

This Seller's Market Inspires Greater Use of Escalation Clauses in Contracts

I have utilized escalation clauses for years when representing buyers in multiple-offer situations. For the most part, my colleagues competing for the same listings were unaware of this tool, but this week I'm going to share this increasingly utilized tool with them and you, while educating my readers about how escalation clauses work.

An escalation clause (inserted under "additional provisions") says that, in the event there's a higher priced offer from another buyer, this buyer will pay "x" dollars more than said offer, up to a limit of "x" dollars. Sometimes, no limit is given.

You know you're competing with other buyers when the listing agent tells you (or your agent) to submit your "highest and best" offer.

An escalation clause can help you get that coveted listing, although it typically is not accepted in

the case of foreclosures. I've used an escalation clause successfully in less competitive situations, but it's getting trickier now that more offers are being submitted and more agents are using the same clause.

There are a few things to keep in mind when using this tool. First and foremost, the seller doesn't have to play along. He/she can choose to counter any of the other offers and, if he/she counters your offer, can ignore your demand to provide evidence of the competing offer you are besting. So there!

I never include a cap, because that reveals how high my buyer is willing to bid. If the buyer worries that the counter will be too high, I remind him that he doesn't have to accept the counter, and even if he did, he could terminate under the inspection objection (or other) provision of the contract.

REAL ESTATE TODAY



By **JIM SMITH, Realtor®**

This Week's Featured New Listings from Golden Real Estate



BOTH HOMES WILL BE OPEN Saturday 1-4 & Sunday 2-5

\$525,000

28966 Clover Lane, Hiwan Hills, in Evergreen

Situated on a wooded acre with priceless mountain views to the west, this 3-bedroom, 3-bath custom-built mountain contemporary home is a gem in a private, peaceful setting. Entertain or quietly observe the wonders of nature from two decks. Two moss rock fireplaces add atmosphere to the large living and family rooms. The master suite occupies the entire top floor. Two guest bedrooms share their own living space on the lower level. You will love the great room & gourmet eat-in kitchen! Take a video tour at www.HiwanHillsHome.com.



\$495,000

330 Washington St., Mountain Ridge, in Golden

The outstanding curb appeal is more than matched by interior upgrades in this 4-bedroom, 4-bath home — the all-Viking kitchen, hardwood floors throughout (even the stairs), included home theater equipment, high-end Hot Spring hot tub, great views—the list of features is unending. Video at www.MountainRidgeHome.com

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Jim Smith
Broker/Owner
Golden Real Estate, Inc.
DIRECT: 303-525-1851
EMAIL: Jim@GoldenRealEstate.com
17695 South Golden Road, Golden 80401
COMMENT AT: www.JimSmithBlog.com

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