TX Marketing II: Negotiation Techniques
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Module Five: Real Estate Negotiations

Module Introduction

This module introduces the student to the legal background, common issues, and tactics of real estate negotiation. Real estate transactions permit and require more negotiation than most other exchanges of goods and services; as a result, much of the real estate salesperson’s job involves trying to craft a mutually acceptable deal for the parties involved. In addition, the broker must sometimes negotiate with his or her own client. Because real estate practice involves so much negotiating, virtually any salesperson can profit from improving his or her negotiation skills.
This negotiation module is made up of these lessons:

- Introduction to Real Estate Negotiation
- Communication and Real Estate Negotiation
- Basic Bargaining Points in Real Estate Negotiation
- Closing the Deal and Real-World Practice

These lessons begin with a discussion of the legal constraints that broadly define what is possible in real estate negotiation. This is followed by a detailed presentation of the skills that will help salespeople to understand the other parties’ interests and concerns, and which will also assist them in conveying their own messages. The last two lessons of the module focus on strategies and tactics for resolving common issues in real estate negotiations and successfully closing transactions.

**Module Learning Objectives**

Upon completion of this module, the student will be able to:

- Describe the liability concerns facing all real estate salespeople and outline how these affect the general negotiation process.
- Explain the basic conflicts common to real estate negotiation.
- Recognize general strategies that can help to minimize conflict in any negotiation.
- Explain why alternatives are important in real estate negotiation.
- Identify the problems created by deciding too much too early in the negotiation process and the difficulties that result from adopting an overly competitive stance.
- Apply a clear method for determining which issues present problems in a given negotiation and rank them according to the amount of negotiation it will take to resolve them.
- Describe the basic steps of successful communication.
- Outline the basic steps and purpose of active listening.
Recognize the role that effective use of language plays in successful real estate negotiation.

Distinguish the needs, wants, and desires of the parties involved in a real estate transaction.

State the way raw needs, wants, and desires are translated into the benefits of a particular property.

Use benefits to build the framework of a mutually acceptable deal.

Identify and apply several general strategies for dealing with objections.

Recognize the signs of concealed objections.

Distinguish and explain general strategies that help a salesperson manage the offer-counteroffer process effectively.

Determine what kind of preparatory strategies are needed before attempting to close a deal.

Describe three basic closing methods and identify what features of a deal would make it appropriate to choose one particular method.

Recognize when and how it is appropriate to use the purchase agreement as a negotiation tool.
Key Terms

**Active Listening:** Active listening is an engaged process through which the listener confirms their understanding of the messages others are trying to convey to them by asking questions and paraphrasing their words. In particular, the listener is trying to make certain that he or she truly hears what the speaker is saying, rather than simply forging ahead with their own interpretation of the situation.

**Agreement:** Intentionally and overtly approving or accepting a particular element of an offer.

**Agreement-focused Close:** The agreement-focused close is a closing technique that actively engages the prospect in building a picture of the ways a deal satisfies his or her needs, wants, and desires. Then after securing his or her agreement these features as benefits, the real estate negotiator then asks the prospect to commit to the deal.

**Benefit:** A property or deal offers a benefit when it has features that link up with a prospect’s pre-existing needs, wants or desires. When the features of a property or deal are explicitly connected with a prospect’s interests and concerns, they become more than mere features – they are translated into the positive factors the prospect will weigh against the negative aspects of a deal or property.

**Clarifying Question:** Clarifying questions are a strategic method that real estate negotiators can use to make certain they understand what the other parties are telling them. “Are you saying that this is the lowest price you will accept?” is an example of a clarifying question.
**Contingency Close:** The contingency closing method helps us secure commitment to a deal even when important problems remain unsolved. In essence, using this approach means asking the prospect, “If we can solve these problems, will you commit to this deal?” The real estate negotiator must then do the work of obtaining concessions or putting other solutions in place.

**Counteroffer:** A rejection of an offer to buy or sell with a simultaneous substitute offer.

**Desires:** Desires are the most ambiguous sort of motive that drives people to seek certain things in a deal. They are not as specific as needs or wants; often, desires are not all that clear to those who have them. The real estate negotiator will generally not hear about a person’s desires until some specific feature of a deal or property triggers the person to mention them.

**Directive Close:** The directive close is a very forthright closing method. When the real estate negotiator judges that the prospect is ready for the final push to close the deal, he or she reiterates the ways in which the positive aspects of the deal satisfy the prospect’s needs, wants, and desires, and then immediately asks the prospect to commit to the deal.

**Disagreement:** Intentionally and overtly disapproving of a particular element of an offer.

**Exploratory Question:** Exploratory questions are a strategic method the real estate negotiator can use to gather more information about someone’s position. They are usually very broad and open-ended; the point is not to get a specific piece of information but rather to invite people to openly discuss their feelings and positions. “Would you tell me more about why you feel that way?” is an example of an exploratory question.
**Feature:** Features are the aspects of a property or a deal that make it what it is, and make it stand apart from other, similar properties or deals.

**Fiduciary:** A person who essentially holds the character of a trustee. Real estate brokers and salespersons are considered by law to be fiduciaries; thus, they have a duty to act primarily for their clients' benefit and not their own. A fiduciary must act with the highest degree of care and good faith in relations with the client and in his or her work on the client's behalf. A person acting as a fiduciary is required to make truthful and complete disclosures to those placing trust in him or her, and he/she is forbidden to obtain an unreasonable advantage at his client's expense. The penalties for failing in fiduciary duties may be quite severe.

**Fiduciary Duty or Fiduciary Obligation:** A fiduciary duty exists when a client places special trust and confidence in another person, relying upon that person to use their expert knowledge and insight to act for the client, and the trusted person knowingly accepts the client's faith and confidence.

**Hostile Questioning:** Hostile questioning presents criticisms or accusations in the form of a question. For example, “Don't you think you're being unreasonable?” is a hostile question. For various reasons, hostile questions are likely to elicit negative reactions and should generally be avoided. If you genuinely feel you must make a criticism, it is best to do this in the form of a statement and to offer support for your claim.

**Motives:** Motives are the reasons why people do, or want, the things that they do. A good real estate negotiator must know more than just what people want from a deal. He or she must also know why they want those things. This knowledge can help him or her to identify the deals that will satisfy their needs, wants, and desires.
**Non-disagreement:** Intentionally and overtly withholding disapproval of a particular element of an offer.

**Non-agreement:** Intentionally and overtly withholding approval of a particular element of an offer.

**Needs:** Needs are a person's primary priorities, the things he or she must have if a deal is to be acceptable. These are the most fundamental reasons why a person wants what he or she does from a deal.

**Objection:** An objection is resistance to or disapproval of a particular aspect of a deal or a property. Objections are not always expressed openly, and a good real estate negotiator must develop skills for spotting unstated objections.

**Offer:** A proposal which, if accepted, will become a contract.

**Prospect:** A prospect is someone who tentatively plays a certain role in a deal. For example, a prospect might be a prospective buyer, someone who is considering buying a particular property. A prospect can also be a prospective seller. Since a person is not properly called a “buyer” or a “seller” until they actually buy or sell something, “prospect” is a convenient term to describe this intermediate stage.

**Strategic Questions:** Strategic questions are a negotiating tactic that the real estate negotiator can use to encourage a prospect to think about the possible consequences of their position. Often, there is no diplomatic way to tell the prospect these things directly. For example, if you think a prospective seller has wildly overestimated the amount they can get for his or her home, you might say, “Do you really think you can afford to wait until we find someone willing to pay that price?” The point here is to encourage the prospect to see things from your point of view and to reach his or her own decision about the position they should take on the issue.
**Wants:** Wants are secondary priorities, things that a person would like to have from a deal but which are not usually essential. They are a second sort of motive that drives people to seek certain things from a deal. Satisfying wants is always a plus, but an unsatisfied want is not always a serious problem—unlike an unsatisfied need, which can be a deal-breaker.
Lesson 1: Introduction to Real Estate Negotiation

Lesson Topics:
This lesson focuses on the following topics:

- Introduction
- Liability Concerns Facing All Brokers
- Start-Up Requirements
- General Strategies for Minimizing Conflict in Real Estate Negotiation
- Identifying Alternatives and Possibilities in Real Estate Negotiation
- Identifying the Issues to Be Negotiated
Lesson Learning Objectives

By the end of this lesson, you should be able to:

- Describe the liability concerns facing all real estate salespeople and outline how these affect the general negotiation process.
- Explain the basic conflicts common to real estate negotiation.
- Recognize general strategies that can help to minimize conflict in any negotiation.
- Explain why alternatives are important in real estate negotiation.
- Identify the problems created by deciding too much too early in the negotiation process and the difficulties that result from adopting an overly competitive stance.

Introduction

Real estate is different from many other professions because the process of buying and selling real estate generally involves a great deal of negotiation—that is, it frequently revolves around a bargaining process that aims at finding a mutually acceptable deal. A real estate broker is not selling something with a fixed price—his or her task is different from that of most merchants. While an appraiser may assign a particular dollar value to a property, the value any prospective buyer places on that property will vary according to how that person perceives and values a range of intangible features and attributes.

Even inexperienced brokers know that there is more to selling real estate than simply showing a prospect listing after listing until he finally finds one that suits him. Some people go so far as to say, “In real estate, everything is negotiable”—meaning that virtually every step of a real estate deal involves some elements that are (at least in principle) open to discussion and change. It is certainly true that real estate transactions offer many opportunities to evaluate and perhaps rewrite the terms of a deal.
For example, negotiation can help you set the terms of:

- Listing agreements
- Commission
- (Purchase) Sales agreements and contracts
- Property management concerns (management agreements, leases and operating agreements)
- Easement agreements
- Loan documents

Your negotiation skills will often determine whether these elements can be altered and whether they change in a way that benefits your client. Effective negotiation of commissions and listing agreements can directly benefit you as well. Because negotiation is so central to real estate practice, real estate salespeople should be familiar with the negotiable issues and negotiation techniques that are common in their field.

Negotiation plays a large role in real estate transactions because there is a fundamental tension between the owner and the person who wants to buy, lease, or otherwise use the property. The owner generally wants the highest price they can get, while the other party wants to pay as little as possible. Both parties want the best deal they can get, but a good deal for one side often does not look like a good deal to the other party. This tension is the basic conflict that you must use your real estate negotiation skills to resolve. The salesperson’s job is to find a middle way between both sides’ demands; in the role of negotiator, the real estate broker tries to find an arrangement that all parties see as beneficial—an outcome in which all parties feel they have achieved at least some of their important goals.

Salespersons should remember, though, that this outcome must also be one that they find satisfactory. They are one of the parties to the deal, affected by the other parties’ positions and attitudes. They also have their own goals in any negotiation.
For example, they may want to close a particular deal immediately because they have no time to meet with these parties for at least another week and knows that if they are left without a firm deal, new problems are sure to arise.

Real estate deals generally require a broker or salesperson to act as a liaison between their client and the other party (or that party's representative), and in that role, the salesperson often bears the brunt of real estate's highly negotiable character.

This does not mean that he or she must somehow arrange things so that all parties get exactly what they want—in many cases, it is not possible for everyone involved in a real estate deal to achieve their ideal outcomes simultaneously. The central conflict in real estate deals operates against a background of legal and ethical codes that require a real estate broker to do—or avoid doing—certain things. The specific details of what a broker can and cannot do vary from state to state, but it is nearly always the case that the penalties for violating these codes can be quite severe.

The information presented in this module is quite general and does not advocate or forbid specific practices; before entering into any particular negotiation, it is a good idea to make certain you are familiar with the legal and ethical codes that your conduct must satisfy. Since it is so important that all of our negotiations meet these standards, this lesson will begin with a general discussion of what those standards usually are.

**Liability Concerns Facing All Brokers**

The specific legal codes governing brokers’ conduct vary from state to state, and the codes of ethics binding brokers often depend on their organizational affiliations.
Nonetheless, there are some basic liability issues that apply regardless of your location or memberships. The character of these fundamental obligations will vary depending on the role of the person you are representing; for example, a salesperson representing a buyer has different duties to that person than does a broker representing the owner of the property the buyer wishes to purchase.

In all cases, though, it is important to set these basic concerns apart from the subject(s) of negotiation. They are essentially non-negotiable because failing to act appropriately in these situations can have serious disciplinary and legal consequences for a salesperson. Still, they can all affect your choices about the people who will play a role in your negotiations and your decisions about what negotiating methods you will use, as well as your judgments about what information can or should be shared in a particular negotiation.

Our discussion does not thoroughly explore the obligations created by real estate licensing law or agency law. It is simply meant to be an overview of some general issues that can create liability for a salesperson, and which should therefore not be viewed as negotiable matters. A detailed understanding of the duties created by either of these legal codes will require you to consult the laws of your state. Usually, however, most states require presenting a pre-printed form that describes in detail the responsibilities, or lack thereof, in any agency performance. This form should be signed and kept on file to confirm that the agency relationships of that state have been discussed and understood by all parties.

**Duties Owed to Clients**

Most real estate salespeople are legally understood to stand in a fiduciary relationship with their clients. This means that they have a duty to act primarily for the benefit of the client who employs them rather than pursuing their own interests. This relationship requires brokers to act with the highest degree of care and good faith in relations with the client and in their work on the client’s behalf. Fiduciary
relationships place substantial demands on brokers in the areas of confidentiality, accountability, disclosure, accounting for the use of funds, and reasonable care. The penalties for failing in fiduciary duties may be quite severe.

However, the existence of a fiduciary relationship does not mean that brokers are justified in overriding the client’s express wishes in an effort to attain what they believe is truly best for the client. The broker is only an advisor; the client must make the basic decisions that guide the sales process. Sometimes your own client is the “other party” with whom you must negotiate, and when your client wants to do something you believe is not in their best interest, you will need to use your negotiation skills to persuade them that they are not making a good choice. The primary effects of your fiduciary duties, though, will be seen in your negotiations with the other party (or their representative).

In addition, the fiduciary relationship generally means that a broker is obligated to negotiate the best deal he or she can get for their client. This duty can have significant implications regarding how and when you choose to negotiate; if for some reason you choose not to negotiate at all, this duty often means that you will need to provide your client with a plausible explanation for why you made this choice.

The specific requirements that brokers must satisfy to honor their fiduciary duties vary from state to state. Check the laws of your state—in particular the laws pertaining to agency—to make certain you understand what these are.

The fiduciary duties you owe to your client also create a special duty toward those who are not your client. For example, a salesperson representing a seller often shows that property to buyers. He or she must make clear to those buyers that they do not have this kind of fiduciary relationship with them. Many buyers do not clearly understand that the seller’s representative is legally bound to act in the seller’s best interest.
This confusion might lead them to reveal confidential information to the salesperson—information that the salesperson is required to reveal to the seller but which the buyer would not have shared with the seller willingly. In any transaction, it is important to clearly identify the party for whom the broker is acting. In addition, it is often helpful to provide some details about what this means for the other parties involved.

**Duties Owed to Other Parties**

A broker has additional duties to the other party as well, most of which have to do with specific sorts of information and how it is conveyed. Sometimes a client may try to persuade him or her not to reveal this information, or they may worry that disclosing this information will hurt their client’s position. However, there are certain facts that the salesperson is obligated to share with the other party.

Brokers must tell the other party if their client cannot fulfill his/her part of the current transaction. The broker must reveal—and cannot misrepresent—property defects that would have a significant influence in a reasonable and prudent person’s decision to acquire that property. They must also tell the other party about liens or possible liens encumbering the property. They must make a conscientious effort to provide the other party with accurate information in all respects, without violating their duty of confidentiality to their client. Lastly, it is often the case that a salesperson negotiates with the other party’s representative (presuming he has one), rather than negotiating directly with the other party. If either the other party or their own client requests this, they have a duty to follow these instructions.

In addition, the salesperson has a duty to make reasonable efforts to keep cooperating brokers informed about the transaction process, in a way that is consistent with his or her client's instructions.
Duties of Dual Agency
A salesperson is considered a “dual agent” when he/she represents both the buyer and the seller in a transaction. Dual agency is often considered problematic, since in these cases the broker owes a full fiduciary duty to both clients; in many states, dual agency is illegal. Before entering into any transaction as a dual agent, you should consult your state’s laws on this matter. When a salesperson acts as a dual agent, he or she has a number of non-negotiable obligations:

- Both parties must agree (preferably in writing) to full disclosure—the broker needs this consent to fulfill his or her obligations to each of them.
- The salesperson should obtain written, informed consent to dual agency from both parties.
- Serious conflicts of interest between the parties may create inconsistent obligations that cannot be fulfilled by one salesperson. In these cases, the broker should advise both parties about obtaining alternative representation, legal counsel, or pursuing mediation.

Duties of Professional Conduct
Act in Accord with the Listing Agreement
Brokers must act in accordance with the terms of their listing agreement; it is a binding legal contract made with the seller or owner, and both parties to the arrangement must honor the obligations it imposes. This is another case in which your obligations can be shaped by negotiation: you can negotiate the terms of the agreement before it is made, and further negotiation may lead both parties to conclude that the original contract should later be replaced with a different one. However, at every stage of the transaction process, there is some agreement in place to which the broker must adhere.
Perform Professional Obligations in a Timely Fashion

Regardless of who brokers represent, they must be diligent about doing both the things they legally must do and the things they have told their client that they will do. They cannot either negligently or intentionally allow these tasks to remain uncompleted. The period of time that counts as “timely completion” can vary according to state law, so this is another area in which you should familiarize yourself with your state's specific requirements.

Start-Up Requirements

Essentially, there are two things that an individual needs before she or he can start a brokerage firm: a real estate broker's license and funding. The broker's license allows the individual to hire and train staff, manage real estate salespeople, list properties, coordinate advertisements, pay commissions, and negotiate deals and contracts. However, none of this is possible without money.

In order to start a business, the broker will need to lease an office space, purchase equipment and office supplies and create marketing packets; therefore, the broker needs to decide how he or she is going to fund the operation. The broker has a few choices on how to obtain funding; a broker can get a business loan or use her or his own personal funds. In addition, depending on the type of ownership that the brokerage firm is under, the broker can obtain funding from the other associates linked to the firm.

Avoid Conflicts of Interest

Salespeople should avoid projects and interests that are at odds with the best interests of their clients. At the very least, they must limit the influence these have on their work for and with the client. If they cannot do so, they should advise the client to seek other representation because they cannot fulfill their fiduciary duty to them.
Salespeople should also be wary of relationships that can conflict with the client’s best interests or divide the broker’s loyalties between their client and someone else in a transaction. These relationships can be either with other real estate professionals or with other parties to the transaction. Salespeople should be especially alert for transactions that involve family members, people with whom they have a financial relationship, people with whom they have an actual or potential client relationship, or people with whom they are romantically involved.

Again, the safest strategy is simply to avoid these transactions entirely. Barring that, salespeople should tell the client about the relationship and let the client decide whether it constitutes an important conflict of interest. If the broker feels that he or she cannot act impartially in pursuit of the client’s best interests, his or her fiduciary duty requires him or her to advise the client to seek another representative.

**Perform Competently as a Real Estate Professional**

Competent salespeople must be able to evaluate themselves honestly and determine whether they have adequate training and experience to handle a particular transaction. They must be similarly honest with their client about whether they can do what he or she requires of them in a skilled and effective way. In addition, they are obligated to recommend that their client seek other professional assistance if he or she needs legal, engineering, environmental or other advice that is outside the scope of their training.

The duty to perform competently also requires them to provide their clients with accurate facts that are relevant to his or her concerns and to assure that he or she has access to the important data needed to evaluate a transaction properly. They do not offer speculative or unverified information; when they must provide information that is less than certain, they make every effort to clarify that this is the case. They comply with their client’s instructions.
Of greatest interest to us in the context of this course, competent brokers also have the negotiation skills they need to obtain a good deal for their clients.

