

## Handling Multiple Offers

As sometimes occurs in a real estate transaction, more than one offer at a time may be made for a specific property. Registrants as representatives of their client(s) must handle all offers efficiently and correctly.

Multiple offers may present challenges to sellers and buyers alike. When advising a client, you will doubtless cover various points of information and strategy for them to consider before they decide how to proceed with making, reviewing, or responding to multiple offers. As an agent on either side (or both) of this scenario, you can take some comfort in knowing that the decision about whether to disclose multiple offers is not yours to make. Disclosure is determined by legislative provisions and the seller's preference.

As a ***seller's representative***, you are ***obligated to present to the seller all offers that you receive***. Failure to do so is defined as fraud by **s. 2(l)(vii)** of *The Real Estate Act*. Similarly, you ***must disclose all counter-offers to your buyer clients*** (see s. 2(l)(viii)). **Bylaw 710** further stipulates that “[a] registrant shall present all written offers in an objective and unbiased manner.” When you present more than one offer to the seller, the seller may choose to inform potential buyers that there are multiple offers, not to inform them, or to inform only some of them. When acting as seller's agent, follow your client's instructions as to whether and with whom to disclose the multiple offer situation.

When dealing with multiple offers, it is critical that you prevent your seller from selling their property twice. If your seller receives an offer to purchase that they are interested in after already having accepted an offer or having made a counter offer, take steps to protect your seller. For example, ensure that counter offers made to other buyers are withdrawn, or make the seller's acceptance of the new offer subject to the seller being released from obligations under previously accepted contracts. Preventing your seller from entering into two contracts to sell the same property falls under the requirement of **Bylaw 702** to protect and promote the interests of your client (see for example decision [2015 SKREC 9](#)).

What happens if you represent more than one interested party in a multiple offer scenario? Any time you represent more than one party to a transaction, you are in a conflict of interest. You must disclose the conflict to both of your clients and get their consent before continuing to represent both of them. Proceeding without this informed consent would likely constitute a breach of Bylaw 702. If consent is not given by one or more clients, then you should continue to represent the client with whom you first formed an agency relationship and refer the other(s) to another representative.

If you represent both the seller and a buyer in a multiple offer scenario, your duty of loyalty to each client is in jeopardy. Your buyer would do better if they were told that there are multiple offers, but your seller may not want to disclose this. The best way to deal with these conflicting interests is to refer one of your clients to a different agent. Even if the new registrant is part of your brokerage, different individual agents can serve each party's interests better.

Alternatively, you may find yourself representing multiple buyers making offers for the same real estate. This is another distinct conflict of interest – only one of your clients can succeed. If you secure consent to continue representing multiple buyers, you maintain the duties of confidentiality and loyalty to all of your clients. ***In no circumstance could you use knowledge of one offer to impact another.*** In this situation, it is again prudent to refer one or more clients to another agent.

If you find yourself in a multiple offer situation and you just don't know what to do, please contact the Commission's compliance department at 306-374-5233 ext. 2, or [compliance@srec.ca](mailto:compliance@srec.ca). We will help you find the best way to deal with your particular situation.