Smart move
REAL ESTATE REPORT

# THE NON-BINDING OFFER

Deciding when to accept an offer on your property is one of the most stressful decisions you will make when selling. It's crucial to differentiate between whether an offer is 'Binding' or 'Non-Binding' as, in the eyes of the law (Fair Trading) an offer can be made both verbally or in writing and Real Estate agents must pass all offers onto the owners including; Unacceptable Offers, Low Offers and Non-Binding Offers.

In practical terms, an offer is an unconditional signed contract accompanied by a 66W certificate and the agreed deposit. An offer in this format is as secure as you can get when selling. So secure in fact that the bank will lend against the exchanged contract in the form of a deposit bond for you're next purchase.

A buyer who makes a Non-Binding Offer isn't necessarily being unreasonable or playing games, they've just often been lied to by estate agents about a respective properties true price guide resulting in having to fork out thousands of dollars in due diligence for a property they were never in the running for so, understandably, many buyers wish to negotiate in advance of spending money on due diligence. To accept a non-binding offer that the buyer then wants to renegotiate after their due diligence has been done is demoralising.

If you are selling, there are some basic rules to follow when negotiating that will protect you from a renegotiation.

**Full disclosure of faults** – A buyer that discovers faults mid negotiation is likely to respond worse than if they knew in advance of making an offer. If your house has issues, its best to offer a buyer full disclosure in advance of the buyer making an offer. Once the offer is made, you know that it's then made with the facts in play. If a few buyers withdraw due to the facts in the disclosure, don't panic, they were going to withdraw anyway.

## IN THIS ISSUE



**Agree to a price, but not an individual's offer** – If an acceptable offer is made in a non-binding format, accept the price but not the offer. Respond via the agent with something such as, 'the price and terms are acceptable if the offer were put to us on a signed contract'.

**Be extra wary of valuations** – Since APRA's toughened stance on residential property, an offer subject to valuation has increased risk.

**Stay on the market until sale is complete** – The best time to find a buyer is when you have a buyer. Conversely, if you accept a non-binding offer and close the campaign down, Murphy's Law says the offer will crash – leaving you stranded.

**If there is more than one buyer, only unconditional offers considered** – Being considerate and fair to buyers is crucial to success in real estate. If you are fortunate enough to have multiple interested buyers, every buyer is given a fair and equal chance to bid. But, all offers must be unconditional on the specified deadline.

You simply cannot accept a non-binding offer, dismiss the underbidders and have the non-binding offer withdraw.

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# A TRADER'S MARKET

Most people describe a property market as either a buyer's market (prices going down) or a seller's market (prices rising). Simply put, one is deemed bad for buyers and one deemed good for sellers and vice versa.

The current market should be termed a trader's market. Falling markets come with silver linings & create opportunities for savvy traders. Instead, real estate agents tend to refer to a falling market as a 'tough market'. Sellers call it a 'bad market'. The market is neither 'tough' nor 'bad' if one accepts the reality of the day and then decides the best way to trade the conditions.

Even though prices are falling, a savvy trader can make smart and profitable moves in a bear market.

When property prices fall, transaction volumes tend to fall at an even faster rate. This is because vendors increasingly take a position on price for their existing asset and refuse to sell. As a vendor it is easy to feel as though your property is the only one on the market struggling to sell when in fact the market at large is dealing with the same issue.

Unfortunately, sellers who take a position of pride on price with their existing dwelling, can miss the opportunities that arise elsewhere in the market. Opportunities that more than offset the shortfall you may experience on the sale.

The Sydney market conditions could be flat and/or falling for some time. Those wanting and needing to buy and/or sell cannot afford to take a stubborn view to the current market conditions, if they want to trade successfully. Australian real estate has been generous over the long term, but the short term is prone to price corrections as we are now learning.

## On the following page are 7 tips and strategies to assist you in how to best trade the current market.

"The best buyers are attracted to new stock on market, that's your time to achieve the best possible price when selling"

**1. Sell first, buy second –** if you sell first, suddenly the trend is your friend. If you buy first, the market could become worse. Understandably, many people buy first for a fear of not finding a suitable residence. Given the unpredictable nature of the market, selling then renting is preferable to buying and then being unable to sell (without having to slash your selling price).If you sell first and negotiate a long settlement of 12 to 16 weeks on the sale, that leaves ample time to find a suitable home to purchase and make the settlement of both transactions at the same time.

The key is to settle the sale and purchase together. Exchanging contracts at the same time can be problematic.

