

BE PREPARED FOR

TODAY'S MARKET

UNDERSTAND YOUR OPTIONS

HOME BUYER FAQ

I want to buy a home, where do I start?

There is so much to consider when buying a home:

- How do you find the right home and make sure you don't miss anything?
- How do you make sure you don't lose the property in a competitive market?
- How do you know if you are paying too much?
- What if there are major issues or repairs needed? These are common concerns for today's buyer.

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However, your FIRST STEP in the home buying process is to decide how to plan to fund the purchase for your home. If you are going to take out a mortgage, you will need to contact a lender. They will help you identify your price point and work with you to help you understand the loan programs most suitable for you and your situation.

- Do you have enough funds for the down payment and closing costs?
- Do you need to sell your current home to purchase your next home?
- Are you relying on any contingent source of funds?
 - Future earnings (stock market)?
 - Retirement funds (401K)?
 - Gift money?
 - Funds from another country?
- Can you provide proof of funds if requested?

To be in the best position possible when presenting an offer on a home, it is best to have underwriting approval and a letter from your lender stating the fact

and that you have sufficient funds to close on the purchase of your home. With underwriting approval, the lender has verified your credit report, income, job, and any other conditions. All the lender needs to fund your loan is the identification of the property, the purchase amount, clean title, and an appraisal at or below the purchase price.

You want to be in the most favorable position possible when your offer is presented to any seller. By having underwriting approval, you will provide a higher sense of certainty for the seller when receiving your offer.

What is a Brokerage Service Agreement?

A “brokerage service agreement” is an agreement between a real estate firm, real estate broker, and any party that they are providing real estate services to. For example, seller’s sign a listing agreement, and buyers sign a buyer representation agreement. These agreements are beneficial for all parties to agree on services provided and compensation for services. Before a party can sign a “brokerage service agreement,” they must review a state’s agency pamphlet (names vary, examples include: “Law of Real Estate Agency” or “Real Estate Brokerage in Washington”)

Do I have to sign a Buyer Representation Agreement?

In Washington state, starting January 1, 2024, a new law was passed requiring that a real estate broker and their firm must have a signed “brokerage service agreement” with any party the firm represents (all sellers and buyers). This agreement must be signed by all parties before, or as soon as reasonably practical after, a broker begins rendering real estate brokerage services to the buyer. It may not be required in other states at this time, but we highly encourage a broker and their party to sign a ‘broker service agreement’ for clarity and agreement of services and compensation.

What is the difference between exclusive versus non-exclusive agency relationships?

An *exclusive agency relationship* means the firm you sign with has the exclusive right to act as your agent to locate a property in the Area and negotiate a sale, and you may not work with other brokers or firms for the purchase of real property in the area other than with respect to properties excluded from the agreement.

A *non-exclusive agency relationship* means you can have a non-exclusive agreement with one firm and you may hire another real estate firm to help you find a property and enter a non-exclusive agency relationship with that other firm during the team.

What is earnest money?

Earnest money is a deposit made to a seller that represents a buyer's good faith to purchase their home. Typically, the earnest money is deposited into an escrow account representing that the buyer is acting in good faith as the buyer applies for financing, reviews title, orders inspections, etc.

Earnest money is negotiable between the buyer and the seller and ranges from 1-10% of the purchase price. If the buyer fails to perform the terms of the purchase agreement, the earnest money may be in jeopardy and forfeited to the seller.

If, however, the buyer terminates the purchase agreement for legal cause, then the earnest money shall be refunded to the buyer.

At the time of closing, the earnest money shall be used as a credit toward the buyer's down payment and closing costs.

What is an additional down payment?

An additional down payment is when a buyer agrees to pay additional funds toward buyer's down payment if the appraisal is less than the purchase price. This commitment could give a buyer a negotiating advantage in a multiple-offer situation.

By including an additional down payment provision or addendum to the agreement, not only does it make the buyer's offer stronger, but it also protects the buyer in the event the difference in appraised value and purchase price is greater than the amount of additional down payment.

The buyer represents that they have the funds necessary to close the sale as required by the provision or addendum which includes funds for the down payment and the additional funds set forth in the provision or addendum if the appraisal is less than the purchase price.

