

Here's How NOT to Write an Offer

by Richard Stanley

Everything consequential in real estate is written. For example, a purchase agreement starts life as a written offer from a prospective buyer who seeks to gain a seller's written acceptance now. When signed by all parties, an offer becomes an agreement that is enforceable. Without an attractively-written offer, there is no deal.

A well-written offer combines the talents of the buyer and the agent to elicit a favorable response from the seller and the seller's agent. Sadly, many offers are not well-written--and the seller responses are often not so favorable. Remember, a seller may accept an offer as written (rare), reject the offer with no response or counter offer the offer with changes the seller desires (typical). Counter offer changes may be of a price or terms nature, or both.

Avoid the following when writing an offer:

- **The cloying cover letter:** Cover letters that express how much the buyer appreciates the house can be fine--just don't overdo it. A seller client of mine once received a cover letter that described how much a family wanted her house--and included a photo of the kids that was garnished with a bow. At first she thought the kids were cute (and they were); later she thought "using the kids" to curry her favor in a business transaction was reprehensible. If you write a cover letter, keep it short, to the point, business-like and sincere.
- **No pre-approval letter and proof of liquid funds:** Every offer should be accompanied by a recent letter of pre-approval (not mere pre-qualification) from an established mortgage broker. Using Jane Doe at Brand X Mortgage is not going to impress. Consequently, the seller may insist on the buyer's applying with another, familiar, mortgage broker. Recent financial statements that show at least enough liquid assets on hand for the down payment and closing costs are also essential.
- **The contingent sale:** few sellers have the patience or risk tolerance needed to bear with a buyer whose offer is contingent upon the selling of another property--especially in a slow market. A contingent sale provision is usually a deal killer.
- **The "low ball":** Avoid the temptation to show off your negotiating skills by offering a "low ball" offer. Many sellers are so offended by low offers, that they will not respond to them. A "low ball" offer is generally considered to be 90 percent or less of the asking price. Keeping your offer fair and reasonable will increase your odds of getting an acceptance.
- **Counting upon a counter offer:** this foible is especially deadly when there is more than one offer on the table. In such an instance, competition is keen. Give the game your best shot such that if the seller passes on your offer, you will feel no remorse. Your offer is not entitled to a written response from the seller.

- **Too-long time periods:** Keep the escrow and contingency periods customary. Escrow periods average between 30 and 45 days. Inspection contingencies run about 7 to 10 days, and loan and appraisal contingencies are about 17 days.
- **Non-customary terms:** Be sure your agent knows what is customary in our local market. In Northern California, the custom of who pays the transfer taxes, recording fees and other charges is the opposite of that in Southern California. Locally, some agents routinely ask the seller to pay all, or part, of the buyer's closing costs--a practice not honored much around Los Feliz. "When in Rome..."
- **Co-signer:** Having a co-signer can add double risk that a deal might founder. Avoid cosigners.
- **Devilish details:** Ideally, a buyer's goal should be to write an offer that allows the seller to sign the offer **as written, now**. Using an agent who is challenged by filling out the industry-standard forms can assure you of getting a counter offer. Avoid filling in blanks with "seller's choice" or "each his own" (vague and unenforceable) or, my favorite, making the offer expire "upon presentation", which means, effectively, that the offer is DOA upon receipt.

Finally, a good agent offers to present the offer to the seller **in person**. Nothing warms up a cold, written offer as the warm handshake between a buyer's agent and a seller. In person, the buyer's agent may explain the rationale behind the offer and be able to answer any questions from the seller and the seller's agent. In real estate, personal service matters.

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