**Duties of Due Diligence Regarding Property Listed or Sold**

Brokers have legal obligations to provide accurate, material information to the other party in real estate transactions—and the scope of these obligations continues to expand. Salespeople can no longer shift the burden of due diligence onto the other party; they cannot rely on “Let the buyer beware” as their sales philosophy. These expanding duties require salespeople to educate themselves thoroughly about the properties they represent. Pertinent issues can include:

- Property zoning
- The existence of easements or leases
- The uses of neighboring properties
- Significant entitlement issues or limitations (for example, limits on permissible use or development)
- Whether utilities are available, and if not, how much it might cost to make them available
- Environmental concerns (for example, hazardous waste on the property)

**General Strategies for Minimizing Conflict in Real Estate Negotiation**

The foregoing discussion has provided us with a better understanding of the legal obligations that make up the background of real estate negotiation. Now we can begin looking at the negotiation process itself. As we noted earlier, the primary need for negotiation in real estate transactions arises from a fundamental tension between the owner and the person who wants to buy or use the property: each party wants to get the best deal possible, but a good deal for one side is often a bad deal for the other. This conflict will exist independently of anything we do as salespeople.
Since we will have to manage this conflict in virtually every transaction, we should do whatever we can to prevent additional disagreements from arising. We will already have enough to negotiate without there being further disputes between ourselves and our clients, between ourselves and the other party (or her representative), or between our client and the other party. The real estate negotiator should think of him or herself primarily as a facilitator, one who aims to help all parties achieve their ends. There are a number of general strategies we can use to help us create and maintain a harmonious negotiation. We can think of these as “rules of negotiation conduct,” principles that should guide our behavior from the very beginning of any negotiation:

**Communicate clearly, thoroughly, and often:** We must make certain that both our client and the other party understand what we can and cannot do for them. At every stage of the transaction process, we should make certain that our client’s expectations are realistic and roughly in line with our own. We should also try to ensure that the other party is receiving accurate information from us, which will help them form realistic expectations of their own. We can best do this by using straightforward language, explaining the details of complex concepts, and making an effort to reiterate crucial information. This communication process can often be enhanced by providing important information in writing. You can simplify your role by encouraging your client to adopt a similar communication policy to help assure that you understand them and their needs clearly.

**Remember that the salesperson is an advisor:** Generally, it is the client, not the broker, who has difficulty with this idea. The client must make the decisions that will guide the process and determine its outcome; brokers generally cannot do so without facing legal repercussions (unless they have negotiated special decision-making dispensation with their client).
- Many clients will try to shift the decision-making burden onto the salespeople, but salespeople must gently and diplomatically encourage them to choose for themselves during this process. There is less risk of disagreement between brokers and their clients when the clients are clearly responsible for the decisions that affect their transactions.

**Remember that the salesperson is not an attorney:** Stiff legal penalties for the unauthorized practice of law make this point easy for most brokers to remember. However, each broker should be familiar with his or her state’s particular laws on this point. Clients are often unclear about what kind of legal guidance their broker can offer them, and knowing your state's laws makes it much easier to explain and justify to a client what you can and cannot do.

**Avoid offending any of the parties to the transaction:** Angering the other party can lead to disagreements that can scuttle a deal entirely. This point seems commonsensical, but it can sometimes be forgotten when we are dealing with difficult or antagonistic people. In addition, our clients often do not have the experience that we do in dealing with the public. Thus they are much more likely to say or do something that offends the other party. Even if our clients don’t intend to offend the other party, they can still blurt out comments that damage the terms of the transaction. Some salespeople prefer to keep buyers and sellers apart as much as possible for just this reason.

**Strive to avoid underhanded or suspicious conduct:** This includes conduct that may be acceptable but is likely to appear dishonest to the other party. If one party is suspicious of the other, this can greatly complicate the central real estate negotiation.
For example, if it comes out that an owner has tried to conceal a property defect, this can lead to the buyer demanding new inspections and re-evaluating the owner’s other claims about the property in light of this negative information. We want our clients to trust us, and most transactions will go more smoothly if the other party trusts us to at least some extent.

**Make an effort to be patient, and encourage your client to do the same:**
When we are rushed in completing a transaction, we often cannot achieve the same negotiation results we could in a less hurried context. When someone absolutely must buy or sell a property in a limited timeframe, the deal is generally not as profitable as it might have been. On the other hand, having time on your side is an enormous benefit, and you should do what you can to make this the case. In addition to negotiating for the time you need to complete the best deal, your negotiation skills will also be needed to convince many clients that patience is their best strategy.

**Determine deadlines:** This point is related to the previous one. Salespeople must find out whether their client or the other party is facing a deadline on this transaction because this can greatly influence their approach to negotiation. If the other party is facing a deadline, salespeople can often use this to their client’s advantage; for example, a seller under pressure will sometimes make concessions that he/she would not make in a different situation. Similarly, if your client is facing a deadline, the two of you may need to negotiate to get him or her to accept the limitations this puts on options in this transaction. Presuming you have his permission to disclose this information, it may also affect your negotiations with the other party; for example, if your client must have a house by a certain date, you might be able to use this information to persuade a seller to alter their terms of sale to accommodate your client’s deadline.
Clarify your client's motivations and those of the other party: A broker representing a seller needs to know why that person wants to sell the property. If, for example, your client needs to sell the home because he has been transferred, this information can help you to present the property in the best possible light. Similarly, salespeople representing someone interested in buying or using a property need to know what that person is looking for and why. This helps them find the properties that will interest their client and helps to keep both the client and the broker focused on satisfying the client's basic needs rather than getting fixated on one particular property that appeals to the client. The more we know about the goals and motivations of both parties, the easier it generally is for us to find a deal for our client.

Amass all the information you can: The more accurate and thorough information you have at your disposal, the better prepared you are to negotiate with both your client and the other party. You should gather sources like impartial inspection reports and comparative market analyses and find out as much as you reasonably can about the particulars of the other party's circumstances. You should also draw on your personal understanding of the local market and similar transactions. Your client should assemble information about his or her current situation and their financing options.

Financing
The vast majority of purchasers do not have the cash on hand to cover 100% of their real estate purchases outright; most properties are purchased with loans.

Real estate loans can come from a variety of sources, and be structured in at least as many ways. It's important for real estate investors to understand these sources and terms if they are considering investing in multiple properties.
Financing for consumers purchasing a home is the primary business of many lenders.

Mortgage lending activities include qualifying loan applicants and the property to be mortgaged. This involves a thorough and accurate property valuation, using the sales comparison or cost approach for residential property and a cap rate for investment property.

**Residential Real Estate Financing**

The most popular options for residential real estate property purchases are traditional lenders such as banks, mortgage companies, credit unions, savings and loans, etc.

Lenders typically assess an individual's credit worthiness, assets, liabilities, income, and expenses, and usually require at least a 20% down payment. Lower down payments are available when Private Mortgage Insurance is included or the loan is insured by FHA or guaranteed by VA. Increases in interest rate charges start if the purchasers' credit rating is below 720. Lenders also want to verify that the purchasers' cash on hand is enough for the down payment and closing cost and that the purchaser has employment, making enough income to cover the cost of the house payments.

Creative financing refers to financing methods beyond those used by traditional lenders, and are used when both the purchaser's credit and assets cannot secure favorable traditional loan terms, or when the purchaser recognizes a lucrative financial advantage to using them.
They include, but are not limited to:

- **Seller financing:** Wherein the seller becomes the lender, and mortgage payments are made directly to him or her.
- **Interest-only loans:** A type of loan agreement in which the monthly payments are applied to the interest only for a set period.
- **Assumption transactions:** A transaction in which the buyer purchases the home and assumes the existing mortgage on the property (NOTE: FHA and VA loans are assumable with qualifying.)
- **Friends and family:** when buyers finance their property using funds borrowed from their friends and relatives.

Salespeople using these strategies will begin a transaction armed with much of the important data (about their client, the property and the other party) that they need to begin negotiating the best deal they can for their client. They have worked to make their role and their responsibilities clear to the client; they have also helped the client understand what he or she must do to help the process succeed. In addition, they have made an effort to assure that the client has realistic expectations about both how the process will proceed and about what the possible outcomes are.

Finally, they are ready to enter negotiation with some broad general rules of conduct: salespeople and their clients must communicate openly and often with each other; they must both be careful of offending the other party, no matter how deserved it may seem; they must both be wary of revealing information that could damage the client’s position with respect to the other party; they must both be patient; and they must both strive to present themselves as upright and reliable individuals.
Identifying Alternatives and Possibilities in Real Estate Negotiation

In addition to the topics we have already discussed, there are several other things we can do to help make sure we approach negotiation from the proper perspective—that is, from a perspective that will help us make good deals and see the potential for agreement among positions that seem to be opposed.

Make Certain You Have an Alternative

In any negotiation, it is important to know what your options are if the negotiation process cannot produce the results you seek. When you have no alternatives, you are effectively forced to accept the best deal you can get from the other party—which sometimes turns out to be a very bad deal for you or your client. Both you and your clients need to have alternatives to the present transaction and have a clear idea of what the best options are if this negotiation fails completely. When you both have this understanding, you will have more leverage in the negotiation process because you have worked out a backup plan. When you have this plan in place, the other party is much less able to pressure you into accepting a less-than-ideal outcome.

For example, when a client becomes overly attached to one particular property—his “dream home”—this can come to seem to him like the one and only house that could possibly satisfy him.

It’s perfect, so why would he even consider anything else? It’s certainly a good thing that he has found a house he likes, but it starts to look less like a dream home when your negotiation with the seller’s representative reveals that her price is $15,000 over market value. You may be able to convince your client to start with a lower offer, but in his eagerness to snatch up his dream house before someone else does, he is ultimately likely to end up giving the seller all—or nearly all—that she demands. Because he sees this house as his only satisfactory alternative, he has very little leverage in the negotiation process.
Consider a different scenario, in which you have found three or four houses your client considers suitable. In this case, you and your client are not under pressure to accept any one seller’s terms. If a seller is being difficult or will not make the concessions your client seeks, then you can move on to dealing with the seller of one of the other houses your client is willing to consider. Buyers need to think, too, about what they will do if they cannot find a satisfactory property. If they are moving from one property to another, they should consider this possibility before making any big decisions about leaving or selling their present property—otherwise, they can find themselves desperate for a place to live and end up with a property (or a contract) that is not truly what they wanted.

Sellers need similar alternatives. Insofar as possible, they should avoid getting overly attached to the particular terms of any contract. It is better for a client who is selling to envision a range of acceptable outcomes. For example, perhaps she would accept a price somewhere between $155,000 and $165,000, instead of stubbornly insisting that she receive exactly $165,000. You should encourage her to consider her other options as well: maybe she would take a price below $155,000 if the potential buyer agreed to pay for some necessary repairs. When sellers are inflexible, it can take quite some time before they encounter a buyer who is willing to take their property on precisely the terms they are offering it.

Sellers should also think about what they will do if they cannot sell their property, since we cannot guarantee that they will find a buyer. If they have considered how they would handle this unattractive outcome, sellers are less likely to panic and take offers which—from a more objective point of view—are not very good at all.
The broker needs alternatives as well. When you are negotiating a commission, for example, you need to have a clear idea of what you will and will not accept. You should also have a plan for how you will handle the client if she will not meet what you consider your lowest possible commission rate. The salesperson needs to consider alternatives in other situations, too: for example, how would you handle a buyer who will not meet your selling client's bottom line price? What if that buyer is the only person who has expressed interest in your client's property? What are your options for dealing with both your client and the other party in such a case?

None of what has been said here means to suggest that there is a generally “right” way to handle these situations. Instead, the point is that having a good idea of your alternatives makes it much easier to confront these issues. When you (and, often, your client) have a general sense of what is acceptable and what will happen if you abandon negotiation, you can approach negotiation from a broader and more settled perspective. Taking this stance gives you leverage in negotiation and insulates you against the other party’s efforts to pressure you.

**Don’t Decide too Much too Early in the Transaction Process**

We want to have a clear idea of our alternatives and how we will deal with situations in which we cannot achieve the results we desire. At the same time, we do not want to fall into the trap of being too rigid—we want to plan ahead, but not in a way that limits our options. For example, a seller client might come to you having already determined the lowest price she is willing to accept. In most cases, though, this is not actually absolutely the lowest price she would be willing to accept. In most cases, though, this is not actually absolutely the lowest price she would be willing to accept under any conditions.

Often, a potential buyer can offer concessions (perhaps paying for repairs, as in the earlier example) that will encourage a seller to take a price below her bottom line.
Similarly, sellers can sometimes offer enhancements or concessions that will encourage a buyer to spend somewhat more or close sooner than he had originally planned. Most bottom lines are not properly understood as, “I will not take less (or pay more) than this, period.” Instead, these claims usually mean something more like, “I will not take less (or pay more) than this, unless some concession is offered or a condition is fulfilled that makes an offer beyond my bottom line more appealing.”

One of our tasks as real estate negotiators is to help our client—and sometimes the other party, too—discover what can be done to make offers beyond their bottom lines more attractive. When both parties are (at least in principle) somewhat flexible about their bottom lines, this can greatly simplify our negotiation process. Hence fostering this flexibility in all parties to a transaction should be one of our goals.

**Don’t Approach Real Estate Deals in Terms of a “Fixed Pie”**

Simple negotiation examples sometimes describe the parties to a disagreement as struggling over dividing a pie. The idea here is that the parties are in conflict over some value or benefit (the pie), and the task of negotiation is to come up with a division of those resources that will satisfy both parties. There is a sense in which this metaphor is accurate; parties in conflict generally are at odds about how to distribute some value or benefit—for example, the basic conflict in real estate transactions is over the distribution of money and property.

However, this analogy can also have a very negative influence on the way we view the possible outcomes in negotiation. When we see the subject matter of our conflict as a fixed pie, then in situations where splitting the pie evenly is not acceptable to one or both parties, each party tends to see any gain for the other side as a loss for himself.
For example, if I want three-quarters of the pie when you want half of it, I will lose if I get anything less than three quarters (that is, if you get even some of what you want from our negotiation), and you will lose if I get more than half. Each of us tends to feel that we must fight the other party to get the outcome we want, and any compromise generally seems like a loss for the party who wants more. When we approach real estate negotiation from this highly competitive perspective, it creates unnecessary problems.

It is true that any real estate deal involves only a fixed amount of property, money, contract terms, and the like. It is also true that these can only be split so many ways before there is either nothing left to divide or no possible division that we have not considered. The real problem with the pie analogy is that it assumes that we have only one pie to work with and that it is of a fixed size.

For example, suppose your buyer client wants to purchase a home but is offering considerably less than the asking price. When you convey your client’s offer to the seller, the seller complains that commission costs and her mortgage mean that your client’s offer leaves her virtually no money at all. She won’t accept the deal because she sees it as a loss for herself. There is a sense in which this is true, if all we look at is the problem as given. However, if we accept this view of the conflict, then we are going to be hard pressed to find a deal for our client here.

In addition, we should remember that a good real estate negotiator is not simple the “muscle” forcing the other party to accept her client’s offer. As salespeople, our livelihood is intimately connected to our reputation, and a buyer or seller who feels pressured by us is unlikely to give us a recommendation or any more of his business.

Instead, a better negotiation strategy would be to explore creative options with the seller and your client.
If both of them have made realistic assessments of their finances and the value of the property, then we will not be able to move the deal forward simply by trying to get the parties to reconsider the dollar figures of their offers. However, if we look at the situation creatively, in terms of the buyer's needs and the seller’s needs, we may be able to find different strategies for making our buyer client's offer more appealing.

For example, are there other items in the home that your client might like to purchase from the seller, which the seller would be willing to part with? Perhaps your buyer is planning to purchase appliances or furniture for the home, but the seller is willing to sell your client some of her furniture or appliances at a reasonable price. If this is the case, the price of the additional assets increases your client's offer—making it more attractive to the seller—and at the same time, you have helped your client get some things he needs for his new home while helping the other party to get more cash and to get rid of some of her surplus goods. This option has increased the amount of value or benefit at the center of our conflict, and by “enlarging the pie,” we were able to find a division of resources that satisfied both parties. In addition, we completed a transaction for our client.

There will surely be some deals in which we cannot increase the available value—sometimes because one or both parties are stubborn, sometimes because despite our best efforts, we cannot find a collaborative option that both parties deem acceptable. Sometimes, we really are dealing with a “fixed pie.” The point of this section is not that there are no “fixed pie” deals but rather that there's no reason we should begin by assuming our situation is of this type. Starting from this perspective often makes the negotiation much more difficult than it has to be.
Identifying the Issues to Be Negotiated

We have now clarified the basic legal concerns that affect real estate negotiation, and we have also laid out a number of tactics and attitudes that will help us to be better negotiators. Once we have discovered the wants and needs of our buyer or seller, and have explained the sense of urgency and the financial ramification that their delayed decisions will cause, our next step is finding and clarifying the particular issues that need to be negotiated that results in a timely transaction. Dr. Joseph Klatt, a REALTOR® located in La Jolla, California, has developed a technique he calls “Slice and Dice,” which is an effective tool for pinpointing the potentially negotiable issues in a real estate negotiation. Brokers can use this method to find and simplify the points of difference between their client’s position and that of the other party, as well as using this method to identify and address disagreements between themselves and their clients.

Note

Much of the material presented in this section is based on Dr. Klatt’s article “A Sharper Slice and Dice,” which can be found the Klatt Realty Web site at http://www.klattrealty.com/. This material is used with his express permission.

Before we can understand Klatt’s technique, we first need to expand our vocabulary a bit. He defines our various responses to a possible subject of negotiation as follows:

- **Agreement**: Intentionally and overtly approving or accepting a particular element of an offer.
- **Non-Disagreement**: Intentionally and overtly withholding disapproval of a particular element of an offer.
Non-Agreement: Intentionally and overtly withholding approval of a particular element of an offer.

Disagreement: Intentionally and overtly disapproving a particular element of an offer.

Klatt's notions of “non-disagreement” and “non-agreement” allow us a richer understanding of the positions a person can take in a negotiation. Klatt's ideas give us a way to talk meaningfully about what is happening when someone does not expressly reject or accept a particular condition or provision in an offer. For example, a person who says, “That price is not ideal, but I might accept it if X, Y and Z conditions were met,” does not really agree or disagree with the person offering the price—instead, we would more correctly understand him as being in non-agreement. He is withholding his approval based on whether his other conditions can be met.

Klatt divides the real estate negotiation process into a sequence:

- A broker lists a property for sale, specifying the price and terms.
- An offer is submitted by a potential buyer or their representative.
- When the offer is presented to the seller, that person can accept it, reject it, make a counteroffer or not respond at all. The process of making offers and counteroffers can be repeated multiple times.
- The buyer and seller eventually reach a mutually acceptable agreement, or they fail to reach an agreement and negotiations are abandoned.

Notice that the price and terms contained in the listing are, in most cases, negotiated between the salesperson and his or her client. Similarly, the specifics of the buyer's offer are likely to be negotiated between the client and the salesperson, just as the seller's representative and the seller will probably negotiate about how to respond to an offer. There are many negotiable issues in a real estate transaction, and Klatt's technique can help us to clarify nearly all of them.
To apply Klatt’s “Slice and Dice” method, we begin by disassembling an offer into its component parts—this is the “slicing” part of the process. For example, most commonly used offers to purchase contain many potentially negotiable items other than the price. To discover where our client is in agreement with the other party, as well as where we have further work to do, we need to examine each of these items individually. Klatt describes his own “slicing” as a systematic and careful progression through the offer:

“For each item I ask, ‘Is that acceptable?’ If the Seller agrees, I confirm that fact . . . as Agreement OR, if the Seller is NOT in agreement with the Offer, I mentally note the level of the Seller’s response as Non-Disagreement, Non-Agreement or Disagreement. My goal is to identify for the Seller the key areas of Disagreement or Non-Agreement so that we can focus on those areas. Careful attention to the level of response is very helpful in moving the negotiating process forward.”

When Klatt encourages us to pay “careful attention” to the person’s response, he is suggesting that we do more than merely note the words the person uses:

“As I discuss the offer item by item, I listen very carefully to the seller's response. Take note that I use the word, ‘listen.’ The socialization process teaches people to disguise their facial expressions in negotiations. It is very difficult to disguise one's voice. I carefully listen to tone of voice, rate of speech, and nervous tendencies such as clearing the throat, word choice, tempo, timbre, and timing. I take careful note of silences. There are silences due to hesitation, silences due to reflection, and silences due to an effort to control anger, elation, frustration, joy, nervousness, and rage. Non-verbal sounds such as shuffling feet often indicate nervousness. These auditory observations allow me to mentally evaluate the level of response and thereby assist me to move the negotiations forward more precisely than I would otherwise be able to move them.”
Once we have disassembled the offer and determined where the other party stands on each of its components, we should review our conclusions with the other party to make sure we have understood him or her correctly. Areas of agreement and disagreement are generally fairly clear, but we will often need to clarify points of non-agreement and non-disagreement to make certain the other party is actually responding in that way.