If the additional funds are not sufficient to cover the difference between the appraised value and the purchase price, upon the buyer's notice of low appraisal, the seller has the option of reducing the purchase price to the amount equal to the appraised value plus the additional funds. Or, the seller may terminate the agreement, in which event the earnest money shall be refunded to the buyer.

What if I need my net proceeds from my current home to purchase my next home?

Buyer's Pending Sale of Property Contingency

Make an offer subject to the successful closing of the buyer's pending home sale.

The buyer already has an offer on their home and is making the offer subject to the successful closing of the buyer's home. In the event the buyer's home does not successfully close, the buyer may terminate the agreement and retain earnest money. The buyer also has the right to waive their contingency and proceed with the agreement if the buyer has another source of funds such as a bridge loan.

Buyer's Sale of Property Contingency

Make an offer subject to selling the buyer's home.

The buyer makes an offer on a home subject to receiving an offer on their home. The buyer may or may not have already listed their current home at the time of submitting an offer to purchase. The buyer has a certain number of days to receive an offer on their current home. If the buyer does not receive an offer within the agreed upon stated time, then the buyer's offer will terminate, and the buyer may retain their earnest money. The

buyer also has the right to waive their contingency and proceed with the agreement if the buyer has another source of funds such as a bridge loan.

Pros: The buyer chooses their next home before they list their current home, avoiding the situation of not finding the right home after the buyer receives an offer on their current home.

Cons: This type of contingency is not favorable to many sellers due to the uncertainties of the buyer receiving an offer on their home and successfully closing. Also, the seller's home remains on the market and the buyer can be bumped by another buyer. However, the buyer may waive their contingency during the bump period and proceed with the sale if the buyer has another source of funds.

Tip: The buyer should list their home prior to submitting a Buyer's Sale of Property Contingency so the seller can make an educated choice whether to accept the buyer's offer based on the buyer's list price, condition of home and current local market conditions. The buyer should also have underwriting approval with their lender to give the seller confidence in the buyer's financing. The buyer may want to have a bridge loan ready in the event the buyer is bumped.

What if I am competing with other offers?

In some situations, sellers may have several competing offers to consider. Sellers have several ways to deal with multiple offers. Sellers can accept the best offer, they can inform all potential purchasers that other offers are 'on the table' and submit their highest and best offer; they can counter one offer while putting the other offers to the side, awaiting a decision on the counter-offer, they can counter one offer and reject the others, or they can simultaneously counter more than one offer.

While the listing broker can offer suggestions and advice, decisions about how offers will be presented and dealt with are made by the seller, not by the listing broker.

There are advantages and disadvantages to the various negotiating strategies you can employ in multiple offer negotiations. A low initial offer may result in buying the property you desire for less than the listed price or it may result in another buyer's offer being accepted. On the other hand, an above full price offer may result in paying more

than the seller might have required. In some cases, there can be several full price offers competing for the seller's attention and acceptance.

Purchase offers may not always be kept confidential by the seller. In some cases, sellers may make other buyers aware that your offer is in hand, and even disclose details about your offer to another buyer in hope of convincing the other buyer to make a better offer. In some cases, sellers will instruct their listing broker to disclose an offer to all other buyers on their behalf, creating a bidding war. Timing in presenting your offer could be critical.

Some competing purchase offers may have escalation clauses, where the buyer is willing to pay a higher price than any competing offer 'escalated' in increments, not to exceed a 'cap'.

Some buyers may exclude financing, appraisal and home inspection contingencies in their offers in order to make them more appealing to the seller. Others may include high earnest money amounts.

Listing brokers are required to follow lawful and ethical instructions from their seller clients even though it may appear or seem unfair on how the seller responds to any offers presented to seller. There is no guarantee as to how any seller will respond in a specific multiple-offer situation.

What if I am competing with other offers? Should I use an escalation clause?

When a buyer wants to submit an offer on a property where there may be competing offers, the buyer may provide an 'escalation' of their offer price in order to compete against the other offers. The escalation addendum is used to establish the terms by which the buyer's offer will escalate, including the maximum price the buyer is willing to pay for the property.

