

BUYER ADVISORY REGARDING OFFERING PRICE, NON-CONTINGENT OFFERS AND CONTINGENCY REMOVALS

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Property Address: _____

San Diego housing demand frequently exceeds housing supply, often resulting in “multiple offer” situations wherein two or more sets of prospective buyers compete for the same property and must consider whether, and to what extent, they are prepared to proceed with aggressive offers. The winning bidder may offer a price substantially over the list price; offer non-contingent terms; or include other terms favorable to the Seller.

1. **Offering Over Listed Price.** Buyer is cautioned that successful offers in multiple offer situations may substantially exceed objectively determined appraisal values, **resulting in a lender’s unwillingness to lend** (depending on the down payment) **at the contracted-for purchase price.** Additionally, other “multiple offerors” whose competing offers were anticipated may unexpectedly fail to come forward, thereby tending to alter competition and price/terms considerations.

2. **Non-Contingent Offers.** A Buyer whose offer is fully “non-contingent”—wherein financing, property conditions, insurance, title and other standard contingencies are waived, and the completed Transfer Disclosure Statement and other Seller-required disclosures are received *in advance*—foregoes important protections. Among these is the right to cancel the contract based upon an inability to obtain financing or upon a post-acceptance discovery of even serious physical defects and other problems. Moreover, the discovery during escrow of previously unknown defects *may not* (absent fraud) create for the non-contingent Buyer a new right to terminate the contract.

Such a non-contingent offer makes it very important for a Buyer to establish in advance the availability of financing, homeowner’s insurance, and other relevant matters. The Buyer must be satisfied as to the physical condition of the property, environmental issues, zoning, code compliance, encroachments, permits, and all other concerns that are important to the Buyer. Buyer should review in advance all existing disclosures, inspection reports, building permit file records and other materials that could provide information and insights as to condition, value and desirability. Where permitted and practicable, Buyer is encouraged to engage property inspection professionals to examine the subject property (and establish its insurability) *before any offer is submitted.* **The Agent has not investigated these matters nor made any representations as to these matters.**

Notwithstanding these important concerns, a Buyer who is determined to prevail as a successful buyer may elect to assume the risks of a non-contingency offer, in order to acquire a desirable property. **Buyer understands that any decision to present a non-contingent offer, or to proceed with aggressive pricing and terms in a multiple offer situation, rests ultimately and exclusively with Buyer.**

3. **Contingency Removals.** Even if the final contract allows for various contingencies, the actual time period may be insufficient to obtain an unconditional loan approval or to complete all desired inspections. Lenders may add last-minute conditions on their loan approval that may be difficult or impossible to satisfy. Buyer is also cautioned that initial appraisals are often subject to change by last-minute review appraisals by the lender. If the review appraisal is lower than the initial appraisal, Buyer may be unable to obtain the designated loan. Buyer is aware that by removing contingencies, there is no guarantee that Buyer will be able to consummate the closing of escrow. **If contingencies are removed, and Buyer is unable to consummate the purchase, Buyer may lose his/her deposit as liquidated damages, or be liable for actual damages if liquidated damages were not agreed upon. The decision to remove contingencies rests exclusively with Buyer.**

The undersigned acknowledges that he or she has read and understands this Buyer Advisory.

Buyer


Date

Buyer

Date

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