QUESTION:

Due to the inventory shortage, I have more buyers than properties available. Occasionally, two buyers have interest in the same property. Are we allowed (with disclosure) to write two offers on the same property? What is the proper protocol?

ANSWER:

No. To write offers for competing buyers would be to take an action that is adverse or detrimental to the first buyer. Broker is strictly prohibited, by the Agency Law, from doing that.

Buyer broker may show the same property to multiple buyers but as soon as one of the buyers writes an offer, broker may not write any competing offers for competing buyers on that property. If the first buyer is unable to close a purchase or reach agreement with seller and abandons efforts to purchase the property, buyer broker may then write an offer for another buyer on the same property. At that point, the second buyer will not be competing with the first buyer because the first buyer will no longer be pursuing ownership of the property.

When a second buyer wants to write an offer while broker is still representing the first buyer in either negotiations or an effort to close a pending sale, broker must refer that second buyer to another broker. The referred broker can be licensed to the same firm and referring broker can negotiate payment of a referral fee if the referred buyer purchases the property.

If broker is also the listing broker, listing broker may represent only one buyer as a dual agent. Once listing broker writes an offer as the agent for a buyer, broker may not represent any competing buyers for the purchase of the property. However, as seller’s agent, listing broker can write competing offers for multiple buyers so long as broker does not represent those competing buyers. Said differently, the competing buyers would be without representation in the transaction.

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