Once we genuinely understand how to categorize the other party’s response to each issue, we are ready to begin the “dicing” phase of Klatt’s approach. In this phase:

- Points of agreement are confirmed and set aside.
- Points of disagreement are clarified to make certain we understand what it is the other party disagrees with us about, and why.
- Points of non-disagreement are discussed further to explore and determine the other party’s position. Here we can find out why he or she is not fully in agreement and what concessions or changes might bring them to agree. Sometimes simply clarifying our respective positions can move some of these points into the “agreement” category.
- Points of non-agreement are addressed in the same way, with the goal of refining our understanding of the other party’s position and bringing both parties closer to full agreement.

Once we have discussed these topics further, a new category generally emerges: “Items to be counter-offered.” Depending on what sort of alterations we are willing to make to our own position and what changes the other party is willing to make, we may be able to use offers and counteroffers to shift the remaining points of disagreement into some form of agreement. When we bring back our counteroffers, the process begins again, with the ultimate goal being to move as many issues as possible into the “agreement” category.
This “slice and dice” approach is helpful because it keeps us focused on the particular issues in a negotiation. It makes it easier for us to see specifically what the differences are between our own stance and that of the other party, and the process of clarifying those things about which we do not agree encourages us to develop a realistic and fair picture of the other party's position. In particular, this strategy makes us less likely to attribute problems in negotiation to the other party's bad motives or ill-will. In addition, the method provides a straightforward way to “sort” the subjects of our negotiation so that we can focus on those that are genuinely important for moving the negotiation forward.

Lesson Summary

From start to finish, real estate transactions provide many opportunities for negotiation. Before we begin any negotiation, however, we should be clear about how the legal responsibilities of our role as a real estate broker will affect and shape that process. There will always be general liability concerns, such as whether we are fulfilling our fiduciary obligations to our client and whether we have exercised due diligence concerning the properties we list and sell. In addition to these issues, individual states often have specific statutes that govern the real estate profession, requiring or forbidding certain kinds of conduct. We should familiarize ourselves with both the general liabilities facing brokers and the specific laws of the state(s) in which we practice.

Once we know what the law requires of us as salespeople, our next step as negotiators is a process of pinpointing which issues we should try to negotiate in a particular transaction. This lesson discussed Klatt’s “slice and dice” method for determining points of agreement, disagreement, non-agreement and non-disagreement in a transaction.
His approach can help us to clarify the obstacles in a particular negotiation and aid us in finding where we will need to make counteroffers if we are to find a deal for our client. Klatt's strategy can also help us to understand and resolve disagreements between our clients and ourselves.

Just like any other negotiation, real estate negotiation is a matter of finding mutually acceptable solutions to a conflict. In most real estate transactions, there is a fundamental conflict between the owner or seller of a property and the party who wants to buy or otherwise use that property: each party wants the best deal he can get for him or herself, but a good deal for one party in this context is often seen as a bad deal by the other party. Since we will nearly always have to deal with this basic conflict, we would do well to minimize the number of other conflicts we need to manage in a particular negotiation. There are nine general strategies that can help us achieve this goal:

1. Communicate clearly, thoroughly, and often.
2. Remember that the salesperson is an advisor.
3. Remember that the salesperson is not an attorney.
4. Avoid offending any of the parties to the transaction.
5. Strive to avoid underhanded or suspicious conduct.
6. Make an effort to be patient, and encourage your client to do the same.
7. Determine deadlines.
8. Clarify your client's motivations and those of the other party.
9. Amass all the information you can.

In addition to employing these nine strategies, there are several other things we can do to help a real estate negotiation go smoothly. First, we should be sure that we have alternatives. People without alternatives have no leverage in a negotiation—they must take whatever they can get because they have no other options. This is not the position we want for ourselves or our clients.
To avoid ending up in this position, we should discourage notions like “the perfect house,” “the ideal price” and “the perfect contract.” All of these ideas suggest that only one outcome can satisfy our basic needs; if we believe this to be the case, we are likely to do whatever we think is necessary to make that outcome happen. This may include paying more than we had planned, making concessions we did not want to make, and any number of other things that may make the outcome less attractive once we can step back and look at it objectively.

A second, related, problem we want to watch out for is deciding too much too early in the transaction process. When a client is, for example, wedded to a particular price, this can make finding a deal for that client much more difficult. Similarly, we want to avoid setting bottom lines independent of context. Rather than saying, “I will not pay more than this, period,” we would do better to encourage an attitude of, “I will not pay more than this unless conditions X, Y and Z are met.” Flexibility about bottom lines and about the general parameters of the transaction makes for a simpler negotiation and often makes it possible to find a deal more quickly.

Lastly, we should not approach real estate negotiations in terms of a “fixed pie.” We want to discourage both parties from envisioning the transaction as a competitive process in which they are pitted against each other. This interpretation of the transaction creates a situation in which a gain for one side is necessarily a loss for the other party, and this perspective often makes both sides unwilling to make concessions or work cooperatively together. Instead, a real estate negotiator should focus on finding ways to increase the value available to both parties. Ideally, this approach will lead to a deal in which both sides feel they have gotten a good deal for themselves. At the very least, this method will make for a more harmonious negotiation process.
Lesson 2: Communication Skills and Real Estate Negotiation

Lesson Topics
This lesson focuses on the following topics:

- Introduction
- Basic Steps of Successful Communication
- Improving Our Message-Receiving Skills
- Improving Our Message-Sending Skills
Lesson Learning Objectives

By the end of this lesson. You should be able to:

★ Describe the basic steps of successful communication.
★ Outline the basic steps and purpose of active listening.
★ Recognize the role that effective use of language plays in successful real estate negotiation.
★ Distinguish the needs, wants, and desires of the parties involved in a real estate transaction.
★ State the way raw needs, wants, and desires are translated into the benefits of a particular property.

Introduction

A real estate negotiator must be able to communicate effectively with all parties involved in a transaction. Information is critically important to any real estate deal, and the success of an agreement or contract is closely related to the salesperson's ability to understand and convey information accurately as well as his or her skills at helping their client and other parties convey the messages they intend.

Since we talk to other people all the time, it is easy to assume that we have all mastered the art of communication. However, there is often much that we could do to improve our skills in this area. Successful communication requires three basic steps:

1. We must clearly understand what we mean for our message to be.
2. We must deliver our message in a way that properly conveys the meaning we intend.
3. The person receiving our message must understand our message in the way we intended.
This list helps us see where we can work to improve ourselves. The first thing we can do is be clear about what it is we are trying to say.

This seems obvious, but many people are in such a hurry to respond that they don’t give much thought to exactly what they are saying. In addition, specific features of the communication context can affect our intentions here—for example, if I know that I am talking to someone who does not know very much about how real estate deals work, then I should probably not say the same thing to him that I would say to a fellow broker.

This leads directly to our second point: we must make sure that the person we are speaking to can understand what we are trying to say to them. We should avoid specialized vocabulary and excessively complex language, and we should avoid gestures or tones (like sarcasm, for example) that might lead our listener to misunderstand what we are trying to say. We cannot predict everything that a listener might misunderstand or to which he might react negatively, but there is still much we can do to make sure that our messages convey our intended meaning.

Once the speaker has “sent” her message, that is, once she has said whatever it is she is trying to communicate, it is largely up to the listener to make sense of what he has heard and to decide how to respond. Most of us, however, are not very good listeners, and this can seriously impede effective communication. Real estate deals often involve a lot of extraneous information (ranging from common pleasantries to intentional efforts to deceive the other party), and thus real estate negotiators must learn to pinpoint relevant information quickly and accurately.

In addition, we can greatly enhance our understanding of others’ messages by practicing a strategy called “active listening.”
This approach works to keep the listener focused on the speaker; further, instead of leaving it up to the listener to interpret the message as he or she sees fit; in active listening, the speaker and the listener work cooperatively to make sure that the listener receives the correct message from the speaker.

**Basic Steps of Successful Communication**

At first glance, it may seem like effective communication is a simple skill, one which most people have mastered. However, many of us could still do quite a bit to make ourselves better communicators. Human communication is a very complex process. Even when we try our best to be understood, there are still many ways our communication can go wrong. Successful communication requires three basic steps:

1. We must clearly understand what we mean for our message to be.
2. We must deliver our message in a way that properly conveys the meaning we intend.
3. The person receiving our message must understand our message in the way we intended.

We can fail to satisfy any of these steps; in fact, we can fail to satisfy several of them in a single communication. If we think of communicators as sending coded messages, these steps (and the ways they can go wrong) may be clearer. To communicate successfully, the sender must understand the message he or she is encoding, they must encode it properly, and the receiver must decode it properly. Each of these things must happen for the receiver to understand the content of the sender's message accurately.

Notice that the success of the third step—the decoding step—depends on both the sender and the receiver.
In the first two steps, the sender can do numerous things to make his or her message more accessible (for example, they can speak clearly, employ body language that supports their message, and use neutral wording that does not lend itself to misinterpretation). But the sender can only do so much.

The third step is in part about how the receiver listens; even a clearly formulated and properly delivered message can get lost if the recipient is not listening carefully or if his or her own preconceptions about the message lead them to misunderstand what is being said. This third step—proper interpretation—is where we are most likely to run into communication problems, since it runs the risk of compounding mistakes made by the speaker with further interpretive errors on the part of the listener.

Successful communication is critical to productive negotiation. Real estate negotiators must make rapid judgments about their clients and about other parties—about positions, motives and strategies—which are often based on incomplete information. Because this is so, it is essential that we try to base our judgments and our discussion on the information that is actually before us, instead of replacing facts with our own subjective prejudices and generalizations.

The challenge of communicating with the other party lies in doing our best to keep all perceptions and expectations—our own and the other party’s—closely tied to the reality of this particular situation. That is, we want to minimize the presence and influence of judgments and beliefs that are mistaken or out of place. Keeping ourselves and others “on track” in this way is a task we must pursue throughout the negotiating process. For example, a buyer client might tell us that he is looking for an “early American” house. Most brokers have their own ideas about what this term means—to one, perhaps it’s a New England salt box, to another it may be a symmetrical Federal house. However, the first thing the salesperson should do here is find out what this term means to his or her client.
Regardless of what image the phrase conjures up in her mind, that image will do no good if it leads her to show the client houses that are not what he wants. It is true that the client has not been very specific here. However, he may not have the knowledge he would need to be more specific; he may know what his desired house looks like but not know the right language to describe it.

Part of the salesperson’s job as a clear communicator is helping to assure that he or she and their clients are talking about the same things. Similar issues arise regarding the other parties to a transaction, and we should spend some time early in any transaction trying to assess the various parties’ levels of expertise and understanding. We can then do whatever background work might be needed to clear up confusion about the subjects that are central to our deal. Taking the time to do this preliminary work paves the way for clear and effective communication and can eliminate needless confusion and disagreement later.

Toward this end, brokers must be sure that they say what they really mean to say when they are communicating and that they set it out in such a way that the other party is likely to understand their message as they intended. When the broker is receiving messages from his or her client or from other parties to the transaction, they must make an effort to listen closely and actively. Simply hearing the words of the other person’s message is not enough. Most of us have received little training in how to receive communications well, so that is where we will begin our discussion of effective communication.

**Improving Our Message-Receiving Skills**

Communication is a back-and-forth exchange between two parties, in which they send messages to one another.
However, there is an intermediate stage—sometimes called “perception”—between receiving a message and replying to it (or acting on it) in which each of them must “decode” the message they receive; they must make sense of the message and evaluate its content before they can make a logical reply.

It is easy for problems to arise during this intermediate stage. This is true because perception is generally private—the speaker cannot directly observe what is going on inside the listener's head, and so the speaker does not generally know what, specifically, prompts the listener to reply as he or she does.

Perception is subject to distortion by both physical and psychological factors. The sender can influence important physical factors fairly easily; for example, he or she can make sure they speak clearly, and that they use language the recipient will understand.

The psychological aspects of perception are more subtle and complicated, however. People’s perceptions are notoriously subject to various kinds of distortion due to biases and predispositions created by their goals, underlying motives, beliefs, and past experiences. These various misunderstandings and misrepresentations can influence what we want or think we deserve in a negotiation as well as what methods we choose in an effort to reach it. They can also influence our views about the other party and what we expect from them, thus affecting how we interact with them.

**Active Listening and Asking Questions**

The first, and simplest, thing we can do to improve our message-receiving skills is to make sure we actually hear what is being said to us and accurately identify the crucial information in a message. This seems obvious, but we are frequently not truly listening when someone is speaking to us.
Distraction, lack of interest, and planning our response to the speaker are just a few of the things that can interfere with listening. In addition, people in conflict—that is, the parties in a negotiation process—often assume they know what the other party is going to say, and rather than listening, they focus on formulating a response to what they imagine is being said. They are more concerned about rebutting the argument they have imagined than they are about listening to the argument that is actually being presented to them.

Identifying Relevant Information
Language is complex—there are multiple ways of expressing the same point, and at each step in a communication process we must correctly understand the messages we receive if we are to respond accurately. For a real estate negotiator, the first step in this process is correctly identifying the primary points in the messages he or she receives.

The process of buying and selling real estate involves a lot of rhetoric and extraneous information from all sides; for example, conventional pleasantries, bluffing and purposefully vague statements are all strategies that can obscure the primary points in any communication.

As an illustration, here’s a standard real estate scenario in which a prospective buyer is describing his situation to a broker:

“I really hope you can help me. I’ve been looking for a house for the last year. At first I thought I wanted a bungalow, but now I’m so sick of looking that I just want enough space. I don’t really care anymore what kind of house it is. I just want it to be in my price range. This whole year I’ve been looking, I haven’t been able to find anything. I don’t know if it’s bad luck or what. The one house I found that I liked and could afford turned out to have serious drainage problems—mind you, I only found that out by using my own inspector, the owner sure didn’t tell me that.”
I need a yard for my dog and a garage to store my boat. I thought I had a good prospect recently, but then the owner got sick and decided not to sell the house. I don't want to spend more than $110,000. I just want a house. I'm tired of paying crazy apartment deposits just to keep my dog, especially when I don't even have a yard. I'm also really tired of being shown houses I don't like and can't afford. Do you have anything I might be interested in seeing?”

This prospective buyer is giving you a lot of information, and it's not very well organized. What would you pick out as the primary points from what he has told you?

The client has told you that he hoped to find a bungalow, but is willing to compromise on that point. He also needs a house with a yard big enough for his dog and a garage big enough for his boat. In addition, he does not want to spend more than $110,000. These are the primary points that you can use to determine whether you have any houses to show him. In addition, he said he saw one house that he liked, and that he thought he had a good prospect recently.

You can discuss the features of these properties with him further to find out more details about what he is looking for in a house.

**Active Listening**

Beyond being able to pick out the key points in the messages we receive, we must make certain that we understand these points in the way the speaker intended. Active listening is a method to increase mutual understanding by correcting some of the common mistakes we make while listening to others. Active listening focuses conversational attention on the speaker; it calls upon the listener to present the information he or she believes they are receiving in their own words.
Instead of interrupting or focusing on crafting her own response, the active listener pauses to rephrase what she thinks she has just been told, so that the speaker can confirm whether she has received the information the speaker meant to convey. Active listening thus makes the private process of perception—in which the listener decides what a message means on his or her own—into an “open” procedure in which the speaker can provide additional help to make sure his message is understood correctly.

For example, once I have heard your description of our conflict, active listening requires me to reply with a question or a statement explaining the message and asking the speaker to confirm that the listener has received the correct content—something like the following: “Let me see if I understand. You believe that our conflict is caused by X, Y and Z. Is that right?” If in fact this is not what you are trying to tell me, at this point you know I have not received your message accurately, and you can explain further. Though it is tempting to rely heavily on questions in active listening, we do not want to ask the speaker an excessive number of questions; this can leave him or her feeling exasperated with us and frustrated with a process that does not seem to be moving forward. The active listener should mix questions with statements and remember that the point of active listening is to enhance his or her own understanding.

In addition to paraphrasing the speaker’s messages, the active listener can convey that he is engaged in the conversation by visibly acknowledging the speaker.

Listeners can make an effort to maintain appropriate eye contact, nodding occasionally to indicate that they are following the speaker, and occasionally interjecting comments such as “I see,” or “Go on.” One should be careful with these acknowledgement strategies, however, because they can be misinterpreted as agreement.
The active listener has no obligation to agree with the other party, only to make sure she understands the speaker’s position correctly; someone who does not actually agree with the other party should balance these acknowledgement cues with other clear statements of their own position.

The speaker’s message may also describe or indirectly point toward his or her feelings about the issue. This kind of information is very useful to real estate negotiators, who want to know everything they can about the motives and goals of all parties involved. The active listener can address these in his or her response as well, perhaps saying something like, “What you say suggests that you believe this conflict was caused by X, Y, and Z. Is that right? No wonder you’re upset—Z would make me really angry, too.” By responding in this way, the active listener shows that they understand the information the speaker is trying to convey as well as how the speaker feels about it. This process helps the speaker, too, because it requires him or her to think about what they really mean and whether the listener’s description captures his message.

Beyond helping to clarify each party’s position, active listening also has the added benefit of requiring each party to own their position. When I confirm that the active listener understands me correctly, I have given him or her a fixed point of comprehension from which he or she can move forward. I cannot later claim that they are misunderstanding or misrepresenting me on that point, nor can I change my stance on that issue without speaking to them about it directly. The same is true for them. In this way, active listening helps to settle and define the landscape of our negotiation.

Active listening can do a great deal to improve the tone of a negotiation and to enhance the relationship between negotiators. Active listening generally tends to help people feel that their side of a conflict is being heard and that their point of view is taken seriously.
In addition, active listening forces the listener to stay engaged with the speaker's message rather than focusing on his or her own distractions or personal characteristics of the speaker that are irrelevant to the subject.

**The Role of Questions in Negotiation**

From the examples discussed, you can see that questions are a significant part of active listening. However, they are also an important communication device on their own. Questions are the way a negotiator gets information about the other party's position, as well as about his or her deeper concerns and basic needs. Each party should use questions to help make certain the other party's position is clearly articulated.

In negotiation we should focus on questions as information-gathering tools because when we try to use them in other ways, they can cause new problems. For example, most of us have seen questions used as a way to voice a negative opinion: “Don't you think you're being too demanding?” This approach is sometimes called “hostile questioning” because the speaker’s real aim is to make an accusation or launch a criticism. What the speaker actually means in the example above is something more like, “I think you are being too demanding.” The latter statement is more productive and useful; rather than stating his position as a fact that should be obvious to the other party, the negotiator states clearly that this is merely his view. The former statement is likely to make the recipient defensive and antagonistic, while the latter statement invites him or her (indirectly) to ask for justification.

Another reason we need to ask questions is that much of what is communicated is not said explicitly. For example, a prospective buyer may find it difficult to tell a broker exactly what she does not like about a particular property. The house may be just what she is looking for, let's say, but she is disconcerted by the neighbor’s rowdy children playing in the street.
Often, people feel it is rude to express their desires overtly, especially when those desires might be taken as criticisms of other people. In addition, most people want others to think well of them, and this buyer likely does not want the broker to think she is a snob or that she dislikes children.

Because of these factors, she probably won't explicitly state her concerns about the property; instead, she will make a more veiled and vague statement, which might not mention the children at all. A good real estate negotiator must learn to recognize situations like this one, in which he or she needs to ask questions in order to find out exactly what needs or concerns a client is trying to express.

**Improving Our Message-Sending Skills**

The words we use to communicate with the other party, and the way we deliver them, are enormously important to how they understand our message. Because this is so, productive negotiation requires that we be sensitive to a number of important dimensions of verbal communication. Overall, our goal is to make our messages clear and neutral. A real estate negotiator wants to be well-understood, and she does not want her messages to unintentionally antagonize either her clients or the other parties to the transaction.

In addition, clear and non-threatening messages help to keep all parties focused on the actual subject matter of negotiation rather than becoming defensive and competitive.