An escalation clause is not binding until the offer containing it is fully executed, the competing offer is provided, and mutual acceptance has occurred. Until mutual acceptance is reached, the seller is free to negotiate with competing buyers. The seller may disclose the terms of your offer to other buyers, may make a counteroffer (often at the maximum price established by the escalation agreement), or may reject all

offers and demand that all interested parties make their highest and best offer without escalation provisions.

If the seller is using a competing offer to escalate your offer, the seller must provide a copy of the competing offer in its entirety, including all addenda and any escalation provisions contained in the competing offer.

Pros: The buyer may be in a better negotiating position when competing with other buyers in a multiple-offer situation.

Cons: The buyer is showing the seller all their cards and the seller may counter the buyer at the buyer's 'maximum price', the buyer may pay more than necessary to purchase the property, the buyer's escalated amount may be leverage for the seller to negotiate with other buyers, and the escalated price may exceed the appraised price and the buyer will need sufficient funds to pay a larger down payment.

What if the appraisal is lower than the purchase price?

Typically, a buyer's offer is conditioned upon the appraisal being at or below the purchase price. The provisions on the appraisal are part of the financing contingency. Such provisions provide for a process for notice of low appraisal by the buyer, a seller's response to the notice, and a buyer's reply to the seller's response.

Buyer's Notice: If the lender's appraisal is less than the purchase price, the buyer may give notice to the Seller of that fact.

Seller's Response: After the buyer's notice, the seller may have options per the provisions. The seller may, at the seller's expense, deliver a reappraisal of the property that is acceptable to the lender, reduce the purchase price to an amount specified in the appraisal, propose to reduce the price to an amount more than the appraised value, or reject the buyer's notice.

If the seller delivers notice to the buyer of reappraisal, reconsideration of value or consents to reduce the purchase price to an amount not more than the amount specified in the appraisal, and the lender accepts the seller's response, then the buyer shall be bound to the seller's response.

If the seller proposes to reduce the purchase price to an amount more than the appraised value, or if the seller rejects the buyer's notice, then the buyer shall have the right to reply to the seller's response.

Buyer's Reply:

IF THE SELLER PROPOSES TO REDUCE PURCHASE PRICE TO AN AMOUNT MORE THAN THE APPRAISED VALUE, the buyer shall either accept the seller's response and represent the buyer has sufficient funds to close the sale in accordance with this provision or terminate the agreement, in which event the earnest money shall be refunded to the buyer.

IF THE SELLER GIVES NOTICE OF REJECTION OF LOW APPRAISAL, the buyer can either waive the financing contingency and appraisal portion of the financing contingency and provide an additional down payment or terminate the agreement, in which event the earnest money shall be refunded to the buyer.

What is a back-up offer?

A back-up offer occurs when the property has already been sold and is 'under contract' with another buyer that has not yet closed. This is referred to as the first sale. The backup offer is a binding agreement between a second buyer and a seller that becomes a 'sale' only if the first sale fails to close.

Both buyer and seller agree to the terms of their agreement and this second sale, and all timelines do not commence unless the first sale fails to close. Prior to receiving notice from the seller that the first sale has failed to close, the buyer is free to view other properties and if the buyer finds another property to purchase, the buyer can give notice to the seller canceling the back-up offer at no penalty to the buyer.

This usually occurs when the second buyer loses in a multiple-offer situation and is willing to wait to see if the first buyer can perform and close.

Why do I need a home inspection?

When purchasing a home, the buyer may want to make sure there are no hidden surprises before closing and moving into the home. To do this, the buyer makes their offer contingent upon the satisfaction of a home inspection. Typically, a home inspection is ordered and performed by an inspector of the buyer's choice and paid for at the time of the inspection. This is done early in the transaction, usually in the first 10 days.

The inspector will prepare a report for the buyer on the home, which usually includes a diagnosis of the structure and mechanical items, which could include a sewer scope.

Sometimes, the inspector will recommend an additional inspection by an inspector who specializes in the area of concern. The buyer will then be allowed an opportunity to obtain the additional inspection upon giving proper notice to the seller.

Once the buyer has received the inspection report(s), the buyer has an opportunity to request the seller to make repairs to the home or modifications to the purchase agreement.

