



## Backup Offers *What Are They and How Do They Really Work?*

By ANTHONY MARGULEAS  
*Special to the Palisadian-Post*

### ➔ What is a backup offer?

When there is an accepted offer on a property and another potential buyer wants to be in backup position, they can make what's called a backup offer. You can be in backup position #1, 2, 3, 4, etc. A backup offer provides numerous advantages to a buyer, yet many buyers are not familiar with the benefits.

When a home is in escrow and looking for backups, many buyer's agents and buyers decide to wait for it to fall out of escrow before putting in an offer. What they may not realize is if you make a backup offer and the owner accepts it, then the owner must legally take your offer if the original offer falls through.

If you were to wait for the home to come back on the market and then write an offer you risk getting in a bidding war with multiple other buyers. There are always significantly fewer buyers competing for backup position.

### ➔ How does one write a backup offer?

The buyer's agent writes a standard offer on a residential purchase contract and then attaches a one-page backup offer addendum to it signifying what order of backup it will be - #1, #2, etc. Also the buyer's agent signifies how long the backup offer will be valid - typically at least 30 to 45 days.

### ➔ What does it cost to put a backup offer in?

Unlike a standard purchase

where you must put up a 3 percent deposit once a regular offer is accepted, there is no cost for making a backup offer. So you could write backup offers on a couple properties. Also once your backup offer is accepted you have legally tied up that property with literally no money.

### ➔ What are some advantages to a buyer?

We have successfully represented many buyers by being in backup position and are very familiar with the benefits to buyers. Because you do not need to make a deposit when you make a backup offer, you could technically be in backup position on more than one property at the same time. You can withdraw from backup position at any time up until you are given a written notice of cancellation of the first offer.

With 25 percent of escrows falling out, being in backup position is a smart move. Once a seller accepts in writing your offer as backup # 1, the seller must legally take your offer next if the current buyer were to fall out of escrow - even if someone were to offer \$50,000 or \$100,000 more than your offer.

If you're considering making a backup offer, be aware that you need to be persistent as not all sellers understand the benefits of having a backup offer.

### ➔ Are there any downsides to making a backup offer?

Some people think that a backup offer may solidify the first offer. For example, if the current accepted offer wants to

renegotiate some credits or repairs from the seller, they may think twice if they know there is a backup offer on the property. This isn't very likely, however, since the majority of properties that fall out of escrow are due to financing issues, which may be out of the seller's control.

### ➔ Do backup offers also benefit sellers?

There are benefits to the seller. For example, when a home falls out of escrow, there tends to be a stigma attached to the property. This means the seller runs the risk of selling for less when the property comes back on the market. If there is a built-in backup buyer then the property easily transitions from one buyer to another and never officially comes back on the market in the MLS.

*Anthony Marguleas is the broker and owner of Amalfi Estates for 20 years. He has personal been involved with over 1,000 transactions and viewed over 2,000 real estate contracts. For the past 12 years he has guest lectured at UCLA to over 1,500 students for their real estate class covering topics such as contracts and negotiations. He has also co-authored California Real Estate Client Strategies and has published over 150 articles that have been featured in the Wall Street Journal and the LA times. He has individually sold over \$500 million in properties, and was recently selected by The Wall Street Journal as one of the top 250 agents in the country out of 1 million agents.*