A general practice of careful listening and thoughtful communication sets a positive, harmonious tone for a transaction, one that can do a great deal to facilitate negotiation.
Word Choice and Effective Uses of Language

The words we choose generally reflect the way we understand the world. Similarly, our experiences and perspectives color the way we grasp and react to language. Because both of these things are true, negotiation requires that we be sensitive to the various ways the other party might interpret the words we use.

It is true that most words have a clear meaning that is readily understood; this is generally called their “dictionary definition” or “denotative meaning.” The meaning of the word often goes beyond this meaning, though. For example, “housewife” just means a woman who spends much of her time looking after a home.

Even though none of the terms in this definition are overtly derogatory, this term still has a negative “connotative meaning” for many people (perhaps because it is often closely connected to ideas about the devaluation of women's labor). Since it has these negative connotations, the unthinking use of the word “housewife” in a negotiation can convey information and create impressions that were not at all what we intended.

Negotiators should avoid language that is likely to cause additional difficulties in negotiation, steering clear of language with negative connotations that might cause the other party to quit cooperating or form a false sense of our position. The connotative meaning of a term can be well understood or a matter of individual interpretation. Because reactions to a particular term vary widely and change over time, we cannot anticipate every word that might elicit a negative response. Still, we can make an effort to be aware of the language that currently has volatile connotations for many people and be especially alert to the unpredictable language that is relevant to our own negotiation.
This does not mean that we should use language to conceal our real position or that we should selectively use positive language to make our own position look good (though a negotiator might choose to do this). The point here is only that we should try to avoid language with connotations that are likely to introduce new elements of hostility, worry or stubbornness into our negotiation process.

In addition to being careful about the connotations of the language we use, we also want to beware of letting our own expertise make us difficult to understand. Because we are quite familiar with the real estate transaction process, it can be easy to fall into the habit of using jargon, or hastily glossing over explanations of complex ideas. However, most of our clients are novices in the real estate world, as are many of the other parties involved in real estate transactions. We want to present ourselves as someone they can trust and rely upon, and one easy way to help build this impression in their minds is to be clear and straightforward. In general, people tend not to trust individuals who use complicated, inaccessible language; they often think those who speak that way have something to hide.

This impression may be mistaken, but it is still better to avoid the problem by striving to keep your statements both clear and brief.

You can also help to put buyers and sellers at ease by using language to lead them through the transaction process. The steps of a real estate transaction may be second nature to you, but once again, this is something with which most buyers and sellers do not have a lot of experience. Because this is so, the people with whom we are negotiating often feel more settled and certain of what is happening if we make it clear that there are stages to the process, indicate the stage in which we are currently located, and make clear statements indicating when we have moved from one stage to another.
Just as we can use language to put buyers and sellers at ease, we can use language to help them see the property in the best possible light. You can use your sense of both parties' needs and desires to offer ideas that will help them meet their goals. Even though most of us are not poets, we can still use words to develop imagery and impressions of a property in someone's mind. We are not limited to conveying facts. For example, the data on the listing sheet rarely gives anyone a clear picture of a house, especially in terms of its explicit and implicit advantages. There is usually much more material that could be developed into a presentation that makes the house considerably more appealing. When we are trying to convey this to a potential buyer, we want to speak in visual terms; we should strive to create word pictures that carry meaning and feelings that can motivate a person to choose this particular home.

We want these word pictures to be energetic and dynamic. Let's say, for example, a house you are selling has a particularly nice great room with a large fireplace. In pointing this feature out to a buyer, you can use action words to create a memorable image that stays with the person long after the showing is over: “Just imagine yourselves enjoying this room with your friends, having dinner, and talking on a chilly winter evening.” This statement creates a more substantial impression than a plain phrase like “This room would be great for entertaining.”

Similarly, our descriptions work best when they focus on the person whose interest we are trying to catch. “I think this is a lovely home” is not nearly as persuasive a claim as, “You can see that this home is quite beautiful, and it's conveniently close to the city's most popular lake.” Without going into the complex psychology at work here, people are more inclined to respond positively to the second statement. In any sales situation, people are concerned foremost about their own needs and interests; a real estate negotiator can make his or her points more effectively by using active language and framing their claims in terms of “you” rather than “I.”
We can achieve a similar result by making an effort to personalize our remarks; for example, if a prospective buyer has mentioned that she is a photographer, we might point out features of a house that make it well suited to having a darkroom.

Lastly, we should try to speak in such a way that both our clients and the other parties to a transaction feel comfortable asking us questions. Our jobs will be much easier if everyone involved is well-informed and shares the same basic understanding of the situation. This is much more likely to happen when all of us feel that we may freely ask questions. Often, people are hesitant to ask questions because they worry that doing so might make them appear ignorant; this worry is intensified when they feel intimidated by the person of whom they would need to ask the question. To create an environment that’s conducive to questions and open communication more generally, the salesperson must strike a balance: he or she needs to make it clear that they know what they are doing, that they are competent enough to deserve the trust of all parties. However, they should do this in a way that does not rely on bullying, demeaning or intimidating anyone involved. The salesperson should answer questions patiently and clearly and encourage all parties to ask questions at points in the process where someone outside the real estate profession might reasonably be confused or unsure.

**Owning One’s Claims**

When we are in conflict with other people it is easy to forget that our view is not the only possible interpretation of the situation, and this forgetting sometimes leads us to state debatable propositions as though they were self-evident truths. If I tell a prospective buyer, “That offer is pitiful,” this is a much different claim from, “My client believes your offer is too low.” Just as was the case with the hostile questioning discussed earlier, here the former claim presents my view as a fact and does not suggest anything the buyer can do beyond react defensively or walk away from negotiation.
“My client believes your offer is too low” is a preferable response because it clearly indicates that this is my client’s view and thus points directly to me (or my client) as a source of further information about the problem. Here, one natural response might be for the buyer to say, “Why do you believe the offer is too low?” He or she might also offer reasons why they believe the offer is justified. It’s true that they might still react defensively to this claim. However, it is still a superior response because it leaves more room for constructive reactions from the other party.

**Sarcasm and Joking**

Both sarcasm and joking are popular modes of communication in the current American cultural climate, and it is true that humor can release tension and help to bring parties in conflict together. However, humor is a potentially problematic way of conveying our message to other people because it is easily misunderstood. Let’s recast the example above, and imagine that I am laughing cheerfully when I tell the other party I think the offer is too low. If I deliver my message this way, it would be reasonable for them to doubt whether I am serious. They could understandably be uncertain whether I am voicing a real complaint they should address, or simply making a joke.

Joking and sarcasm can be especially problematic when they are used to veil hostility. In this case, they are strategies for launching criticisms and resisting the other party. Imagine, for example, that one party in a real estate negotiation discovers that the other party has called in an outside expert to verify his claims. He says to her, “I’m disturbed that you did this without talking to me first. Don’t you believe what I’m telling you?” She responds in a laughing tone, saying “Oh, come on—don’t worry about this tiny little thing! Don’t you have better things to worry about?” This teasing response trivializes the other party’s concerns instead of addressing his legitimate question about what motivated her act.
Joking or sarcastic responses often aim to silence the other party, especially when their tone is hostile or demeaning. Rather than enhancing communication, this approach often thwarts it by making the other party sullen or defensive. Further, hostile joking and sarcasm are frequently an attempt to make negative remarks without being called to account for them. If we want to criticize the other party or accuse them of something, we should be forthright about doing so and be willing to take responsibility for our claims—that is, we should expect to have to justify them and be prepared to do so.

None of this means that humor is necessarily out of place in a negotiation. However, it does mean that:

- We should generally avoid using humor to convey very important points. At the very least, we should not use humor alone; we should make sure our humorous message is accompanied by some form of communication clarifying that there is a serious concern behind our joke.
- We should not use humor in an attempt to slip hostility or criticism into a discussion covertly. If we have a legitimate criticism or we are upset, we should present this information to the other party with the seriousness it deserves.

**Nonverbal Communication**

The foregoing discussion of humor helps us to see that the way we deliver our message can matter as much—sometimes more—than the actual content of our message. In this regard, we need to think about more than just the tone of our delivery because we can often communicate messages without saying anything at all. If we are not sensitive to nonverbal communication, we can undermine our own messages and fail to pick up on important cues from the other party.

How is each party dressed for the occasion? What are their facial expressions like? How do they use the space in the room?
How are they positioned relative to one another? Does one party avoid making eye contact? All of these cues—and many more—could be sending important non-verbal cues in a negotiation, and we want to make sure that our non-verbal communication says what we intend. This is particularly important, since we are often not consciously aware of many of the non-verbal signals we are sending.

There has been a great deal written on body language and other forms of non-verbal communication; many of the authors disagree about how particular behaviors or gestures should be interpreted. The important thing here is not to “crack” some secret non-verbal code. Instead, the point is that a thoughtful real estate negotiator will think about this subject and about the ways he or she communicates non-verbally. We want to make certain that we are not accidentally sending mistaken or confusing messages to the other parties in negotiation.

In addition, the salesperson should work to become aware of personal habits that are meaningless to her but which others may mistake for non-verbal communication. For example, I may have a long-standing habit of staring off into space when I am thinking. However, if I bring this habit into a real estate negotiation, the other party could reasonably be offended by what he interprets as a sign that I am disinterested. If I am not aware of what they are “reading” from my gestures and facial expressions, then their responses to my “accidental communication” are likely to be puzzling to me. At worst, I may get annoyed, too, perhaps thinking they are making unwarranted negative comments about my attention span.

**Lesson Summary**

Ideally, all parties in a transaction will see a broker as a reliable source of clear, trustworthy information. When this is true, real estate negotiation tends to be much more amicable and is often simpler and quicker.
Good communication skills can go a long way toward helping a salesperson to present this image to his or her clients and to the other parties involved in a deal.

These skills go beyond just presenting an image, though—they are also the tools a broker uses to get the information he or she needs from their client, and to obtain the facts about the other party that will help them to craft a mutually acceptable deal that serves their client's interests.

A salesperson who is also a good communicator knows he or she must start with an understanding of what it is that he or she wants to say. Before they begin conveying their message, they must consider the audience to whom they are speaking and what it is that they want to relate. It is far simpler to take a few extra moments at the outset, rather than spending time (sometimes a great deal of time) later trying to undo the confusions and difficulties created by unclear communication.

Once she knows what she wants to say, she knows she must deliver that message in a way that conveys her meaning properly. Meaning gets lost easily in professional jargon and complicated language, especially when most of our clients are not familiar with the real estate transaction process. Joking and sarcasm can also obscure the meaning we intend, as can certain kinds of body language or poor word choices. The broker should, instead, strive to be neutral and clear in his or her communication. When describing a property, however, excessive neutrality can make our ideas seem dull and ordinary. While we do not want to exaggerate or misrepresent the positive aspects of a property, the effective use of language can do a great deal to help us craft dynamic, striking images that will stay with a client.

After the salesperson has “sent” their message, she should work with her listener to make certain that he interprets her communication in the way in which it was intended.
Active listening is a helpful strategy here, engaging the speaker and the listener in a cooperative process of questioning and discussion aimed at clarifying the speaker's intent.

The broker can also use active listening to explore and clarify messages he or she receives from a client or other parties to the transaction. Since real estate transactions often involve a large amount of extraneous information (bluff offers, for example), agents must also hone their skills at separating the relevant facts from the irrelevant fluff in any message.

Finally, a real estate negotiator should use the general form and tone of his or her communications to set a standard for any transaction. Ideally, we are aiming at a relatively harmonious atmosphere in which clients and other parties stay focused on the relevant issues, in which they do not spend much (if any) time criticizing one another, and in which everyone involved feels free to ask questions and to seek clarification.

The broker can help bring this about by being clear and straightforward, making an effort to clarify complex ideas and terminology and avoiding any kind of demeaning or offensive language. In addition, brokers should be sensitive to how they present their expertise: generally, it is better to present themselves as helpful, friendly, and knowledgeable rather than painting oneself as an intimidating expert who always has all the answers. We must be careful of letting the fact that we deal with these complex matters every day make us hasty and terse when discussing them with our clients and other parties.
Lesson 3: Basic Bargaining Points in Real Estate Negotiations

Lesson Topics
This lesson focuses on the following topics:

- Introduction
- Demonstrating the Beneficial Aspects of the Deal
- Dealing with Objections
- Negotiating Offers and Counteroffers
- Maintaining Perspective
Lesson Learning Objectives

By the end of this lesson, you should be able to:

- Distinguish the needs, wants, and desires of the parties involved in a real estate transaction.
- State the way raw needs, wants, and desires are translated into the benefits of a particular property.
- Use benefits to build the framework of a mutually acceptable deal.
- Identify and apply several general strategies for dealing with objections.
- Effectively negotiate offers and counteroffers between the parties to a negotiation.

Introduction

Regardless of what issue a real estate negotiator is addressing, his or her fundamental task remains the same: understand the interests and motivations of all parties, help everyone see how the features of this particular deal match up with their goals, and address the objections that keep this proposed deal from becoming a reality. These activities are the core of real estate negotiation.

Much of what is said throughout this lesson discusses these issues in terms of buyers and sellers, but the salesperson should remember that everything we cover here applies equally well to his or her negotiations with his or her own clients. The way a good negotiator brings a buyer and seller to agreement is, in essence, the same way that broker forges an agreement between the client and him or herself.

The first step toward reaching agreement is identifying each party’s goals and motives. We must separate the things a person must have (needs) from the things he or she would like to have (wants). In addition, a broker must use his or her listening and observational skills to spot motives or hopes that may not be very clear to the person who has them (desires).
Knowledge of these driving forces and the ways they interrelate will help us to see what kind of deal we can strike with this person.

As we have discussed, the goal of real estate negotiation is a mutually beneficial deal for all parties to the transaction. Needs, wants, and desires are the things that change mere features of a property or deal into benefits—and the more benefits we can find in a deal, the easier it will be for us to convince the parties that they should accept it. A major part of “selling” a deal is grasping the way the deal hooks up with your client's wants, needs, and desires; you need a similar understanding of how the deal serves the other party. Presenting these connections in an effective and forthright way goes a long way toward putting the prospective deal in the best possible light.

However, as you probably know, there is more to selling real estate than simply discovering and presenting benefits. Sometimes, even when we have done all we can to sell one or both sides on the various benefits of a deal, objections remain. Objections are another area where people's basic motivations and interests are critically important: objections arise because, at some level, these basic needs and wants are not being met. Because virtually every negotiation produces some objections, brokers need to know how to handle objections in a way that prevents those concerns from standing in the way of making a deal.

Some objections arise from misconceptions or confusion about the facts of the deal. A salesperson can use various modes of questioning to explore and clarify the objector's position; once he or she knows what the problem really is, they are in a better position to produce the evidence or reassurances that can defuse the objection. Sometimes people purposely obscure their objections. This is a common but unhelpful behavior, and this lesson discusses several cues that should tip a broker off to an unstated objection.
The proper way to handle an objection depends on the particulars of the situation and the parties involved; this lesson presents an array of general strategies that will help the salesperson to overcome objections in diverse contexts.

Sometimes, however, there is a limit to what the salesperson can do; some objections are such that we cannot make much progress unless there is some alteration in the other party's position. These more serious objections – to price, for example, or a specific condition of a contract—generally require work in the offer-counteroffer stage of real estate negotiation. The goal here is to get each party to alter their position somewhat, in the hope that we can craft a deal that will allow both sides to achieve significant larger goals. Again, the particulars of what counts as a good offer, or a reasonable counteroffer, will depend on the facts of a specific negotiation. Since this is true, the last part of this lesson focuses on general tactics that can help facilitate the offer-counteroffer stage of negotiation.

We have mentioned needs and interests numerous times in this module. In virtually any real estate negotiation, needs, wants, and desires are the central issues in negotiation. Particulars like price or the specifics of a contract only come into play after, for example, a buyer has decided that he wants or needs a property; what he wants from these particulars is a function of his pre-existing needs and interests. This is not to say that our task is simply to find out what it is that our clients and the other parties want, and then provide that thing. In most cases, we are not going to find a buyer's “dream” house or find a “dream” buyer for our seller client; life is more commonly about compromise. However, if a salesperson has some understanding of human motivations (i.e., of needs, wants, and desires) and a generalized sense of how to go about meeting these basic interests, he or she can help people to accept a solution other than their “dream” outcome. For simplicity's sake, much of what follows in this section refers to buyers, but we should remember that this information is relevant to our thinking about sellers as well.
A real estate negotiator should try to understand motives—that is, he or she should try to understand *why* the parties to a transaction want the things they do. If you have this information, you will find it much easier to craft a successful deal in which both parties feel they have achieved some important goals. In Lesson 1, we noted that an important step in preparing for negotiation was gathering information about motives—both those of your client and those of the other party.

These early explorations of both the buyer and the seller will give the salesperson clues about the parties’ lives and personalities that will help him understand what kind of solutions can help him close a deal. Beyond these preliminary inquiries, though, there is more for us to discover.

**Needs**

For our purposes, motives come in three basic types: needs, wants, and desires. We must help our clients to sort these from one another, and we need to keep them clear in our own minds as well since they are the flags that will help us identify a property that meets our client’s needs. Needs are the things that a person *must* have—these are the foundations of negotiation in any transaction.

For example, a buyer client with three teenage daughters will not be interested in a one-bedroom house; some multiple bedroom arrangement is a *need* for this client. Needs, then, are best thought of as fundamental priorities; some of these are not negotiable at all, while other needs are only negotiable under special circumstances. Once we have found a deal or property that meets these basic needs, we are ready to begin the next, more flexible stage of negotiation.

Addressing needs does not, however, guarantee that we will make a deal with or for this person; for example, there may be numerous other things she would like to find in a home before she is willing to buy it. Nonetheless, we must address her basic needs if we are to have any hope of working further with her.
People expect us to listen to these needs and quickly become annoyed when we don’t. If none of our current properties will satisfy a certain person’s basic needs, it is better to be forthright about that fact and spend our time discussing other imaginative options rather than wasting their time and our own showing housing that does not meet this minimum standard.

**Wants**

Wants are a second variety of motive; they are less critical than needs. For example, the woman who needs multiple bedrooms might also want her home to have built-in bookcases and be located near a bus stop. These elements tend to be much more negotiable than needs; they are things that are desired but not essential. In particular, a buyer’s interest in these features can decline rapidly if they turn out to be more costly than anticipated. A broker would be wise to encourage people to prioritize their wants—that is, figure out which wants they value most, and focus on those. The alternative here is letting people run wild specifying their wants on each and every element of a home, which is both unrealistic (since they are highly unlikely to find a home that provides for every one of their wants) and a waste of time (since negotiation will only be concerned with those they value most).

**Desires**

Desires—the third sort of motive we are examining—are considerably less specific than wants, and the broker often first hears about them while showing a property. This is not because people are secretive about their desires; it’s more that often these ideas are not especially clear even to the clients themselves. While showing a home to the woman described earlier, for example, she might be impressed with the multiple bedrooms, carefully crafted bookcases, and nearby local bus station—but she still seems undecided. As we show her around the backyard, though, she excitedly claps her hands against the trunk of a large oak tree and says, “This would be perfect for a tree house!”
An attentive salesperson recognizes her behavior as the expression of a desire—that is, as the communication of an important point that could become relevant in a negotiation. These statements can open our eyes to positive aspects of a property that we had not realized were relevant in this case or to features we had not even recognized as potential benefits. The salesperson should not let these productive moments go unused and should provide whatever insight they can to help suggest ways the desire might become reality if the person makes this deal.

The salesperson might, for example, open a gate to show her the neighbor's similar tree with its elegant tree house, or he or she might share their knowledge that the tree is more than forty years old and has survived numerous energetic storms. When needs and wants have been roughly satisfied, gratifying desires can be the way to close a deal in a buyer's mind. So even though desires are less developed than needs or wants, and despite their generally being harder for the salesperson to discover, we should still be on the lookout for them because they can be very useful to us.

**Demonstrating the Beneficial Aspects of the Deal**

Needs, wants, and desires are the raw materials we will use to create a mutually acceptable deal in any real estate transaction. The broker is the person who can bring things together for all the parties involved in the transaction, the person who can make some combination of satisfied needs, wants, and desires into reality.