**2. Early first offers –** the best buyers tend to come early, which is why the 'first offers are generally the best'. Ignore the maxim at your peril. Note the statement does not state the first offer, it says the first offers. It does not say first offers are always the best, it says '…generally the best'. Look closely at the market feedback on your property for what it is rather than what you want it to be. Hopefully what the market is saying/offering and what you want are aligned.

The best buyers are attracted to new stock on market, that's your time to achieve the best possible price when selling.

**3. Changeover price** – the selling price and the purchasing price are not as important as the changeover price. Provided you are buying around the same time, you are either selling high and buying high or vice versa.

Therefore, the key number is the changeover number. If you are upgrading, the key figure is the amount you need to tip in, after you have sold, in order to fund the purchase.
If you are downgrading, the key figure is the amount of money you have left, after you have sold and purchased your next property.
It is common for people to take a position of pride on the sale price (to their detriment) to only go out and impulsively over pay on the purchase.

**4. Patient, persistent and decisive –** those selling need to brace for a longer than normal campaign in the event they need to wait for the right buyer. Conversely, if the right buyer turns up on the first weekend, be prepared to sell. There is too much stock on the market with more coming, to act indecisively with the right offer.

**5. Foresight not hindsight –** where is the market going? No one really knows but asking and trying to determine where the market is going is a much smarter question than focussing on where it's been. The Brisbane property market has not reached new highs for over 10 years. Any seller waiting for a record price needs the patience of St Monica.

**6. On market data trumps sold –** if you look at recent comparable sales to your home and then compare that list with what is currently on the market, you will see the on-market listings are generally showing better value than the sales.

As the market trends down, sellers need to price against what is listed on the market and less so against those that have sold. This is particularly so with apartments and generic stock.

**7. Terms and conditions –** a negotiation that is solely about price can quickly unravel. Value can be created in a negotiation if everyone is pragmatic and open minded.

Inclusions, settlement periods, deposit amounts, release of deposit, unconditional exchange are just some of the areas that can create additional value in a transaction. Whether you are buying or selling, remain open to all solutions and you vastly increase the chances of success.

# HOW WILL YOU BE ***PAYING*** TODAY?

Finance, the ultimate frontier!

Cheap finance powered the booming property market. That's 'cheap and readily available' finance. The property market is undergoing an adjustment as the Australia Prudential Regulation Authority (APRA) enforce lending regulations on the retail banks. The regulations are not necessarily harsh in and of themselves. The impact on the market is harsh given the lofty level prices rose to on cheap credit.

According to consensus, we can all expect finance to remain cheap, just don't expect it to be as easily and readily available.

Cashed up, ready-to-buy buyers have been in abundance to the point that vendors did not even need to entertain conditional offers or cooling off periods. As the retail banks were forced to clamp down, firstly on investors and then home buyers, the abundance of cashed up buyers disappeared.

Buyers need to be aware that 'qualifying' for a home loan on an internet quiz is not a loan approval, it's called marketing. This marketing is simply a 'lead generator' for the respective financial institution or mortgage broker.

> "Some buyers are being led to believe that they have a binding loan offer from a financial institution, when in fact they don't."

If you are dealing with a mortgage broker on your finance, note that they are often inherently optimistic about attaining finance. They have to be, that's their job. A mortgage broker promising a buyer an unconditional loan offer is the equivalent of the real estate agent promising a seller a high price to get the listing. In reality, the crash rate is equal to the success rate.

There are two areas of caution with mortgage brokers. Can they actually attain the amount of money the marketing gimmick otherwise known as a 'loan calculator' claimed? Secondly, can they attain the finance in the required time frame?

The banks have become slow and cautious. No amount of harassment from a mortgage broker is going to see the banks by-pass due diligence.

Sellers need to be aware of non-binding offers. A subject to finance offer is not an offer. The offer is merely an aspiration from the respective buyer. If you receive an appealing 'offer subject to finance' keep the bubbly on ice. There is still a long way to go!

The Inner West market is actually holding up well, although it's off it's peak from mid 2015. Greater Western Sydney has been hardest hit by the tightening in finance.

Indeed, any offer without a signed contract, full deposit and 66W should be treated cautiously. There is nothing more upsetting than celebrating a sale that ultimately crashes.

Sellers should also acknowledge that buyers are acting in good faith and doing their best to secure finance. The credit squeeze is legitimate and definitely not a beat up.

Before asking the buyer what will you pay, it's better to first ask, how will you pay?