

Making an Offer

Verbal promises are not legally enforceable when it comes to the sale of real estate. Therefore, you need to enter into a written contract, which starts with your written proposal. This proposal not only specifies price, but all the terms and conditions of the purchase.

What Your Offer Will Contain

The purchase offer you submit, if accepted as it stands, will become a binding sales contract. It's important, therefore, that it contain all the items that will serve as a blueprint for the final sale. These purchase offer items include such things as:

- Address of the property
- Sale price
- Terms (cash or subject to your obtaining a mortgage for a given amount)
- Seller's promise to provide clear title (ownership)
- Target date for closing (the actual sale)
- Amount of earnest money deposit accompanying the offer, and whether it's a check, cash or promissory notes (and how it's to be returned to you if the offer is rejected, or kept as damages if you later back out for no good reason)
- Method by which real estate taxes, rent, fuel, water bills, and utilities are to be adjusted (prorated) between buyer and seller
- Provisions about who will pay for title insurance, survey, HOA dues, taxes, etc.
- Type of deed to be given
- A provision that the buyer may take a walk-through inspection of the property just before the closing
- A time limit (preferably short) after which the offer will expire
- Contingencies, which are an extremely important matter and need more detail-see sidebar

The Seller's Response to Your Offer

You will have a binding contract if the seller, upon receiving your written offer, signs the offers just as it stands. The offer becomes a firm contract as soon as you are notified of acceptance. If the offer is rejected, that offer expires and the sellers cannot later change their minds and hold you to it.



If the seller likes the offer you may receive a written counteroffer with the changes the seller prefers. You are then free to accept or reject it or even make your own counteroffer.

Each time either party makes any change to the offer, the other side is free to accept or reject it, or counter again. The document becomes a binding contract only when one party signs an unconditional acceptance of the other side's proposal.



Contingencies

If your offer says "this offer is contingent upon (or subject to) a certain event," you're saying that you will only go through with the purchase if that event occurs. The following are some common contingencies contained in a purchase offer:

- Loan Conditions
- Inspection Report
- Appraisal
- Survey Review (ILC)
- Title Review

Again, make sure that all the details are nailed down in the written contract.

Negotiating

You're in a strong bargaining position if:

- You're an all-cash buyer, or
- You're already pre-approved for a mortgage; and
- You don't have a present house that has to be sold before you can afford to buy.

In those circumstances, you may be able to negotiate some discount from the listed price. On the other hand, in a "hot" seller's market, if the perfect house comes on the market, you may want to offer the list price (or more) to beat out other early offers.