

Steps to Successfully Going Under Contract

RESPONDING TO AN OFFER

Once you receive an offer on your home, you will need to determine what you are willing to accept for the home. The first piece of the offer you will pay attention to is the price. Most offers come in below list price, but before you reject an offer completely you want to look at all the other parts of the purchase & sale agreement.

A time frame will be set in any offer (generally 24-72 hours) called the Time Limit of Offer. You have to respond to the offer within this period or else it becomes void.

The price should be discussed with your Realtor. Put some fair thought into this before you decide how much you want to counter with, or if you want to counter at all. Review all stipulations that may allow easy escape routes for the buyer but allow little or no such routes for the seller. Watch out specifically for contingency clauses regarding the buyer selling his home first.

You also need to determine if the buyer is qualified. Will they be able to get financing? Although an earnest money deposit is a fair indicator of the buyer's intentions, what is more important is that the buyer has a pre-approval letter or proof of funds if paying in cash.

If you are satisfied with the offer, you can sign. But once you put your initials on the form, know that it is now a legally binding contract and if you change your mind, you will have to face the music. Another option is to counter offer. You have to word it carefully and avoid chasing the buyer away especially if you have not had too many buyers knocking on your door.

You do not have to counter all the terms and should avoid countering the small stuff. You have to pick your battles because you cannot possibly win it all. Know what your priorities are and work towards winning in these aspects. If presenting a counter price, you should drop down a bit to make it more favorable. But if the price asked is too low, before rejecting the offer consider the market situation. Perhaps you have over-priced your home or the market is now slower than when you put your home up for sale.

Make sure you include time frames in your counter offer regarding certain items especially financing. If the buyer does not obtain a loan within a certain period of time (typically 45 days) then you may choose to walk away.

Once you present your counter offer to the buyer, she may accept it, counter counter-offer it, or reject it. After some negotiation and with careful handling of the situation, both parties may finally come to an agreement and sign.

The step-by-step contract procedure for most single-family home purchases is standard. The Purchase and Sale Agreement used is a standard document approved by the Georgia Association of Realtors.

The Purchase and Sale Agreement (or contract) constitutes the buyer's offer to buy and, once accepted by the seller, becomes a valid, legal contract binding upon the parties. For this reason, it is important to understand what is written on the contract offer.

The following are the most important pieces of a Purchase & Sale Agreement:

- Offer Price
- Closing Costs Paid by Seller (This must be a dollar amount as Buyers cannot request that seller pay all closing costs or a %)
- Earnest Money Amount (at least 1% of the sales price is suggested)
- Closing Attorney Preference
- Due Diligence Time Frame
- Appraisal & Financing Contingency
- Any other Contingencies
- Closing Date
- Any other requests for the Seller (example: one year home warranty)

Remember as a Seller you are always looking at the “net amount”. For example, if a buyer offers a price of \$250,000 on a property but asks for the seller to contribute \$5000 in closing costs and pay for a \$500 home warranty, the net amount being offered is \$244,500.

UNDER CONTRACT

You came to mutual terms with the Buyer and are under contract! What happens between now and the time you officially close on the property? In Georgia, Real Estate Closing Attorneys perform the majority of the closing processes below. Lenders and Title Companies round out the other functions.

Loan Application/Inspection – Once agreement between you and the buyer is reached and communicated, a Binding Agreement Date is established. All obligations of the buyer including applying for the loan, and inspecting the property, are measured from the Binding Agreement Date. Once the buyer submits the loan application, it is usually subject to a credit check, an appraisal, and sometimes, a survey of the property.

Tax Check - What taxes are owed on the property? The Closing Attorney contacts the various assessor-collectors.

Title Search - Copies of documents are gathered from various public records: deeds, deeds of trust, various assessments and matters of probate, heirship, divorce, liens, judgements, and bankruptcy are addressed.

Title Clearance - Any title defects that are found in the public record are addressed, if possible, so that title is marketable and insurable.

Examination - Verification of the legal owner and debts owed.

Document Preparation - Appropriate forms are prepared for conveyance and settlement.

Settlement - A Real Estate Closing Attorney conducts the closing of the transaction: seller signs the deed, buyer signs a new mortgage, the old loan is paid off and the new loan is established. Seller, agents, attorneys, surveyors, Title Company, and other service providers for the parties are paid. Title insurance policies will then be issued to you and your lender.

Title Insurance - There are two types of title insurance:

- Coverage that protects the lender for the amount of the mortgage (the lender's policy)
- Coverage that protects the equity in the property (your owner's policy)

Both buyer and their lender will want the security offered by title insurance. Why?

Title agents search public records to determine who has owned any piece of property, but these records may not reflect irregularities that are almost impossible to find. Here are some examples: an unauthorized seller forges the deed to the property; an unknown, but rightful heir to the property shows up after the sale to claim ownership; conflicts arise over a will from a deceased owner or a land survey showing the boundaries of your property is incorrect.

For a one-time charge at closing, title insurance will safeguard you and your lender against problems including those events an exhaustive search will not reveal.

DUE DILIGENCE

The rule in Georgia is Caveat Emptor (let the buyer beware). This is a common law doctrine which serves as the general rule regarding the purchase of realty. *Cendant Mobility Financial Corp. v. Asuamah*, 285 Ga. 818 (2009). If a home has mold, termites, a rotten roof, or any other defect---it is the buyer's responsibility to fully investigate this prior to buying the home. In general, the buyer is put on warning and notice that they are responsible to discover such defects and if they discover them after the real estate transaction, unfortunately it is a case of too little, too late.

During the Due Diligence period a buyer can terminate a contract and get their earnest money back. FOR ANY REASON.

Home Inspection

Most buyers will get a home inspection during their due diligence period. The inspection will include the following:

- Appliances
- Plumbing
- Electrical
- Air conditioning and heating
- Ventilation
- Roof and Attic
- Foundation
- General Structure

The inspection is not designed to criticize every minor problem or defect in the home. It is intended to report on major damage or serious problems that require repair. Should serious problems be indicated, the inspector will recommend that a structural engineer or other professional inspect it as well.

Buyers may also choose to inspect even further with other types of inspections:

- Radon Inspection
- Air Quality Testing
- Septic Tank Inspection
- Pool Inspection
- Fireplace Inspection
- Mold Testing
- Etc.

As a seller you may be willing to negotiate completion of repairs or a credit for completion of repairs. However some buyers decide the home just requires too much work and will walk away during their protected due diligence time frame.

Home Warranty Protection

Resale Home Warranty

Buyers can purchase warranties that will protect them against most ordinary flaws and breakdowns for at least the first year of occupancy. The warranty may be offered by either the Seller, as part of the overall package, or by the agent.

Never hesitate to contact us if any of this is unclear. Our job is to educate you and make sure you are completely comfortable with this process.

Thank you for trusting us as your Real Estate Consultants!

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