

# REAL ESTATE

## THE KEY TO NEGOTIATION:

# Anticipation

by  
**JOHN MALTZ**  
President,  
Greiner-Maltz



The how-to publishing industry is rife with less-than-best sellers on the art of negotiating the "deal". Spending a week reviewing a sampling of these publications would result in 2 very large piles of cleverly titled and attractive-

ly bound books. The 1st pile would contain those writers who believe in the "win-win" theory of negotiation, the 2nd pile's common theme would be "I win so you lose - but you don't know it." After lightening both piles by removing all "used car sales" instructional manuals, there still remains a quantity of advice that is antithetical to the type of long-term relationships which ethical, professional real estate brokers know to be both in their interest and the interest of their client. The following are the elements of a successful negotiation which I have found stands the tests of time and ethical review.

**1. KNOW YOUR PRODUCT:** Bad faith negotiations take place everyday unintentionally by brokers who mistakenly represent features of the property or elements of the transaction,

which are just plain wrong. Unlike in car sales, where generally the product line is from a single manufacturer with all specs in a catalog (even then, few salesmen know the wheelbase of the models they're offering), each property has a multitude of unique particulars not only inherent in the physical qualities of the site and its improvement, but also in its tax structure, income, zoning, and physical, functional, and economic depreciation. Our listing form, the spec sheet used to place an available property into our database for market distribution, has grown from 30 entries to over 200 fields of data. While complex, there is a finite, knowable amount of information for each property offered by the firm, with any one particular having the potential to make or break a transaction. The principle of "anticipation" is possibly more relevant to product knowledge than with any other component of negotiating skills. By way of example, not knowing that the height of the interior tailboard loading position was not 48" but rather 36", the transaction was negotiated down to the last detail of rent concession, tax base year, right to sublease, and landlord build out. With leases prepared and ready for signature, a last inspection took place where the tenant discovered that the installation of levelators would be required. A \$100,000.00 problem at the beginning of a negotiation translates to a \$.25 per square foot add-on to the rent, easily done. As a surprise at the end of a negotiation it often is spelled "blowup".

**2. KNOW YOUR LEVERAGE:** Negotiations are never fair. One side always has an advantage. Surprisingly though, those with the stronger hand seldom know it! In real estate, in-depth market knowledge is required to adequately weigh the relative advantages of the vying partners to a transaction. While markets are generally categorized as a buyers' or a seller's market, generally such a pure state of affairs never exists. We've all been surprised to learn of a \$30.00 per sq. ft. lease for a 50,000 sq. ft. office unit in a market that has an over supply of such units with asking rents in the low \$20's. It is the unique character of real estate, defined substantially by location, which creates anomalies that a knowledgeable broker can use to serve his client by having in-depth knowledge. While the common sign posts of a successful negotiation is the rental or sale price paid, the more detailed terms of the transaction will point more clearly to the negotiating skills and relative advantage of the parties. In a recent transaction in which we represented the seller which was a trust/estate, the pivotal elements of the negotiation hinged on the sale contracts' conditionality provisions. The last dollar the market had to offer was nowhere near as important as a firm contract with a reasonably predictable closing date. Issues regarding survey and title, environmental and engineering due diligence, the availability of estoppel certificates; had to be traded against purchase price. Ultimately, the client

was well served with such an approach for the gain of having few closing adjustments and a quick settlement eliminated the risks of a volatile market affected by external world events.

**3. INTEGRITY EQUALS CREDABILITY:** For a negotiating position to have traction, the opposing party's must take it at its face value. Honesty is a core trait which we all recognize when we see it in a person. The trust created through absolute honest dealings permits compromises which would never be offered otherwise. The ability of this single trait to save a deal has become apparent countless times during my career when the "unbelievable" twist comes to light late in a negotiation. Commonly, this twist is an unexpected price change due to a competing offer. If the customer feels it's a trick, the transaction has little chance of succeeding, generally to the detriment of the customer. With trust in the broker, negotiations can continue, albeit at a higher price, and the good that comes out of the right deal can accrue to the benefit of the customer.

**4. COMMUNICATIONS:** One can know the market and all details about product availability, have high standards of integrity, but can fail nevertheless as a negotiator if the skills of communication are not well honed. A negotiating process is like climbing a flight of stairs. As each riser is mounted, balance must be regained before the next step is taken and the view, which is slightly different at each height, must be appreciated. Running up the stairs too fast or taking 2 steps at a time generally result in an off-balance transaction having a high risk of failure. The staged nature of a negotiation fits well with the theory of anticipation. The essence of a negotiation is the mutual fulfillment of expectations. The domain of the successful broker is shaping those expectations based on experience and a broad range of reference points. The repetitive nature of offer-counteroffer is imbued with the logic of creating expectations, then satisfying them thru informed compromises.

**5. ANTICIPATION:** The building blocks of a successful negotiation ultimately come down to the principle of anticipation. In theory, if the broker has complete knowledge of the motivations and means of both parties to the transaction, understands the real estate thoroughly and can foresee the legal issues which will come to the fore, as well as anticipate the availability of competing properties; then the negotiation will be perfect and if there is a deal to be made it will be consummated. However, as any new broker will tell you during their first few years in business, learning how to negotiate is an expensive experience.

*John Maltz, President, Greiner-Maltz can be reached at 718-786-5050, via email at [jmaltz@greiner-maltz.com](mailto:jmaltz@greiner-maltz.com) or at [www.greiner-maltz.com](http://www.greiner-maltz.com).*

## COMMERCIAL PROPERTY OF THE MONTH



**LOCATION: 45-01 Vernon Blvd., Long Island City**

### FEATURES:

**80,000 SQ. FT. "STATE-OF-THE-ART WAREHOUSE**  
**10,000 SQ. FT. MEZANNINE OFFICES**  
**MULTIPLE DRIVE-IN'S AND LOADING DOCKS**  
**20,000 SQ. FT. PAVED AND FENCED PARKING**

**AVAILABLE NOW !**

**DIVISIBLE TO 42,000 SQ. FT.**

**OWNER'S EXCLUSIVE REPRESENTATIVES:**

**John Maltz, SIOR or Gary R. Blum, ICSC**

**718-786-5050 [www.greiner-maltz.com](http://www.greiner-maltz.com)**

**GREINER-MALTZ**

COMMERCIAL, INDUSTRIAL AND RETAIL REAL ESTATE SINCE 1953