In the face of two disparate sets of motivations, those of the buyer and those of the seller, brokers use communication skills to depict him or herself as an experienced professional who can employ negotiation to help both parties attain at least some of their goals. As we said before, the real estate negotiator’s objective is not to muscle the other party into accepting whatever their client offers. Instead, they should try to establish the trust and relatively open communication that will help all the parties to work together cooperatively.
Identifying the Distinguishing Features of a Deal
In your role as a negotiator, your job is to connect benefits with people's needs, wants, and desires—to show them that this deal, or this property, satisfies their interests and concerns. We begin this task by identifying the distinguishing features of the subject of negotiation: for example, what makes this contract better than another one? What are the special advantages of this particular property? Before we begin negotiating, we should develop a clear sense of what these features are, and we should offer a detailed presentation or display of these features to the person we are trying to persuade.

If, for example, we are showing a house, we should do a thorough job of showing prospective buyers the specific things that make this property stand out from other homes. We should not leave it up to them to determine which features the house actually has—this amounts to inviting them to overlook things that could make the property an appealing purchase, something that's surely a mistake if we are looking to make a sale. In addition, we want to make sure these features stick with the prospective buyer. Toward this end we should make a point of repeating especially noteworthy features, and we may want to provide some sort of written description of the most significant elements of the house.

Translating Features into Benefits
Now that we know what these features are, the task is a matter of changing them from mere features into benefits. We do this by discovering ways in which the features link up with people's needs, wants, and desires. To become a benefit—that is, to become something that might make a person more inclined to choose this property over another one—a feature must match up with an individual's pre-existing interests and concerns. If, for example, a buyer hasn't done any thinking about garages or driveways, then he might fail to see the advantages that come with a recently paved driveway. This is because—as far as he knows—he currently has no need, want, or desire that connects with the new driveway.
We want our prospective buyers to see the features in their most advantageous light, to understand why they are beneficial and give these features proper weight in their decisions about the property. To achieve this goal, we must help them see how features connect with their interests. Just as we should not leave it up to a prospective buyer to determine a property’s features, neither should we leave it up to him to figure out how those features translate into benefits for him. Instead, we should work actively to show him how the property’s features are advantages, given his particular wants, needs and desires.

Connecting a feature with a need is ideal, but connecting them with wants and desires can be very helpful as well. In the case of the person who does not recognize the new driveway as a benefit, we might point out that when the driveway was repaved it was also re-graded to improve drainage on the property. Since this prospective buyer seems unconcerned about the driveway itself, we should look for a way to connect this feature to his broader interests.

Because benefits are so important to a successful deal, we should not be shy about pointing them out to people. We should make sure they are clearly understood and should not hesitate to establish a direct connection between a feature and the benefits it offers; for example, we might use language like, “The energy efficient retrofitting in this house means that you will save substantial money on power bills.”

In most negotiations, features—translated into benefits—are the gains that can eventually lead each party to see a deal as advantageous to them. If enough features seem like benefits to a prospective buyer, this can be what it takes to get them to make an offer on the property. Similarly, if enough features of the deal seem like benefits to the seller, this can be what it takes to get him or her to accept your client’s offer.
In both cases, we have our work cut out for us: explore both parties’ motivations and connect those motivations up with the features of the current transaction so that we can clearly show each side how this deal will satisfy their basic interests.

**Dealing with Objections**

Getting someone to see the benefits of a particular deal can be challenging. However, exploring and developing the benefits in a transaction can often be the easier part of negotiation. Sometimes, even when we have done all we can to sell one or both sides on the various benefits of a deal, objections remain. In virtually any negotiation, there will be at least a few objections at some point. Objections are another area where people’s basic motivations and interests are critically important: objections arise because, at some level, these basic needs and wants are not being met.

**Using Questions**

In Lesson 2, we discussed the use of questions as an information-gathering tool. Thoughtful, appropriate questioning is a key tool for dealing with objections because we can use it to discover the underlying motives and interests that lie behind an objection.

**Exploratory Questions**

Exploratory questions are generally the broadest sort—we use them to find out general information about why some feature of the deal is not acceptable. For example, a broker might be showing a sleek, well-situated urban loft. After discussing the features and the basic shape of the contract, the prospect says to the broker, “This loft is lovely, and the price seems very reasonable, but this really just isn't for me.”

The broker has three basic options here: she can simply accept the prospect’s claim and drop the issue, she can try to use the various merits of the property to support
a hard sell or she can ask questions in an effort to find out more about what is happening here. The first option means there is no chance for the broker to make a sale here. The second option can backfire badly if the prospect feels pressured by the salesperson. The third option, however, leaves open the possibility of making a sale on this or another property and puts no pressure on the prospect.

The savvy salesperson, then, should respond to an objection like this one by asking why the prospect feels that way. Ideally, the prospect will then explain his position to the broker, perhaps telling the broker that he feels uncomfortable in the neighborhood, or that he would really prefer to live in a smaller building.

Exploratory questions help us to gather information about people's dispositions, priorities and basic worries. Since we are looking for general information, we should make sure that our questions are highly general; we don't want to restrict responses by being too specific or by pushing the prospect to address particular issues. An open-ended question like, “Why do you feel that way?” or “Would you tell me more about why you think that?” gives the prospect broad leeway to address whatever issues they think are relevant.

We should stress that we are asking these questions in an effort to help the prospect find a property that he or she wants. Sometimes, people may worry that our aim in questioning them is to build an argument against their objection. In real estate negotiation, very little can be achieved with this kind of arguing.

Many decisions turn on matters of taste, and we cannot really argue that someone should like something they don't like. All we can do is try to show the person that a property actually does have the features he or she is seeking.
Further, attempts simply to persuade people that there is actually not a problem at all (that is, efforts to move forward with the sale without directly addressing and resolving the objection) are generally fruitless. When our client or another party is uncomfortable with some aspect of a deal, we will often find that we are “stuck” until we can find a way to address that issue.

Careful exploratory questions can help us ferret out the basic issues underneath objections, and once we know what those are we can determine whether the prospect really should have that concern about this property. For example, we might continue questioning the woman who thinks the loft is unsuitable, and eventually discover that she wants to live in a smaller building because she is very attached to the sense of community in her present small building. If there is a well-developed community in the larger building she is presently considering, then we can help her to see that this building does in fact offer the benefit she is seeking, despite the fact that it's considerably larger than her current location.

We can use this same technique with sellers. If your seller client wants to price her house substantially above market value, exploratory questioning (for example: “What do you hope to accomplish in this deal?”) can help you find out what her goals are here. The discussion that is often part of this questioning will also give you an opportunity to share your ideas about why this high price might be at odds with some of her goals. For example, if she wants to sell the house quickly, setting such a high price is likely to make this difficult.

Exploratory questioning can also help people to define their needs and wants in their own minds. When people are reacting ambivalently to a property, the salesperson is left in the dark about what they are looking for and what problems they may see here. It may be that you actually have a property that is ideal for such a person, but you will never know that unless you do some work to get at this person’s underlying motives.
You might, for example, ask, “What are the main things you don’t like about this house?” The prospect will have to think about what it is he’s seeking and what’s missing here, and his response can help you begin framing a picture of what it is that this person wants.

Clarifying Questions
Clarifying questions are the next step after exploratory questions. They are more focused and specific and help us to understand the response(s) to our exploratory questions. As we have mentioned several times, people often do not know exactly how to describe what they want or need from a property; this difficulty is commonly compounded by their uncertainty about what they actually do want and their anxiety over this major transaction. Because these conditions frequently make it difficult for people to communicate clearly with a broker, we will often find ourselves in need of clarification even when our clients or other parties are doing their best to be forthright with us. To know what they need to do to move the transaction forward, salespeople need to determine exactly what people are trying to tell them.

Clarifying questions often take the form of “Are you saying that ____?" or “Do you mean that ____?” People generally respond with yes or no and some further information about their position. For example, a prospective buyer might hesitate over the price of a house. This is the salesperson's chance to use clarifying questions (“Are you saying that you are not at all flexible about price?”) to find out whether the prospect is at all flexible about price, and if so, to what extent. The point here is not to find ways to pressure the prospect to move forward in the transaction process. Instead, we are using questions to find out how we might work to overcome or resolve the prospect's concerns.
This is a place for thinking about creative solutions, as we discussed in Lesson 1. In any real estate negotiation, we generally have two parties who share some common interests but who also find some of their interests in conflict. Each party wants an agreement, but each party is also working to convince the other party that their position is realistic and appropriate.

It is usually the case that both parties are willing to alter their position to some extent—that is, they may be willing to concede some of the points that are creating conflict—but neither side wants to be the first to make concessions. In most cases, this reluctance is based on a worry that the other side will not make any reciprocal concessions, in which case the person who has conceded something is likely to feel that their concession was a loss or a mistake.

As intermediaries, it is our task to find creative solutions that lead to a deal that satisfies all parties. We must use clarifying questions to sound out each side about what solutions are possible and about what they would accept as a good solution. We are looking for a cooperative way out of this objection, one in which both parties concede something so that they can each achieve a more important overall goal. This is where the salesperson can find the facts and ideas to move a deal toward closing.

**Strategic Questions**

Strategic questions are meant to draw attention to central tactical issues that need to be addressed if negotiation is to move forward. When we use strategic questions, our goal is to prompt buyers and sellers to recognize and deal with their priorities and needs—that is, we are working to press them toward a decision. The fundamental goal here is to stimulate thinking. Generally, there are good reasons you think that a buyer or seller should do a particular thing, but it is generally counterproductive simply to tell the person what you think should be done.
People often perceive this as pushy and generally resent what they see as your effort to make their decisions for them. A strategic question offers a more diplomatic approach; it gives you an opportunity to set your reasons out in a way that encourages the person to reflect on the situation independently and arrive at his own decision.

In Lesson 1, we noted that sometimes your client will press for actions you do not believe are in his or her best interest. This situation is well-suited to strategic questioning. For example, if a client is being extremely particular about contract terms, one strategic question a salesperson could use is, “Do you really feel that you can wait the amount of time it might take to find a buyer willing to purchase on exactly these terms?” This way of addressing the issue frees the salesperson from the uncomfortable position of telling the client they think they’re making a mistake, but at the same time, it forces them to confront the issue and suggests that there will be important consequences if they decide the issue in a particular way.

We can use strategic questions whenever we feel we need to point out the possible consequences of a particular course of action. For example, we can use them to speed up negotiations by describing the consequences of prolonged discussion, just as we can use them to slow negotiations down by elaborating the risks of going too quickly. Our goal is to guide people toward the decision we would like them to make, so before we use strategic questions, we should do some thinking about how to describe the consequences so that they will make that choice. We are trying to prompt people to reason about their situation and to arrive at this decision on their own—we are not trying to pressure them but rather to offer a brief description of their situation in the form of a question.
When using strategic questioning, we should generally avoid questions that compel a person to commit fully to an outcome, since this can pressure him into abandoning the deal.

For example, we should steer clear of questions that require a prospect to say whether he will buy or not. Instead, we should be asking a buyer questions such as, “Would you consider making a counteroffer?” Again, our goal is to guide the person toward a closed deal by prompting them to think about and answer questions about critical aspects of the transaction.

**Identifying a Concealed Objection**

Objections come in many varieties. They can be more or less serious, and they can be about almost any aspect of a transaction.

Sometimes, the objection will be obvious, the person will tell you that she has a specific concern, and she will tell you exactly what it is. In these cases, you can use thoughtful questioning to encourage them to elaborate on her objection and give you the information you need for deciding how to deal with it.

However, in many other cases, for a variety of reasons, people may conceal or veil their objections, leaving you uncertain exactly what has gone wrong in a transaction.

Just like a more obvious objection, this problem must be dealt with before negotiation—or a deal—can move forward, so we need some guidance in spotting and addressing these problems.

There are four basic strategies people use for expressing objections indirectly.
**Negative Overreaction:** People sometimes react to our questions or other points in a negative way. But when someone reacts in a way that seems substantially more intense than is appropriate to the situation, this is generally a clue that something else is the matter.

**Throwing up roadblocks:** This describes a person’s behavior when rather than acknowledging and evaluating the evidence or reassurances you have presented, they simply push ahead to a new complaint or argument. In general, the objections they put forward in this process are not their real worries, they are offering decoys here.

**Offering unrelated or irrelevant responses:** When a person reacts in this way, he responds to our reassurances and evidence with replies that are separate from or irrelevant to the present issue. This generally indicates that there is something deeper troubling him, beyond the objection the broker has tried to address. Since he does not want to admit that the objection is not his real concern (for whatever reason), the person will flail about trying to make his objection look more substantial.

**Inflexibility:** When someone clings to a stated objection regardless of the reassurances or evidence you offer to them, they are probably concealing another, different objection.
When people conceal their objections, they prevent the broker from being able to address or resolve these problems. Since the salesperson is in the dark about the nature of the real objection, he or she has no idea what to say or do in an effort to defuse it. If a person will not tell us what their real concerns are, she cannot expect us to deal with those issues effectively. The four behaviors are concealment strategies; since they are not themselves objections, we cannot present arguments, facts, or evidence to change them. People generally use these strategies to protect themselves, choosing to hide concerns they find shameful, or objections that make them feel vulnerable.

There is a limited amount we can do to “get behind” these strategies and address the real problems. We can work to create an atmosphere of trust and respect, an environment in which people are less likely to feel they must protect themselves from hurt and embarrassment. Once we have established a friendly rapport with our client or the other party, we might be able to use exploratory or clarifying questions to delve into the concerns that their concealment strategies have left unstated. Even in this more amiable climate, though, we must be thoughtful about how we address these issues; the use of defensive strategies like those we have discussed indicates that a person is sensitive about this issue for some reason, and we should handle it accordingly.

Unfortunately, there will always be cases where we cannot get beyond people’s defensive tactics. For example, a prospective buyer might know that she cannot raise enough money for a down payment on a particular house, but because she is ashamed of this fact, she will cloak this concern in numerous complaints about the quality of the house and its location. Unless this prospect shares some information to help the broker see what her real issues are, it is unlikely the broker will ever be able to address them.
General Strategies for Overcoming Objections

It is very rare that the features of a proposed deal will match up perfectly with someone's interests and desires. Mismatches will generally reveal themselves in the form of an objection. We cannot really know in advance what objections we will encounter; these vary depending on the type of deal we are negotiating and on the concerns of the people with whom we are working. Once we have used thoughtful questioning to identify the objections to a given deal, we need to decide which problems to deal with first. Generally, the extent to which resolving an objection moves us closer to a finalized deal will tell us how important it is to handle that problem; the objections that pose the greatest obstacles to closing the transaction are those we should handle first. There is a basic process for handling objections that should prove useful in nearly all cases:

1. **Step 1: Treat all objections as valid**
2. **Step 2: Clarify and define the scope and character of the objection**
3. **Step 3: Address the objection head-on**
4. **Step 4: Verify resolution or satisfaction**
The remainder of this lesson discusses all of these steps in detail. We should also remember that if we cannot resolve an objection to the objector’s satisfaction, we have two options: first, we can make a second effort at exploring and clarifying the objection, to make certain that we are truly addressing the person’s real concern. Second, we can accept that this objection will not be resolved—it will be one of the negative points that stands in contrast to whatever benefits this deal or property offers.

We should always make an effort to resolve objections, since we want to minimize the problems within any deal we’re negotiating. However, we should also accept that there are objections we will not be able to resolve.

Before we conclude that an objection is irremediable, though, we should make certain that we have done everything we can to defuse it. Toward that end, we should apply the steps described in the remainder of this section.

**Treat all Concerns as Valid**

A good real estate negotiator never brushes off or trivializes a concern raised by his or her client or another party. Even if they know that the problem is minor or only apparent, perhaps because they have encountered this same problem many times before, they address all concerns respectfully and patiently.

This is another place where we must be certain that our expertise does not lead us to be hasty or sharp with people. Many of the people with whom we work are unfamiliar with the transaction process, and some of them have little practice expressing their objections and concerns. Closing a real estate transaction requires that we deal with any anxiety or reluctance that the parties are feeling; this means that we should encourage people to voice their apprehensions—if they don’t speak up, there is no way for us to address and resolve the problem, and we may lose the deal.
In addition, when people feel that their concerns and feelings are recognized as legitimate, it helps to build an atmosphere of trust and goodwill that facilitates the larger negotiation process.

Do not ignore people's objections. No matter how silly a concern may seem to you, the other person would not have raised it unless they had a reason for doing so. If you disregard their worry, they are likely to be insulted and interpret your behavior as disrespect or indifference; none of these responses incline them to trust you or want to work further with you. Merely listening to people's concerns and then continuing on without acknowledging their point is often interpreted as ignoring what has been said. Make a special effort to explicitly recognize the other person's worries, and say something about the role they will play in the larger negotiation.

Sometimes, in an effort to acknowledge an objection and get back on track with a sales presentation, a broker will respond to that objection with an unthinking or mechanical agreement. We should avoid this mistake because it can create a number of problems. The objector could respond to the perfunctory character of our comment and interpret this as indifference, in which case our response has been no more effective than ignoring the objection would have been.

Alternatively, the objector could take our agreement quite seriously, in which case the objection is now firmly entrenched in his mind as something we have validated. Depending on the nature of the objection, our thoughtless agreement can make mountains out of molehills later in the negotiation process.

**Clarify and Define the Character and Scope of the Objection**

We can best address and resolve an objection when both we and the objector share an understanding of our problem. Before trying to solve the disagreement, we should work to make sure we are in agreement about the nature of the conflict and about what would count as a good solution to it.
Exploratory and clarifying questions can be an enormous help here. We should also make an effort to explore the objection thoroughly—we don’t want to spend a lot of time working on a solution only to discover that we’ve only solved half the problem. We can use strategic questions here as well, to assure that the objector understands the possible consequences of her objection.

When we are clarifying and defining the problem we are trying to resolve, this is a good time to probe for concealed objections and to watch closely for the signs of concealed objections we discussed earlier.

**Address the Objection Head-on**

There are two reasons a salesperson should address objections directly after the basic elements are identified...i.e. money, space, or time compared to needs, wants, and desires. First, the broker is trying to convey to all parties that he or she is reliable and trustworthy, and this is the way reliable and trustworthy people handle problems. They figure out what is wrong, acknowledge the problem openly, and do what they can to find a solution. Second, an unaddressed objection will probably surface later in a negotiation; ignoring or tabling objections will not make them go away. Because the concern was neglected when it was first raised, the objector may develop further concerns about the honesty and integrity of the salesperson and these further concerns can make the objection much more difficult to handle when it reappears.

Some objections can be dealt with simply by clearing up misunderstandings or misconceptions about facts. In such cases, we must use our communication skills to make sure that people understand the information we present to them. After all, if we create more misunderstanding then we may just be creating additional objections that we will have to address later on. This sort of “fact-based” objection is common and is not a serious hurdle to negotiation.
Other objections are more serious, however. The first thing a salesperson should do when confronting a serious objection is marshal the relevant facts. He or she should briefly repeat their clarified understanding of the problem, and then make certain that the objector fully understands the important facts and the potential consequences of her objection. The most effective tool you have for confronting a settled serious objection is the total collection of positive factors relevant to the transaction.

For example, if you find yourself in a situation where a prospective buyer seriously objects to some feature of a contract that is important to the seller, the most persuasive tactic you can adopt is presenting the advantages of the property, emphasizing the various ways it satisfies his needs and wants. It is true that it fails in this particular regard—that's why the prospect is objecting—and you should not deny or downplay that, since this objection may be very important to the person. But there are many other ways in which the property meets his standards, or else he would not be interested in negotiating about it.

**Verify Resolution or Satisfaction**

Even if you think you have handled an objection convincingly, you should still explicitly seek the other person's agreement that it has been handled to *his* or *her* satisfaction, too. We cannot take it for granted that an objection has been resolved nor can we simply accept the other party's response at face value. For example, if he or she responds to our evidence and reassurances by saying “Yes, but...” the broker should not make the mistake of taking this as agreement. This is a *qualified* agreement, and we still have more work to do before we can truly be done with the objection. Similarly, lack of response should never be interpreted as agreement. We must also be alert for physical cues that can suggest a person is not satisfied with the solution we have offered.
For example, a person might verbally agree simply to move the discussion forward, but evidence like persistent restless and anxious body language should signal to the real estate negotiator that all is not well. At this stage, we can use exploratory and clarifying questions to help develop a better picture of the objector's lingering concerns.