The seller then has an opportunity to respond and negotiate the buyer's request for repairs or modifications.

Upon receipt of the seller's response, the buyer has an opportunity to reply and further negotiate.

If the buyer and seller do not mutually agree to the requests or modifications, then the buyer may terminate the agreement, in which event the earnest money shall be refunded to the buyer.

All timelines for notices are mutually agreed upon in the purchase agreement.

What is a title contingency?

A title contingency gives the buyer an opportunity to review the property's preliminary commitment for title insurance, easements, and CC&Rs (covenants, conditions, and restrictions) of record to their sole satisfaction.

The buyer shall have an opportunity to give notice to the seller of their disapproval of exceptions contained in the preliminary commitment.

Upon the buyer's notice, the seller shall have an opportunity to reply to give the buyer notice that the seller will clear all disapproved exceptions. If the seller does not give timely notice that the seller will clear all disapproved exceptions, the buyer may terminate, and earnest money shall be refunded to the buyer.

Should I include a title contingency?

It is not uncommon for a condominium project or even a home development to have CC&Rs. In the CC&Rs, there may be restrictions on the number of pets you may have and even how large they can be. Other restrictions may include the right to rent your condominium or what modifications you can make to a balcony.

In home developments, there may be restrictions that prevent you from parking a motor home or boat on your property or they may limit the duration they can be parked in the street. Other restrictions may include animals, the type or height of fencing, etc.

Other restrictions may be governed by an architectural committee. For example, the color of the home may be governed by the architectural committee, and you may need to obtain approval before painting your home or installing awnings or shading to block the sun.

What are some general do's and don'ts when getting mortgage ready?

Do

- Get your documents in order (tax records, pay stubs, bank and financial statements, etc.)
- Be realistic about what you can afford
- Prepare a personal budget
- Consider your long-term real estate goals
- Consult with a mortgage advisor

Don't

- Change jobs, become self-employed, or quit your job
- Get a car loan or add another large debt during the transaction process
- Use credit cards excessively or let current accounts fall behind
- Spend the money you have set aside for closing
- Originate any additional inquiries into your credit

How do I vest in title?

There are three common ways to hold title together through community property, tenancy in common, and joint tenancy with right of survivorship.

TITLE TYPE	PARTIES	CREATION	CONVEYANCE BY ONE OWNER	CREDITORS' RIGHTS	DIVISION	TITLE	DEATH
COMMUNITY PROPERTY	Community property is presumed by any deed to married persons or to registered domestic partners.	The grantee language should include "married persons," "husband and wife" or "registered domestic partners."	Both co-owners must convey real property jointly. One co-owner cannot convey separately.	Co-owner's interest cannot be seized and sold separately for most separate debts.	Ownership interests are equal.	Title is in the "community." There is one estate, not two half interests.	The decedent's half may be given by will, or it passes to descendants by laws of succession. The spouse or domestic partner is the primary heir.
TENANCY IN COMMON	Any number of persons. Married persons or registered domestic partners may also.	The deed should state "as tenants in common." The shares are presumed to be equal if not stated.	Each co-owner's interest may be conveyed separately.	Co-owner's interest may be sold on execution sale to satisfy creditors.	Ownership can be divided into any number of different percentages.	Each co-owner has a separate legal title to their undivided interest.	The decedent's interest may be given by will, or it passes to descendants by laws of succession. No right of survivorship.
JOINT TENANCY WITH RIGHT OF SURVIVORSHIP	Any number of persons. Married persons or registered domestic partners may also.	All owners must acquire in one deed stating "as joint tenants." The grantees should also sign to confirm their intention to hold title with survivorship rights.	A conveyance by one co-owner without the others breaks the joint tenancy. The Grantee is a tenant in common with the other owners and the interest does not pass to survivors.	Co-owner's interest may be sold on execution sale to satisfy creditors. The joint tenancy is then broken.	All owners must have equal interests and equal rights of possession.	Each co-owner has a separate legal title to their undivided interest.	The decedent's interest terminates. All survivors own equal shares of the decedent's interest by right of survivorship.

This is provided as information only and should not be relied upon as legal advice. If you have any questions on how you should take title, please consult your real estate attorney for guidance.