real-estate lawyers help their clients enormously. Nitwits and the obnoxious don't. Negotiating is a different skill than advocacy; not all lawyers understand the difference.

If you're an out-of-town buyer, you may help yourself by letting your local lawyer negotiate with a local seller. Ask whether this is ethically or socially awkward for your lawyer; if so, don't make the request.

A mediator-consultant. Trained mediators are skilled in getting parties to reach compromise agreements. A mediator-consultant who is hired by one side can be invaluable in finding common ground.

Brokers or agents acting as outside consultants. All brokers and agents who are involved in a deal are financially invested in getting an agreement. While agents are expected to represent the best interests of their clients in negotiations, it's not unknown for deals to be encouraged because of self-interested commission hunger.

A buyer could consider hiring a broker or an agent as a negotiating consultant, paid by the hour. The broker/agent-consultant is not part of the deal and would not share in the commission split. As an outside and

independent consultant, the broker/agent would provide advice unrelated to having his reward be contingent on a purchase.

Brokers and agents. Where buyers and sellers are represented by brokers and agents who always put their clients' interests above their own, buyers and sellers can place faith in their advice. Where buyers and sellers do not have that feeling about those who represent them, their advice is always a little suspect.

Good brokers and agents have figured out how to keep their own pocketbooks out of negotiations; bad ones don't even try.

Professional negotiator. If you're in face-to-face negotiations, you might consider hiring a pro.

Steven Cohen, author of *Negotiating Skills for Managers*, is president of The Negotiation Skills Company near Boston www.negotiationskills.com. His staff of professional negotiators is available to buyers or sellers for coaching and handholding in person or by phone. "Real estate," he told me, "is all about negotiation," which he describes as a "live tool for collaboratively solving problems."

Another negotiator provider is www.consensusgroup.com. Michael Rosenthal, president, said his negotiators can train clients in strategy and preparation through online materials and role playing. The fee for email and/or phone consultations is \$400 to \$500 per hour.

Professors. A local college or university may have a knowledgeable faculty member. Avoid the theoreticians and the games-strategists—they're overkill for real-estate deals. You're looking for practical help, down in the trenches. Check references.

With the exception of lawyers, negotiator consultants must not negotiate on behalf of their clients as their agents. State laws governing the practice of real estate prohibit non-agents from doing so. A buyer can, of course, purchase whatever advice and information from a consultant that is desired outside of the commission framework.

Spouses. Some couples can take different roles in a negotiation and carry it off without marital meltdowns. Tag-team spousal negotiating is freer of consequences when the couple wins. Losses tend to beget statements like, "How could you be so stupid!"

I've seen spousal tag teams adopt different models: accelerator-brake; acceptable price-higher price (seller side); acceptable price-lower price (buyer side); and Mr. Reasonable with Designated Dingbat. Ms. Dingbat's

role was to crazy up the negotiations just enough to unsettle the sellers and have them focus on dealing with her “irrational” demands and Joan Rivers personality. She was brilliant.

The negotiating advice that always applies is to act reasonably and don't personalize negotiations.

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