When you have presented what seems to you to be a thorough rebuttal to an objection, you should directly ask the objector if the concern has been addressed to their satisfaction. Start with the shared definition of the conflict, state the solution you have proposed, and ask the person clearly and concisely whether this resolves their objection. In particular, you want to be clear about whether facts and explanations have defused the objection or, instead, other positive factors about the property or the deal have counterbalanced the objection. In the latter case the objection still exists, even though it has been shifted to the background; if the counterbalancing factors change, you will have to be prepared to deal with the objection again, in a different way.

If the objector does not agree that the objection has been handled satisfactorily, you can proceed through these steps again: stress your belief that the concern is valid, make certain you and the other party share a vision of what the concern is about, and then try to address the objection directly. Once we've successfully resolved the other party's concerns, it is often good to ask whether she has any additional worries.

Sometimes this stage of the negotiation process creates new levels of trust in the broker once the other party sees that he will be taken seriously; this can free him to voice other concerns. Similarly, talking about one objection can raise other, related worries in the objector's mind. Since we have often already established mutual understanding and a good connection with the other party at this point, we should take advantage of these achievements and use them to deal with any other worries he may have.
Negotiating Offers and Counteroffers

Offers and counteroffers play a central role in resolving objections. Even though we can handle some objections by uncovering misconceptions and clarifying facts, many other objections can only be resolved by alterations to the parties’ bargaining positions. Offers and counteroffers are one way of bringing these changes about. For example, in most cases buyers are offering something below the seller’s asking price, and the seller’s stated price is at least somewhat high so as to give the seller some “wiggle room” in negotiation.

The offer-counteroffer process is the way we bring these figures together, eventually finding a price both parties will accept. By the time offers and counteroffers are being made, the broker and the other parties to the transaction have usually invested a fair amount of time and effort in this process. Everyone sees the deal as at least potentially a good one, and as a result we can begin settling the specific differences between the parties in an effort to help everyone achieve some version of his desired outcome.

The offer-counteroffer process is an effort to close the gap that remains between the two parties, be it in reference to price, closing date, or some other aspect of the deal. As we work to close this gap between the parties’ positions—and in the process get closer to closing the deal itself—the goal is, as always, to find a deal in which both parties benefit. However, the particulars of what counts as a good offer, or a reasonable counteroffer, will depend on the facts of a specific negotiation. Regardless, there are a number of general strategies that can help us facilitate the offer-counteroffer stage of negotiation.
Check for Shared Understanding

At this relatively late stage in the negotiation process, we might assume that everyone involved understands what we are negotiating about and why. This assumption would be a mistake, and before we start the offer-counteroffer process, it is best to make certain that both parties share a vision of the terms and conditions under discussion.

To evaluate offers and counteroffers accurately, all parties must share a view of what those offers and counteroffers are trying to achieve.

We do not need to assess the parties' comprehension of every aspect of a deal, but we must be sure that we are all talking about the same things with respect to the major issues we are negotiating. Instead of spending time sorting out confused or indignant responses to offers later on, we should invest time now asking specific, probing questions to make certain that we all see the same deal and the same basic possibilities.

Establishing a shared understanding also gives the salesperson a good opportunity to address various unresolved aspects of the transaction and make them more concrete. Often, unresolved aspects—no matter how minor—turn into negative points in people's minds. Because they are not sure what will happen, they envision the worst and use this worst-case scenario in their decision-making process. These imagined worries, in combination with the large financial commitment involved in a real estate transaction, can undermine much of the work we have done to identify and describe the benefits of the deal.
Probing questions can help here, too, to pinpoint what worries remain. Even if we cannot resolve them, we can generally do a great deal to offer a more realistic picture of what outcomes are likely to follow from the situations that are causing anxiety.

**Help Both Parties to See One Another as Compatible Partners**

The broker must work to reinforce each party’s idea of the other side as a reasonable, fair person who wants a just outcome but is also willing to make some concessions. The more we can show the parties that the other side is essentially friendly and like-minded, the more smoothly our offer-counteroffer process will go. Beyond bringing them together on the facts of our transaction, we want to create a shared picture of both parties as people who value the property and have a certain positive feeling for it.

People who are selling their home are different from other kinds of merchants. Their homes are generally their largest investment, and they are often emotionally attached to the home. The broker must use his or her psychological insights and skills to position the buyer and the seller near one another, in terms of their shared feeling for the home.

Because the seller often has these strong feelings about his home, discussions of the house—particularly comments from the prospective buyer—must be handled diplomatically. When we are at the offer-counteroffer stage, we are working to reach agreement on the fundamental issues of our deal. Evaluative comments about decor, landscaping, and the like are rarely germane to the basics of our sale, and when they are delivered insensitively, they can destroy the seller’s belief that the prospective buyer shares his feelings about his home. These sorts of comments can be interpreted very negatively and can stall the transaction while the broker is engaged in trying to recover the seller’s goodwill toward the prospect.
Avoid “Highball” Prices and “Lowball” Offers
Keeping offers and counteroffers in a legitimate range is another way to help the two parties see one another as compatible partners. You should encourage seller clients to begin with a fair price, at most one that is only slightly higher than a reasonable price for similar properties. Similarly, prospective buyers should be encouraged to make counteroffers that are justifiable. If our negotiation starts roughly in the range of a reasonable and even-handed price, then this puts us closer to our final goal. In addition, beginning in a reasonable range means that both parties can give good, objective reasons to support their offers and counteroffers. Inflated prices and excessively low offers tend to be a waste of time, since these strategies only really work on unprepared individuals. In addition, time is wasted trying to come up with reasons to support a position that varies widely from what the market suggests is acceptable. Offers that are not in line with market conditions also run the risk of offending and alienating the other party. It is more productive simply to start in a reasonable range and work from there.

Use Deadlines to Give a Specific Shape to the Offer-Counteroffer Process
Both sides should know they have a limited amount of time to accept or decline an offer, or suggest a counteroffer. We do not want our offer-counteroffer stage of the deal to just fade away as people take enormous amounts of time to debate the myriad aspects of every offer and counteroffer. All this presents is an opportunity for the broker to lose control of the deal and possibly lose the deal entirely for no clear reason. Instead, we should set deadlines to help people focus on the process and to encourage them to quibble only over the elements of a deal that truly matter to them.

We should not be too rigid about these deadlines; they are not an attempt to pressure people, but rather to keep them on track.
In addition, when we state these deadlines clearly to both parties, they provide the salesperson with a diplomatic way to prompt people for decisions by referring to a fixed time frame of which all parties are aware.

**Don’t Be Excessively Judgmental About Offers or Counteroffers**

Just as we should not be too rigid about our deadlines, we should not be inflexible in our evaluations of offers and counteroffers. A broker is sure to encounter many offers and counteroffers that are not at all justifiable, but he or she should not flat-out reject these offers. Statements like, “No one will ever pay that price for this place,” do nothing to enhance the negotiation process. They tend to offend the person making the offer or counteroffer and they rule out the possibility of finding creative alternatives that might make this a viable deal. We can use strategic questions to help a person see that her offer is potentially problematic, but we do not want to put ourselves in a position – for example, if someone actually accepts what we see as an inflated price – where it looks as if we don't know what we are talking about. Statements that deny an offer's viability under any circumstances run the risk of backfiring on us in this way.

Similarly, we should make an effort to evaluate counteroffers in a balanced way. It is unproductive to see counteroffers as rejections or as an attack on the legitimacy of our initial proposal. Instead, we should try to see them as possible alternatives and evaluate them accordingly.

We want to know how well a counteroffer satisfies our client's needs, wants, and desires (within reason); we should use these criteria to assess a counteroffer and not base our judgments solely on how closely the counteroffer approximates our previous plan. Rather than using our original sales strategy in an effort to undermine the counteroffer, we should use exploratory and clarifying questions to discover the motivation behind the offer and to assess the disagreements that remain.
Once we know the underlying motives, we are better prepared to decide whether a counteroffer is amenable to further negotiation that might bring it closer to satisfying our client’s interests and concerns.

**Be Aware of Broader Changes**
Seemingly small changes in one aspect of our deal can have broad ramifications elsewhere in the transaction. It is relatively easy to keep track of these chains of influence when we are only looking at one offer or counteroffer. However, when two parties get into a rapid exchange of offers and counteroffers, or when we are looking at offers and counteroffers from many different parties, we need to keep an eye on changes in the terms and conditions of our deal. We should keep a record of these for ourselves and do our best to make all parties to the transaction aware of the broader effects created by a particular offer or counteroffer.

**Capitalize on the Positive Aspects of Concessions**
Concessions are the tool that moves the offer-counteroffer process forward – if neither side is willing to make any concessions, we can make no progress in negotiation. Because concessions are so important, the salesperson should do everything he or she can to create a psychological atmosphere that is conducive to making concessions, presenting them in a positive light and rewarding the person who makes them.

Clearly, not all concessions deserve the same response or reward; your response to a concession should be in proportion to what the concession requires of the person making it—that is, a concession requiring substantial personal sacrifice is generally more valuable as a tool for closing the gap between parties’ positions and should be recognized as such. Keeping proportionality in mind here helps ensure that your praise seems sincere and valid to both parties.
You should recognize all meaningful concessions and acknowledge them in a respectful and diplomatic way. Your goal is to help the person making the concession see that he has done something intelligent and worthwhile, which will help everyone involved get closer to achieving their goals. In addition, you should try to deliver this praise in a context where both parties can see or hear it. This helps support your image as an even-handed go-between upon whom everyone can rely. It can also help to create an environment in which the other side may be more willing to make concessions in an effort to seem as “good” or reasonable as the person who made the original concession.

**Encourage Parties to Examine and Re-Evaluate their Criteria**

In Lesson 2, we discussed the use of strategic questions as a way of helping parties to understand the facts of their situation and the consequences of their decisions. We can use this same technique during the offer-counteroffer process. When someone is attached to a problematic offer, averse to a seemingly good offer, or hesitant to make a counteroffer, strategic questioning can push the person to come up with alternatives. Again, the goal here is to use the questions to present information about the strategic impact of the person’s choices. We want her to come up with a decision on her own; this is much more effective than our trying to impose a certain decision on her. Not only does this approach let the person take an active role in the decision process, it is also substantially more likely to produce a result to which the person is committed.

**Highlight Positive “Landmarks”**

If we think of the final deal as a location at which we want the parties to meet, the various positive features of the property and the contract are the landmarks we can use to help them get there. Throughout the offer-counteroffer process, be aware of the positive factors you can use to build support for the deal. Do not hesitate to restate them frequently to both parties.
Reminding people of the many other positive elements involved in a deal can take the sting out of making concessions; when there are no more concessions forthcoming, the presence of numerous other benefits can make this outcome easier to accept.

**Maintaining Perspective**

As we present benefits and work through objections, we need to keep our eyes on our overarching goal: closing the deal. We must strike a balance between presenting ourselves as caring and friendly on the one hand, and moving the deal toward closure on the other. Much of the work in overcoming objections involves coming to understand details of the personal lives and motivations of the parties with whom you are negotiating. Achieving a good balance here requires a sensitive comprehension of these details and the ability to resist getting tangled in these particulars to such a degree that this entanglement compromises your deal.

At the same time, a good negotiator knows that negotiation is not usually (merely) about finding the shortest path to a deal. All of us would, of course, like our transactions to wrap up quickly. However, if we focus primarily on achieving a quick sale, we can rapidly find ourselves using high-pressure tactics that disregard people’s wants, needs, and desires and which are likely to alienate them and botch the deal as well. Instead, we should invest time early in the process identifying other people’s interests and concerns and determining how their interests fit with this particular deal. Later, we will “recover” the time spent matching people to transactions and dealing with objections when it pays off by facilitating the final stages of the deal.

When we have done a good job in laying this early groundwork, we often see a “snowball effect” as objections begin to clear; this effect is a sure sign that we have made effective progress in narrowing the distance between the two parties’ positions.
Increasing agreement with our evidence and reassurances about objections often combines with increasing enthusiasm about the deal itself to create a “snowball” rolling rapidly toward closing the deal. At this point, a prudent salesperson will let the deal succeed on its own merits—he or she will let up on their efforts to guide or gently pressure the other party and allow the positive factors of the deal to do their selling for them.

We must be alert for these changes in the other party’s position because at this stage, we want to hand him control of the decision. Just as was the case with strategic questions, we want the person to make the decision for himself. Not only does this ensure that he is more committed to his conclusion, but it also eliminates the problems that often arise when someone feels pushed into a decision. Instead of actively selling, at this point we would often do better just to listen and watch as the deal begins to sell itself. We can, of course, step in with some encouragement if it seems that the “snowball” is slowing down, but in general, we need do no more than support the other party in his positive evaluations of the deal.

**Offers, Counteroffers and the Perception of Unfair Treatment**

People outside the real estate profession are often not entirely clear on how the offer-counteroffer process works. Their confusion on this topic can result in a mistaken sense of having been treated unfairly by either the seller or the seller’s representative. For example, someone might complain that he would have made a better offer if only he had known there were competing offers on the property, or he might believe that a seller is obligated to accept a full-price offer. Since a good real estate negotiator aims to minimize friction and negative feelings in any transaction,
it is often worth taking the time to make sure everyone involved understands some basic points about how this stage of the negotiation process works:

- Neither the seller nor her representative is required to disclose the existence of competing offers on the property.
- The seller does not have to treat offers in any particular order, nor is he obligated to respond to all—or even any—of the offers. The fact that your offer was the first, or the highest, does not place the seller under any special obligations to respond to it in a certain way.
- The seller is under no obligation to notify a prospect that he is no longer considering their offer before he accepts a different offer.
- Sometimes there is no chance to make a second offer. Real estate transactions do not always involve an exchange of bids. This happens only if the seller chooses to engage in this process.
- Verbal agreements are highly unreliable and should not be taken as final evidence that an offer or counteroffer has been accepted.

In Lesson 1, we talked about the importance of making certain your client has realistic expectations. The offer-counteroffer process is a phase of negotiation in which unclear or unrealistic ideas can lead the prospect to form a lasting negative impression of both the seller and the salesperson. To prevent this, the salesperson should remember the general principle offered in Lesson 1: communicate clearly, thoroughly, and often. Do not assume that either the buyer or the seller knows how the offer-counteroffer process functions, and make certain that all parties have accurate ideas about what they can expect during this stage.

**Lesson Summary**

This lesson has clarified the key role played by motives, benefits, and objections in shaping a deal. When the broker connects a person’s motives with the features of a deal, he or she has laid the essential groundwork that may ultimately make that deal
acceptable to the person. It is very rare, however, that there is perfect match between the features of a deal and someone's needs, wants, and desires. Whatever serious mismatches exist in a given deal will likely reveal themselves in the form of objections.

Since objections are obstacles that stand in the way of closing a deal, a broker must have an arsenal of effective strategies for confronting them. The first thing we need to do is make sure we understand the problem; exploratory and clarifying questions are our best tools for this job. Strategic questions can be used once we understand the objection, to make certain the objector understands the possible consequences of his stance. In addition, we have discussed the following process as a useful method for defusing most objections:

- Treat all objections as valid.
- Clarify and define the character and scope of the objection, using exploratory, clarifying, and strategic questions.
- Address the objection head-on.
- Verify that the objection has been resolved to the other party’s satisfaction.

Sometimes, however, we cannot make much progress on resolving an objection unless there is some alteration in the other party’s position. The offer-counteroffer phase of negotiation is the process of trying to adjust each side’s stance until they fit together into a cooperative whole. What counts as a good offer, or a reasonable counteroffer, depends on the facts of a specific negotiation. In any offer-counteroffer process, though, there are general strategies that can smooth the road to a successful deal:

- Verify that everyone involved understands what we are negotiating about and why.
- Help both parties to see one another as compatible partners in the deal.
- Avoid “highball” prices and “lowball” offers.
- Use deadlines to give a specific shape to the offer-counteroffer process.
Don't be excessively judgmental about offers or counteroffers.
Be aware of broader changes in the terms or conditions of the deal.
Capitalize on the positive aspects of concessions.
Encourage parties to examine and re-evaluate their criteria.
Highlight positive “landmarks” in the deal.

The real estate negotiator can use these strategies to arrive at an understanding of the deal in which the benefits outweigh whatever remaining objections the parties may have. There will, unfortunately, be some cases in which we simply cannot reach a deal; perhaps both parties are too stubborn to make necessary concessions, or unrealistic expectations have distorted the process to an extent that negotiation is no longer a viable option. However, in many cases an adept handling of the central issues of real estate negotiation—the topics we have covered in this lesson—will result in a mutually acceptable deal. The negotiator’s remaining job is to close that deal, which is the topic of the next lesson.
Lesson 4: Closing the Deal and Real World Practice

Lesson Topics

This lesson focuses on the following topics:

- Introduction
- Real Estate Closing Techniques
- The Purchase Agreement as a Negotiation Tool
- Applications of Real Estate Negotiation Guidelines
Lesson Learning Objectives

By the end of this lesson, you should be able to:

- Describe three basic closing methods and identify what features of a deal would make it appropriate to choose one particular method.
- Properly prepare to close a transaction.
- Apply the closing techniques to close more real estate transactions.
- Utilize the purchase agreement as a tool in negotiating.
- Explain how the techniques work in practical field application.

Introduction

Closing is the goal of all real estate negotiators. You have done the hard work of matching people with properties and helping them to see how those properties benefit them. You have used your communication skills to deal with objections, and you have navigated the hurdles of the offer-counteroffer process. Now you are within sight of the finish line: the close. You've done everything you can to present the property in the best possible light; all that's left for you to do is convince the parties to make a binding commitment to the deal.

The first thing you must do is make sure the time is right to push for a final decision. You must evaluate the positive momentum you've built up through explaining benefits and resolving objections and determine when this energy is strong enough to support a finalized deal. There is no magic formula that will tell you when the time is right to press for closure and the signals that it is time to close vary from one negotiation to the next. Still, there are some general strategies that can help us know if we are getting close to the end of the negotiation process.

As we make our final approach to the deal, we should focus on agreement and clarification.
We want to secure agreement on as many points as possible, and we should try to clarify the issues that stand between someone's current position and a closed deal. In addition, once the salesperson feels that the deal is ready to go forward, he or she should make certain the prospect feels this way, too, by asking broad general questions designed to draw out any lingering worries or objections.

If our sweeping questions turn up nothing of consequence, or if they turn up only one or two problems that can likely be resolved through concessions from the other party, then we are probably ready to make an attempt to close the deal. If there are no problems, we might take either an agreement-focused approach or a directive close approach to closing.

Both of these involve reiterating the positive aspects of the deal and conclude by asking the prospect to make a firm decision or an offer. If our sweeping questions reveal the need for concessions for the other party, then we can use the contingency closing method, in which we ask for a commitment that is contingent upon securing the concessions that will resolve the problem.

Much of what you have learned in the last three lessons aims at making this phase of negotiation simpler. If you have invested time in learning about the parties’ needs, wants, and desires, shown them how the deal links up with their interests, cultivated a good, open relationship with them, and have made an effort to instill realistic expectations, then this stage of the transaction should be relatively straightforward. Clear communication and a bit of positive encouragement—perhaps along with resolving a few remaining objections—is all that is needed here. When you have laid a solid groundwork in this way and seen how it pays off at the end of the negotiation process, you won’t be tempted by high-pressure closing techniques that are more likely to sink a deal than to close it effectively. Similarly, you won’t be drawn in by people selling “secret” negotiation tips that promise to close every deal.
This module has presented a lot of detailed information about real estate negotiation fairly quickly. To ensure a comprehensive understanding, this lesson unifies and combines the facts you have learned into a series of activities and case studies.

The next part of the lesson is a matching activity in which you must connect terminology and concepts with broader definitions than those presented explicitly in the module. The final part of the lesson presents case studies that require you to apply the terminology, techniques, and principles of real estate negotiation that were discussed in this course.

In any transaction, it is generally true that all parties want to make a deal. They will not accept just any deal, of course, but it is still true that they have an overarching motivation to resolve any difficulties that may arise during the transaction process because their goals depend on the transaction being completed in some form. Both sides have an important goal at stake here; if they have invested their time and effort in negotiation with the salesperson, then this is a strong indication that they want the deal to succeed.

When we close a deal, we are literally closing the gap that exists between the parties’ positions. The ultimate task of the real estate negotiator, then, is to assist the various parties in their efforts to bring their views of the deal closer together. When both parties see the deal as beneficial, we are in a position to close the deal. Moving to close a mutually beneficial deal generally serves the best interests of everyone involved—it is not manipulative or self-serving for the salesperson to attempt to steer the deal to a close, as long as everyone’s objections and concerns have been thoroughly addressed.
Closing is not a matter of somehow getting each party exactly what they want. Accepting a deal is not the same thing as achieving all of one’s ideal goals for that deal. We can get a genuine, reliable agreement or commitment from someone even when they know that problems and difficulties with the deal remain. The point of dealing with objections and evaluating the concessions that emerge during the offer-counteroffer process is to put these remaining problems into proper perspective. The real estate negotiator’s task is to provide the information and encourage the changes that will make these problems surmountable given the other positive factors of the transaction.

The salesperson must guide the parties through these remaining problems. Closing a deal is a process of helping people navigate the persistent negative points in an appropriate way.

If we imagine the remaining problems as obstacles on a course, the salesperson’s job is to get the parties through that obstacle course to a successful closing. Once we have handled the objections and worked through the offers and counteroffers, we must determine the right time to push the parties for a decision on the deal; this is how we get them to the end of the obstacle course, to their final goal.

However, at this stage of the negotiation, prospects often want to take time to think the offer over. We must be careful how we handle this request and base our response on our more general sense of how ready the prospect is to accept the deal. We do not want to simply refuse to let people take time to think about the transaction; this comes across as an aggressive high-pressure technique and is more likely to anger or alienate the prospect than it is to close the deal.
However, if people are left alone to mull over the transaction for too long, this can have the same effect as abandoning them on a confusing obstacle course: they will give the remaining obstacles (negative factors) undue weight in their decision-making and give up on reaching their goal.

It is as though they are still hoping to find a perfect deal, even when time and effort have suggested there is probably no such deal out there for them.

At the end of the last lesson, we discussed a “snowball effect” that emerges as the positive factors of a deal begin to fall into place in the parties’ minds. The salesperson needs to maintain the momentum of this snowball and use it to propel the parties toward a closed deal. This is the energy that will push the parties to a final decision—it is the force that will get them over that final hurdle at the end of the obstacle course. If we let this momentum fail—by, for example, leaving nearly-convinced parties alone to “think things over”—then we will have a difficult time starting it up again. However, if we keep the momentum going, it can provide the energy we need to close a mutually beneficial deal.

Experienced real estate salespeople develop a sense for this momentum and are aware of when it is building and when they can use it to close a deal. There is no “secret formula” that will tell you when a particular deal is ready to be closed. None of what is said in this lesson means to suggest that there is a specific system or certain number of steps you must apply before closing a deal. In fact, you should be prepared to close a deal at any point in the transaction process because the other parties may be ready to close much earlier than you expected.

The previous stages of the real estate negotiation process were largely focused on gathering information, presenting information, and analyzing how that information matches up with parties’ needs, wants, and desires. Our goal has been to provide the parties with something to consider and help them see how to consider it in the best
possible light given their particular interests and concerns. We have not been directly trying to push anyone to do or believe anything. However, all of our work has led us to a point at which this kind of push is generally necessary.

Having assembled all the facts and agreed that a deal is mutually beneficial, many people are still hesitant to make a momentous decision like buying or selling a home; the difficulties here are generally psychological and are not tied to any specific objections to the deal itself. Once the real, tangible objections have been openly addressed and largely resolved, these psychological issues can give rise to a kind of lethargy that can take over the transaction if we let it. The push to close a deal is an effort to overcome this lingering inertia.

Before we begin trying to persuade someone, we should do what we can to make certain that person is ready to be persuaded. If we push for a final answer before people are ready to make that decision, we are not likely to successfully close the deal. Instead, we need to carefully assess the agreement we have gathered thus far and evaluate the degree to which the person seems to accept the deal. It is difficult to determine when someone is ready for this final push, and the signs that indicate acceptance in one person may not say the same thing about someone else.

**Before Pushing for a Final Decision**

Pushing for a decision on a deal always involves taking a risk—the risk that one or both parties will reject the deal entirely and leave us with no sale. However, if we have done the rest of our negotiation work carefully, we will have done a great deal that helps make this risk a calculated one, one that has far better odds of succeeding than it would have if we had pushed for a decision at an earlier stage of the transaction.
When you are considering pressing for a final answer, you should focus on agreement and clarification. By focusing on agreement, we clear as many obstacles as possible from the path to closing the deal—the more agreements we have about important issues, the fewer obstacles remain to trip us up as the positive momentum we’ve built propels the parties toward closing.

You should review what’s happened thus far in the negotiation process, and make sure you have secured all possible agreement in the areas that matter most to both parties. Agreements mean that both parties see an arrangement as beneficial, and the more of these we have, the easier it will be to tip the decision in favor of an overall “yes” answer to the deal itself.

As you work on increasing the level of agreement, keep track of how the deal changes. Reinforce and acknowledge agreement, but also make notes and get things on the record. This not only helps you to keep track of what has been settled, but it also has the psychological effect of making the agreements seem more “real” to both parties. An agreement to which both parties have committed in writing is less likely to be disputed during the closing, and people are less likely to change their minds about something once they see that it has been “entered into the record” in this way.

In addition, when we are looking to maximize agreements, we should try to make sure closed issues stay closed. That is, once a point has been agreed upon, we should consider it closed and do what we can to ensure that it is not reopened. Once we have the “yes” of agreement, we have achieved our goal, and neither we nor any other party needs to do any further work on that point. We should not return to it to work over trivial objections and “what ifs,” and we should avoid anything that might be construed as gloating over the agreement or overselling the point. When we reopen an issue upon which we have already made an agreement or persist in keeping a point open for discussion after agreement has been reached, all we are doing is providing an opportunity for that agreement to revert to disagreement.
The principle here is simple: once you have secured an agreement, move on to another issue and keep moving forward. Do not backtrack to discuss closed issues further unless there have been important changes to the conditions that originally made the agreement possible.

You should also work to *clarify* the issues that stand between the parties and a closed deal. This is not a matter of repeating the clarification process that you undertook earlier, when you were handling more general objections. Instead, the point here is to get a sense of each party's general perspective at this end-stage of the transaction: what remaining issues might be preventing them from simply saying “yes” to the deal? If you find persistent—or new—objections here, you should handle them using the techniques we discussed in the last lesson.

Your goal is to take these lingering concerns and change as many of them as possible into agreements or acceptances. These are the issues that stand between you and a final decision on the deal, and you need to deal with them directly and expeditiously.

An alert negotiator will watch both parties carefully at this point, evaluating the subtle content of the various signals and messages they are sending. This is a good time to use active listening and to employ your abilities to read people and your ability to interpret non-verbal communication. The understated, unstated, and non-verbal information you gather can help you decide whether this is the right time to press for a final decision. For example, people who are asking relevant questions are showing you that they are still open-minded about the topic; they aren’t convinced yet, but they are ready and willing to be convinced. We are much more likely to *listen* our way to a successful close than to talk our way there, but we need to make sure we are listening to *all* of the messages that people are sending. Merely hearing the words they say will not be enough.
When you think you have done all you can to maximize agreement and clear the way for the parties to accept the deal, a final step remains: make one last sweep over the transaction as a whole.

Ask broad, general questions checking—again—for anything that might hinder a successful close, such as, “Have we addressed everything you want to discuss?” or “Do you have any other concerns that we should deal with?” These are wide-sweeping exploratory questions that should clear the way for the closing statements that will finalize our deal. If the person does have concerns at this stage, then we can handle them as we have handled all other objections thus far. If, however, the person does not raise further issues at this point, then this absence of remaining obstacles can be a jumping-off point for starting to close the deal.

**Real Estate Closing Techniques**

Some discussions of real estate negotiation provide scripted outlines of successful closing techniques. We will not be using that approach here because successfully closing a deal is not a matter of simply knowing the “right” script; a good real estate negotiator must do much more than memorize scripted sales methods.

Standard, canned responses and speeches generally sound like exactly what they are; both buyers and sellers are often put off when they sense that you are giving them a rehearsed sales speech that does not take the particulars of their situation into account.

Every negotiation is a bit different because each deal involves unique individuals who bring distinctive interests and concerns to the negotiating table. This variation among individuals and transactions means that rehearsed scripts can only take us so far; they cannot account for or address most of the peculiarities of a specific deal.
Successful closing requires knowing how to adapt highly general closing techniques so that they fit your personal style; when your closing techniques integrate with the rest of your personality, buyers and sellers are more likely to perceive your closing statements as genuine.

In addition, you must modify these general techniques so that they fit your particular deal. This thoughtful modification is part of a proficient real estate negotiator’s task. Keeping in mind that any general technique will require substantial development before it is appropriate to a particular deal, we can still explore the general framework of successful closing techniques. This lesson will discuss three: the contingency closing, the directive closing, and the agreement-focused closing. These methods are described in terms of negotiations with buyers, but—as is true of all of the material discussed in this lesson—the approaches work equally well with sellers.

**Contingency Closing**

We’ve mentioned several times that a perfect deal is a very rare find. The contingency closing technique is a helpful approach when your deal is still importantly imperfect. When a significant problem seems to be standing in the way of closing a deal, the contingency close can secure a deal that is contingent on obtaining a concession that will resolve that problem. In essence, this technique asks the buyer whether that concession would be enough to close the deal: “Will you make an offer on this property if we can resolve this problem?”

Imagine that, as a preliminary to our final push for closing, we have asked our last sweeping question: “Overall, this property seems to meet your needs, and it’s in your price range. Is there anything else we should discuss?” The prospective buyer replies: “Yes, actually. I’m concerned about the fact that my inspector said the house needs a new water heater. If I’m going to spend this much on a house, I don’t want to have to spend more money on repairs right away.” Seeking a contingency close, the salesperson can respond as follows: “I can appreciate that the water heater might be
a problem. However, if we look at the deal as a whole, the water heater is a pretty minor part of a house that otherwise meets your standards. It would be a shame to scrap this deal over something small. Let’s get some reliable figures on how much it would cost to replace the water heater. If I can persuade the seller to lower his price by that much, would you be willing to make an offer on the house at that price?"

In this exchange, the salesperson has done three things: he acknowledged and described the problem, he described roughly what concession he would try to obtain from the seller, and he asked the prospect to commit to the deal contingent upon obtaining that concession. These are the basic steps of the contingency closing. The final request for a commitment to the deal requires that the person either agree—since the concession would resolve their remaining worries—or reveal other objections that are standing in the way of the deal. If the person agrees, you are well on your way to a closed deal. If other objections remain, these will have to be handled before you can make a final close.

**Directive Closing**

The directive close is well-suited to deals in which our final, sweeping question turns up no lingering objections. If we ask the prospect “Do you have any final concerns we need to address?” and he says “No,” then a negotiator using a directive close would reply with something like the following: “All right, then. This house appears to provide everything you were looking for. It has a big yard for your dog, the house itself is the right size, and there’s a large garage for your boat. It’s in a good neighborhood and the location is conveniently close to your office. Even the price is within the range you wanted. This house seems great for you. Why don’t you go ahead and make an offer?”

In this exchange, the salesperson has done three things:

1. She has concluded that the prospective buyer is ready for the final push.
2. She recounts the ways in which the property satisfies the prospect’s important needs, wants, and desires.

3. She asks the prospect to commit to the deal.

These are the three basic steps of the directive close. The directive close is sometimes also called the “assumption close” because of the way it moves directly from “This deal seems good for you” to “Let’s make an offer and wrap this up.” If the directive approach fails to get the commitment you are seeking, this will often be because other objections arise. In this case, you can fall back to the contingency closing technique as a way to secure the deal.

**Agreement-Focused Closing**

The directive close is very forthright; some people—both salespeople and the other parties to the transaction—may find it uncomfortably so. A gentler alternative with the same basic shape is the agreement-focused close. By this point in the transaction, the salesperson has done a lot of work to find out what the prospect’s priorities are—that is, to identify what that person needs, wants, and desires from a property. This information is the raw material he will use in the agreement-focused close, which is built around highlighting the way the property satisfies those important goals.

If our final sweeping question turns up no remaining objections, then an agreement-focused close proceeds by taking the prospect step-by-step through the various ways that a property matches up with his interests and concerns. Agreement-focused closing statements might look something like this:

Salesperson: “You wanted a house with a large yard for your dog, right?”
Prospect: “Yes.”
Salesperson: “OK—this house definitely has that. You wanted a good-sized garage for your boat, too, right?”
Prospect: “I do want that.”
Salesperson: “Again, this house has that. It also offers you the amount of space you wanted, doesn't it?”
Prospect: “True, it does.”
Salesperson: “The neighborhood and the location both fit well with what you said you were looking for. And the price is well within your range. This seems like a great house for you. Would you like to make an offer and see how the seller responds?”
In this exchange, the salesperson done three general things, one of which occurs before she begins making her close:

1. She has identified the prospect’s priorities and determined their approximate order of importance to him.
2. She has presented each of these needs and interests and noted the fact that the property provides what he is seeking; she has also secured his agreement that the property is satisfactory in these ways.
3. After building a picture of the house as a property that meets the prospects important needs, wants, and desires, she asks him to commit to the deal.

You can see the way the agreement-focused technique conveys the same information as the directive close. However, because it actively engages the prospect and requires him or her to agree about the property’s important features, it is often a more comfortable approach for both the prospect and the salesperson. The directive close must be used with care, lest it come across as a high-pressure sales strategy.

However, since the agreement-focused close is focused on presenting benefits to the prospect and confirming that they do indeed see them as benefits, it lets the prospect feel that he is more directly involved in the decision-making process and allows him to do more of the work of selling the deal to himself.
Recovering from a Premature Attempt to Close

If you encounter serious resistance to your efforts to close a deal, the most likely explanation is that you have mistimed your attempt. Sometimes, even when we have tried our best to prepare the prospect to finalize the deal, that person is still simply not ready to make a committed decision.

When we come up against this sort of resistance, we should focus on recovering from this mistake. The simplest approach here—and one that lets all parties save face—is to reframe your attempt as a trial closing.

“Trial closing” is a tactic sometimes used earlier in the negotiation process. Imagine a prospect who seems to agree with all of your claims about the property, and accepts all of your evidence and reassurances about his or her objections.

This person agrees with everything and seems to like the property but doesn't move beyond that. One thing the salesperson can do at this point is test the prospect with a trial close.

For example, the broker might say, “This property seems to meet all your needs, and I get the impression you really like it. Shall we set a closing date?” When used early in the transaction process, this approach is unlikely to result in closing the deal right at that moment. A trial close is not a real effort to close the deal, though it might end up doing so. Instead, it is a kind of exploratory tool. The real point of a trial close is to find out why the person seems so agreeable yet is not ready or willing to make a commitment to the deal.

People often react negatively when confronted with a trial closing. However, the salesperson can handle this in an honest and straightforward way. If a person who seemed very agreeable and accepting bridles at a trial close, for example, the salesperson might say something like, “I'm sorry.”
I certainly don't mean to pressure you into making a decision. Your reactions to the property thus far suggested to me that you liked the property a great deal, and that you were genuinely interested in it. But now I see that there must be a problem with this deal. Let's talk about what it is and see if we can work it out somehow.

This is the same information you need when it becomes clear you have mistimed your attempt to close the deal. As soon as you sense genuine resistance—not just late-stage nervousness, but real opposition—change the pace of your presentation. Stop pushing toward a final commitment, acknowledge your mistake, and start trying to find out what is standing in the way of that commitment.

The Purchase Agreement as a Negotiation Tool

All three general closing methods end by inviting the prospect to make an offer on the property. When we ask someone to make an offer, this request is often more effective if we have the purchase agreement ready at hand and make it clear that we are ready to begin filling it out. The presence of the purchase agreement makes the request for an offer more than just an abstract appeal; it makes it clear that we are ready to begin getting things in writing and making this deal a finalized reality.

The purchase agreement can be a powerful negotiation tool when it is time to settle a deal. Since we have already addressed all the prospect's questions and objections, we do not generally need to worry that introducing a purchase agreement will be perceived as a high-pressure tactic. We are not trying to force a premature decision just so that we can make a quick sale; instead, we really are at the end of the negotiation process, and it is time to make a decision.
Once the salesperson and the prospect have filled out most of the agreement together, we arrive at the specific figure being offered. The work we have done to communicate clearly, create realistic expectations, and handle objections should ensure that the prospect's offer is not wildly at odds with the seller's asking price. A reasonable offer is the final addition to a purchase agreement—all we need then is the prospect's signature to seal a solid commitment to the deal.

Many prospects hesitate at this point, or the point of making their offer in writing. The real estate negotiator should build on all the points of agreement that have already been established and work through the simpler part of the purchase agreement gradually. The salesperson can help the prospect to be more decisive by offering her positive alternatives while filling in the details of the agreement.

For example, when determining a closing date, it is often more effective to suggest several specific dates and let the prospect choose one, rather than simply asking, “When would you like to close?” This gives the prospect ready answers to choose from and it has the added benefit of creating a psychological atmosphere in which it is clear that a positive answer is expected. When the broker offers four dates and asks the prospect which suits him or her best, it is clear that the broker expects that the prospect wants to close soon and will choose one of the options; framing the response in this way makes it less likely that the prospect will respond with something like “Never” or “I need to think this over.”

**Applications of Real Estate Negotiation Guidelines**

**Real Estate Practice Activity**

Now you will see an animated scene that deals with some of the principles and dilemmas of real estate negotiation. Periodically, the animation will stop, and you will have a question to answer. Choose the best possible answer from the choices presented.
Shelley (salesperson)
Good afternoon! I’m Shelley Wilson. How can I help you?

Jane (seller)
I have a property I’d like to sell.

Shelley (salesperson)
Then you’ve come to the right place. We only represent sellers.

Jane (seller)
So what does that mean for me?

**Question:** Shelley (the salesperson) has just told Jane that she only represents sellers. This is good because she has clarified her role for her prospective client. What does this statement mean regarding Shelley’s role as a real estate negotiator?

- Shelley’s primary legal duty as a negotiator is to act as a neutral facilitator between Jane and prospective buyers.
- Shelley’s primary legal duty as a negotiator is to secure the best deal she can for Jane.
- Shelley’s primary legal duty as a negotiator is to assist prospective buyers in reaching an agreeable deal with Jane.

**Answer:** Shelley’s primary legal duty as a negotiator is to secure the best deal she can for Jane. If a salesperson says he or she only represents sellers, this means that they have a fiduciary duty to act in the best interests of any seller with whom he or she works. While most real estate negotiators aim to reach agreements that benefit all parties, it is still the case that a salesperson representing a seller is primarily obligated to serve the interests of that seller, especially when the seller’s interests conflict with the interests of other parties involved in the transaction. Because this is
so, a salesperson like Shelley would not act as a neutral facilitator, nor is she primarily focused on helping buyers find an agreeable deal.

**Shelley (salesperson)**
As exclusive listing agents, we only represent sellers. That means that I will be representing only your interests in this transaction.

**Jane (seller)**
Hmm... oh... ok, I see.

**Shelley (salesperson)**
Please let me know if you have any questions.

**Question:** By explicitly encouraging Jane to ask questions, Shelley has taken the first step toward creating a harmonious and productive negotiating atmosphere. What other general guidelines will help pave the way for a smooth negotiation?

- Communicate clearly, thoroughly, and often.
- Make certain the salesperson does not overstep her role as advisor.
- Clarify the motives of all parties.
- Rapidly try to bring the client up to speed on complicated real estate concepts.
- Avoid offending any of the parties involved in the transaction.
- Develop a friendship with the client.
- Make an effort to be patient.
- Determine deadlines.
- Postpone discussions of motives and needs until later in negotiation.

**Answer:** The salesperson should:
- Make an effort to be patient.
- Determine deadlines.
- Avoid offending any of the parties involved in the transaction.
- Communicate clearly, thoroughly, and often.
- Make certain the salesperson does not overstep her role as advisor.
- Clarify the motives of all parties.

**Jane (seller)**
Well, I understand your duties … but what type of services will you provide for me?

**Shelley (salesperson)**
I will prepare a market listing of your property, create marketing strategies, help you decide on a listing price, negotiate exclusively for you, not the buyer, present all written offers to you, prepare the closing costs estimate, and assist you through the closing process.
I will also maintain confidentiality of information, except when I am required by law to disclose information to the third party, and I will follow your instructions to the extent that they do not contradict the license law and my ethical obligations to the buyer.

**Question:** Shelley has just outlined the services she provides as a salesperson. In doing so, she has also informed Jane about certain legal constraints that restrict what Shelley can do. Why is it important to inform clients about your legal obligations before you begin negotiation?
- Doing so makes it clear that these items will not be negotiable later on, and helps the client to form realistic expectations.
- Doing so protects the salesperson from punishment if these principles are violated later in the negotiation.
- Doing so shows the client that the salesperson is a professional and is aware of his or her responsibilities.

**Answer:** Doing so makes it clear that these items will not be negotiable later on, and helps the client to form realistic expectations. Informing clients about your legal
obligations makes it clear that these items are non-negotiable. Establishing that there are certain things you must (or must not) do also helps your client to form realistic expectations about what you can achieve for her. However, it is not the case that disclosing your legal obligations protects you if for some reason you later choose not to fulfill your duties.

Lastly, the vast majority of clients will not have any knowledge of a real estate salesperson's legal obligations, and hence are unlikely to be especially impressed by a description of them.

**Shelley (salesperson)**
Do you have any other questions?

**Jane (seller)**
No, that makes sense.

**Shelley (salesperson)**
Good! Well then, let's go look at your property

Jane takes the salesperson to look at her property and discloses that the roof is in need of repair.

During their conversation, Jane also mentions that a previous owner of the house died in the house; the local legend is that the property is haunted. Shelley gives the seller a Seller's Disclosure Form to fill out, and then she returns to her office to prepare a market analysis. The next day, Jane returns to the office so that they can fill out the listing agreement.
**Shelley (salesperson)**

Based on my market analysis, I would recommend that you list this property for $180,000.

**Jane (seller)**

Hmm. That's a lot lower than I was thinking. I was expecting to sell it for something more like $200,000, at least.

**Question:** From her market research, Shelley knows that Jane is very unlikely to get $200,000 for her house. Still, Shelley feels that she could easily sell the house for a more reasonable price, so she does not want to do anything that might encourage Jane to take her business elsewhere. What negotiation methods might Shelley apply to talk Jane down to a lower price while still keeping her business?

- Tell Jane that her price is very unrealistic given present market conditions.
- Ask exploratory questions to determine why Jane thinks a higher price is reasonable.
- Suggest Jane spend some time thinking about what price she *really* expects, and come back later.
- Ask clarifying questions to determine whether Jane would be willing to accept a lower price.
- Ask strategic questions to help Jane evaluate the possible consequences of listing the house at the price she had planned.
- Give Jane some market research to study and let her draw her own conclusions about what constitutes a reasonable price for her home.

**Answer:** Shelley should:

- Ask clarifying questions to determine whether Jane would be willing to accept a lower price.
- Ask strategic questions to help Jane evaluate the possible consequences of listing the house at the price she had planned.
- Ask exploratory questions to determine why Jane thinks a higher price is reasonable.

**Shelley (salesperson):**
Here's some market data on how houses in the $200,000 range have performed in this market. You can see that they take considerably longer to sell than homes priced slightly lower, sometimes more than a year—if they sell at all. Do you really want to take that extra time to sell your home? Are you sure you can afford to do that?

**Jane (seller):**
Wow. That is a big difference in time to sale. I'm surprised. I suppose I'm not really all that committed to getting $200,000—especially not if it means waiting a year to sell my house. You said $180,000, right? That's looking a lot more reasonable to me now. Let's go with that.

**Shelley (salesperson)**
Good morning! How are you today?

**Dave (buyer)**
Fine, thanks.

**Shelley (salesperson)**
I'm representing the owner of this property. Let me show you around!

**Question:** Even though Shelley represents Jane, she is still required to make a fair and accurate representation of the property to any prospective buyers. In particular, she must disclose material facts, i.e., property defects that would be a significant influence in a reasonable and prudent person's decision to acquire that property. As Shelley shows Dave this property, what should she point out?
o Shelley should mention that the roof is in need of repairs.
o Shelley should mention that a previous owner died in the property.
o Shelley should mention that the house is thought to be haunted.

**Answer:** Shelley is required to mention that the roof is in need of repairs. However, information such as the fact that a previous owner died in the property by natural causes or an accident unrelated to the property or the legend that a property is haunted is not considered to be a material fact. An agent is not required to disclose information that is not a material fact. In fact, a seller's agent would NOT disclose this information because he or she is not required to do so and disclosing this information would not be in the seller's best interest.

**Shelley (salesperson)**
As you can see, this house has many beautiful features, including hardwood floors, large windows, built-in cabinets, and new tile in the bathroom. I should go ahead and tell you, though, that according to the owner of the property, the roof on the house is in need of repairs.

**Question:** Shelley's presentation of the house's features is fine but a bit lackluster. What might she do to improve it?
o Get some specific information about Dave's wants and needs, and tailor her presentation accordingly
o Offer more of her personal opinions about the house
o Try to use more dynamic, visually-oriented descriptions
o Share the listing sheet with Dave

**Answer:** Shelley should try to gather specific information about Dave's wants and needs, and tailor her presentation accordingly while using more dynamic, visually-oriented descriptions.
Dave (buyer)
I do think the house is great—it has a lot of the features I want. But I’m worried about having to get the roof repaired. Do you think these repairs would be expensive?

Question: How should Shelley respond to this question?
- As a real estate professional, Shelley should be able to provide a rough estimate of the cost of repairs.
- Shelley should refrain from offering any statement on this matter and should advise the buyer to seek an estimate from a professional.
- Providing estimates falls outside of Shelley's expertise, but she could give her opinion.

Answer: Sometimes in negotiation—even at this early stage—it is tempting to give a reply that helps your client's position even if it is outside your field of expertise. However, this is not a good idea; if a client or another party relies on our advice, and we are mistaken, then we are importantly responsible for the problems that ensue. Real estate professionals are not expected to have professional knowledge of all the fields that are tangentially related to real estate, which means that they are not expected to be professional experts on construction, engineering, inspections, legal matters or other areas that are not related to the real estate license. Because of this, a real estate professional should always refrain from offering advice or opinions in these areas and should refer the client or third party to a professional.

Shelley (salesperson)
I'm sorry, but that falls outside of the realm of my expertise. If you like, I can give you a list of roofing experts who could check out the roof and give you an estimate.

Dave (buyer)
I know someone who could do that for me. I think it's a good idea if I get an estimate before we proceed.
**Shelley (salesperson)**

I agree! Here’s my card. Call me if you’d like to discuss the property further.

**Dave (buyer)**

Thanks, I’ll call you soon!

Dave obtains an estimate of the roof repairs and also has the property inspected independently. He decides that the property is worth the listing price, so he submits an offer of $180,000. However, he indicates that he won’t be able to close on the property for another three months.

**Question:** Shelley promptly gives Jane the offer. While Jane is thinking about Dave’s offer, Shelley receives another offer from Ashley Jones. Ashley’s offer is for $20,000 less than the listing price, but Ashley is ready to close right away.

What should Shelley do?

- Because Dave’s offer is higher, it would be in the seller’s best interest for Shelley to withhold Ashley’s offer.
- Shelley should always deliver all offers in a timely manner, regardless of her personal opinion of the offer.
- Shelley should wait to see if Jane accepts Dave’s offer; if Jane does not accept it, then she’ll give Ashley’s offer to Jane.

**Answer:** An agent has the duty to deliver all offers and other correspondence from the third party to the principal in a timely manner. Even if the agent thinks that her client will not want to accept the offer, she should still give the client a chance to consider it.

Shelley delivers Ashley’s offer to Jane, and Jane considers her options. In the end, she decides to accept Dave’s offer. Three months later, the transaction closes, and all
parties are satisfied—Dave bought a great property, Jane got her desired price, and Shelley has her commission in hand.

Case Studies
Here are four case studies that deal with the laws, methods, and guidelines of real estate negotiation presented in this module. You will be asked to consider the facts of the case to anticipate the outcome and to draw on your knowledge of real estate negotiation to answer a question about each situation.

Case Study 1: The Opening Offer
John Andrews is looking for a new home; he is working with a buyer’s representative. Together, they have spent the last eleven months trying to find John a suitable house close to his place of employment. He is hoping to spend about $230,000 but is willing to go as high as $245,000 if necessary. There are relatively few properties on the market in the area John would like to live, and none of them are satisfactory. Recently, however, they have found a house that satisfies most of his needs and wants. The seller, Beth Milton, is asking $240,000—$10,000 more than John would like to pay, but $5,000 less than the most he is willing to pay. John is hesitant to spend more than $230,000 on this house because that leaves him with less money to decorate and furnish the house and less money to hire movers. He quite likes the window treatments and rugs that are currently in Beth’s home. Through his representative, John has also learned that Beth’s new home will be finished quite soon.

John asks his representative for advice about his opening offer; he wants to know how much he should offer, but he also wants to know the reasoning that makes the suggested offer a good one. If you were his representative, what price would you suggest to him, and how would you explain your position?
**Answer:** As we know, reaching a final price on a house is generally a process of give and take, in which both parties alter their starting positions somewhat so that they can achieve their important goals.

John *could* open by offering $230,000 (the price he would most like to pay). However, if he starts with this price and has to make concessions (i.e., if he has to increase the amount he's offering), then all of these concessions take him further away from his ideal price. If he has realistic hopes of paying $230,000 for Beth's home, then he should open with an offer *below* the price he would most like to pay—this leaves him room to make concessions without abandoning his goal. This lower offer must still be reasonable, though. A “lowball” offer may lead Beth to think he is trying to take advantage of her, and she could break off negotiations with him. Because he has been looking for a house for a long time, it is unwise to risk the deal in this way.

**Case Study 2: Increasing Leverage**

Now imagine that you are Beth Milton's representative. Beth has just listed her home for $245,000, a price to which the two of you agreed after doing extensive market research. Beth's home is solid, energy-efficient, and located in a desirable neighborhood in which there are relatively few homes for sale. Within days of listing the property, you have received several offers; the offer that most appeals to Beth is from John Andrews, who is offering $230,000. You know that John has been looking for a house for some time; in addition, your conversations with him have given you the impression that he might be willing to pay more for the house if that was what it took to close the deal.

Beth has worked hard to make her home attractive, and John is very appreciative of her efforts. He has expressed interest in the window treatments and rugs that are currently in the house. Because he is so responsive to her home, Beth is seriously interested in his offer even though it is slightly lower than the other offers. She wants...
more than $230,000, however. She also needs to make a decision soon, because her brand new, fully-decorated home is nearly done.

Beth asks you to see what you can do to improve John’s offer, and you agree to speak with John. What are some of the issues you might use to negotiate an increase in his offer?

**Answer:** The positive features of Beth’s property are the most powerful tool you have to support your request for a higher offer. You can emphasize the way these connect with John’s needs and wants in an effort to show him that the property really is worth more than $230,000 to him. Further, you know that John has been looking for a home for some time and has had no success. You can also use this factor to increase your leverage by reminding him that this is the first satisfactory house he has seen in nearly a year and pointing out the relative shortage of other properties for sale in the area.

Lastly, since Beth’s new home is fully furnished; it might be possible to help her get rid of some of her old things while simultaneously helping John to acquire the window treatments and rugs he has admired. If he would be willing to increase his offer to pay for these things, this can help you find at least part of the price increase Beth is seeking.

**Case Study 3: Component Parts**
You are representing a buyer. She has found a home she would like to purchase, but her offer is for less than the seller is asking, and in addition, she wants him to carry a second mortgage, replace the roof, and hand over possession in fifteen days. The seller’s initial response to this offer has been, unsurprisingly, negative. However, he has not received any other offers on his property, so he has not rejected the offer outright. You can see that closing this deal will require skillful negotiation. The parties
appear to be at odds about numerous issues, and while this could be a good deal, it's not clear where to start putting it together.

Recalling Klatt’s “slice and dice” technique, you decide that the first thing to do is to disassemble the offer into its component parts and determine where the parties stand on each issue. What are the component parts of this deal?

**Answer:** The central issues we face in this negotiation are price, the second mortgage, repairing the roof, and the date to transfer possession.

As you begin negotiating with the seller, the issue of price comes up immediately. He is not pleased with your client’s offer, but no one else has made an offer on the property and he would really like to sell it. Though he doesn't say so openly, it is clear that he does not want to accept the prospect’s current offer; he also suggests that he would be willing to negotiate a price lower than what he's currently asking.

What term best describes the seller’s response here?
- o Non-agreement
- o Non-disagreement
- o Disagreement

**Answer:** Though the seller is not happy with this offer, he also sees it as his only current option. Therefore his response, thus far, is one of non-disagreement. He is *not* rejecting the buyer’s offer outright, though he is making it clear that he would like to see some changes in the offer before he will consider accepting it. His answer is not “No.” It’s something more like, “Well, maybe, but let's see if we can find a slightly different solution.”
The seller is also reluctant to repair the roof, but he acknowledges that it has problems and is willing to have some sections replaced. However, he says that it would be impossible for him to move in just fifteen days. In addition, he says he needs money and is therefore unwilling to consider a second mortgage.

Where should you focus your negotiation efforts to find a deal for your buyer client?

**Answer:** The second mortgage appears to be a non-negotiable issue. This is also true about your client's desired date to transfer possession. You will not be able to obtain your client's ideal solution, since two aspects of the current offer are unacceptable to the seller. Because these both appear to be solid points of disagreement, you will find it more fruitful to focus your negotiation efforts on price and repairing the roof. These two issues offer some possibility of progress.

**Case Study 4: Juggling Offers and Counteroffers**

Jeremy Sharpe, a broker, represents the seller of a residential property, which he has listed for sale at $260,900. A prospective buyer, Melissa Simpson, made an appointment to view the property on June 16th, approximately a month after it was first listed.

After the showing, Melissa made an offer to buy the house for $256,000. Melissa presented her offer as contingent upon securing conventional financing with a ten percent down payment.

Jeremy presented the offer to the sellers that afternoon and they countered the offer at $260,000. Jeremy called Susan and left a message presenting this counteroffer to her. Melissa returned Jeremy's call the following morning, telling him that she needed to talk with her bank. She assured him that she would have a counteroffer for him by the end of the day. However, Jeremy did not hear back from her that day.
On June 18th, Jessica Dallow—another prospective buyer—called Jeremy about the property. She made an appointment to see the house later that day.

After looking over the property, Jessica told Mark that she was very interested but would need to talk with her husband before making an offer. After his meeting with Jessica, Jeremy called Melissa, saying that she needed to submit a counteroffer promptly if she still wanted to do so because a competing offer might be forthcoming.

Melissa called Jeremy with her counteroffer on June 20th. The terms of her offer stipulated a purchase price of $260,000 and asked that the sellers pay part of her closing costs. The offer was contingent upon FHA financing with the three percent down payment and also required that the sellers perform some minor plumbing maintenance at their own expense. Jeremy prepared this offer and had it couriered to Melissa so that she could sign it.

On June 21st, Jeremy showed the property to Jessica Dallow again, along with her husband. Both of them expressed interest in the property, but they also expressed a desire to think a bit more about the deal. In the afternoon, Jeremy received Melissa’s completed offer and called to convey that offer to the sellers. In addition, he told the sellers that he might be receiving another offer shortly.

That evening, the Dallows made an offer to purchase the property for $257,900, contingent upon conventional financing with a twenty percent down payment. The Dallows’ offer included no other contingent requests.

The sellers met with Jeremy to discuss the two offers. They were hesitant to accept an offer with FHA financing because of their concern that this would mean added expenses for them due to mandatory inspections and other repairs that might be necessary prior to approval of Melissa’s financing. Given Melissa’s additional request
for plumbing repairs, the sellers felt there were too many negative factors involved in her offer. They decided to accept the Dallows’ offer.

Jeremy called Melissa and told her that the sellers had rejected her counteroffer.

Melissa did not take this rejection well. She felt that she had accepted the sellers’ counteroffer and was upset that a different offer had been accepted after she had made this acceptance. She wrote a letter of complaint to the real estate commission, saying that she had accepted the seller's counteroffer with only very minor and reasonable changes, which she had included for her own protection. She also asserted that Jeremy had acted inappropriately and discriminated against her offer because the FHA financing meant additional work for him.

Given what you know from the description of this case, did Jeremy do anything wrong here?

**Answer:**
Jeremy presented all offers to the sellers in a timely and neutral fashion. He made no special effort to prejudice them against Melissa’s offer, and he presented her offer on just the terms she had specified. It is true that the sellers did not want to accept an offer backed by FHA financing. It is also true that Jeremy made no effort to change their views on this issue. However, it is entirely up to sellers to decide what form of payment and what sort of financing they will accept. Further, it is the *sellers’* actions that Melissa finds objectionable, not Jeremy’s; the real estate commission has no authority over the sellers since they are not brokers. Considering all of these facts, Melissa has no legitimate complaint against Jeremy.

Even though Jeremy has done nothing wrong in this case, it is still true that he could have done more during the offer-counteroffer phase of negotiation to prevent Melissa’s complaint from arising.
Which of the following strategies might he have used?

- Set clear deadlines for Melissa's offers and counteroffers.
- Communicate more clearly with Melissa about the details of the offer-counteroffer process.
- Clarify Melissa's motivations and priorities.
- Clarify the sellers' obligations with respect to offers and counteroffers.
- Clarify his role in the offer-counteroffer process.

**Answer:** The following strategies may have been used: Clarify the sellers’ obligations with respect to offers and counteroffers, clarify his role in the offer-counteroffer process, and communicate more clearly with Melissa about the details of the offer-counteroffer process.

**Lesson Summary**

Closing the real estate transaction is the salesperson's goal, and it is generally the goal of the buyer and seller as well. All parties benefit when the broker makes the final push to settle a mutually beneficial deal. The careful and time-consuming work described in the last three lessons all aims at this end.

Even though he has already done a great deal of work, some of the real estate negotiator's subtlest and most challenging tasks lie before him, as part of the closing process. Since there are no closing techniques that apply to every deal, or that ensure a successful close, the negotiator relies heavily upon his particular skills at this stage of the transaction. First, he must determine when he should push for a final decision. He must evaluate the degree of acceptance and points of agreement he has gained thus far and probe for lingering objections and worries. However, he must also use his powers of observation, ability to read people, and understanding of human psychology to decide when he should try to close the deal.
If the prospect seems to accept the deal as is, and her final, sweeping questions do not turn up any remaining problems, then one of two closing approaches is generally appropriate: the agreement-focused close or the directive close.

The agreement focused close leads the prospect through the ways the deal satisfies his needs and interests, confirming that he sees the benefits of the deal and that the deal as a whole meets his needs, wants, and desires. The prospect takes an active role in this method, exchanging information and perspectives with the salesperson as he leads up to the point at which the accumulated benefits and the prospect's responses show that it is time to ask him to make a commitment to the deal.

The directive close provides the prospect with the same information, but in a more direct way. Using this method, the salesperson presents her conclusions about how the deal satisfies the prospect's needs and interests and then presses the prospect for a commitment to the deal. This method is very straightforward, and it can be quite successful. Nonetheless, many people—both brokers and the other parties in a real estate transaction—prefer something more like the agreement-focused approach, which is generally perceived as a gentler, more cooperative way to close a deal.

If the prospect does have lingering worries, or if the directed or agreement-focused approaches reveal persistent problems with the deal, the salesperson can try the contingency close. This approach frames the deal in terms of obtaining concessions from the other party to resolve the remaining problems. In essence, it asks the prospect, “If we can resolve these problems in this particular way, will you commit to this deal?” This approach takes a bit more work since the salesperson must determine whether and how concessions might solve the problem, and he or she must also persuade the other party to make those concessions.
However, the contingency close is a valuable strategy because we can use it to obtain a firm commitment on an imperfect deal. Given how rarely we encounter a perfect deal, it is useful to have a tactic like this in our negotiation arsenal.

Once final offers have been made, or deals accepted, the negotiation phase of a transaction is largely over. The real estate negotiator has achieved his or her objective, or their best approximation of it, for that negotiation. It is true that there is still work to be done, and a smart broker will still invest energy in managing deposits, overseeing financing, and similar activities.

Even though these issues do not generally require special negotiation skills, it is still true that a mistake or failure here can undo all of the work a negotiator did to get to this point.

*Please return to the course player to take the interactivity and then the lesson quiz.*