



— THE BOOK ON —

# NEGOTIATING REAL ESTATE

*Expert Strategies for Getting the Best Deals  
When Buying & Selling Investment Property*



**J SCOTT, MARK FERGUSON & CAROL SCOTT**

R E V I S E D E D I T I O N

# PRAISE FOR THE BOOK ON NEGOTIATING REAL ESTATE

*“This is the only book you’ll need to learn the strategies and tactics necessary to ensure you get the BEST deals—and the MOST deals—on your investment property, every time!”*

—Joe Fairless, Author of *Best Ever Apartment Syndication Book*

*“J Scott, Carol Scott, and Mark Ferguson are three of the premier real estate investors in our industry. Their tips and tricks for negotiating great deals are priceless. Read this book and learn from the best.”*

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*“Mark Ferguson and the Scotts offer tales from the trenches like no one else in the business, showing investors tips and tricks you could only pick up from years of success. If I had this book starting out, I’d be light-years ahead of where I’m at now. The Book on Negotiating Real Estate is the real deal, and will put you ahead of your competition saving you money and time in the process.”*

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—Jake Stenziano and Gino Barbaro, Founders of Jake & Gino  
and authors of *Wheelbarrow Profits*

THE BOOK ON  
**NEGOTIATING  
REAL ESTATE**

*Expert Strategies for Getting  
the Best Deals When Buying &  
Selling Investment Property*

REVISED EDITION

J SCOTT, MARK FERGUSON, CAROL SCOTT



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J Scott, Mark Ferguson, Carol Scott

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## CHAPTER 1

# INTRODUCTION TO NEGOTIATION

“Negotiation.”

It’s a simple word that, in many people, elicits a strong emotional response. For some, it strikes a chord of terror and anxiety; for others, it produces a gleeful sense of anticipation. For many people, the idea of *negotiating* is something that only takes place at UN Security Council meetings and in corporate boardrooms among high-powered businessmen—though some of these people are reluctantly willing to embrace the idea of negotiating every few years by asking for a raise at work or buying a new car, if they really have to.

While negotiation does encompass all of these major life activities, in reality, we all engage in a variety of negotiations every day across all aspects of life—like trying to get the kids to eat their broccoli, convincing the faceless customer service person on the other side of the phone to send us a refund for the defective product we received, or coming to consensus with your spouse on a paint color for the dining room. And while negotiation may be most associated with big-ticket items—homes, cars, international peace treaties—developing your negotiating skills will serve you well in *all* walks of life.

After all, every transaction boils down to one simple fact:

When you’re meeting another party at the negotiation table—whether that “table” is literally a boardroom table, a seller’s kitchen table, or the paint aisle at Lowe’s—both sides want something, and the goal is to reach



a compromise that allows each side to walk away satisfied.

The big question is, “How can we best accomplish this?”

And that’s the real goal of negotiation.

## What We Mean by “Negotiation”

In an ideal world, after a negotiation concludes, each party is happy with the outcome and each feels he got everything he wanted... or at the very least, everything he needed.

But we don’t live in an ideal world, and in most negotiations both parties aren’t going to walk away feeling like they got exactly what they wanted. In the real world of negotiations, oftentimes the best we can strive for is to get everything we want or need, while giving the other party just enough to satisfy them. Obviously, we’d love for the other party to be thrilled about the outcome as well—especially if we expect that we’ll have to negotiate with them again in the future—but, at the very least, we want them to walk away without any lingering animosity or regret.

In any negotiating situation, there are going to be some things that both parties really want. And there will be other things one side finds important but the other side doesn’t particularly care about. A fair solution, generally speaking, is more than each party simply getting an equal amount out of the agreement.

This is where *perception* becomes important: In most cases, the parties won’t consider the compromise to be a good one unless they also felt involved and empowered during the negotiation. If the other side felt humiliated or steamrolled during the negotiation, they won’t be satisfied no matter how much they got.

In other words, negotiation is not just about the outcome, it’s about the process.

## A Simple Example

Consider, for example, two siblings fighting over the last piece of chocolate cake. Any wise parent knows that, while cutting the cake in half and giving a piece to each child may seem like the most reasonable solution, each child will inevitably end up complaining that the other one got a bigger piece, or more frosting, or less frosting, or... well, you get the idea.

As a parent, how can you negotiate an agreement where both children

walk away from this situation satisfied and focused on stuffing their faces with delicious chocolaty goodness, rather than feeling slighted in some way?

**Simple:** You ask one child to cut the cake into two pieces, while the other child gets the first choice of these pieces. Knowing that his sibling will selfishly take the biggest piece, it's in the first child's best interest to divide the cake as equally as possible; the second child will feel empowered as well, as he is able to select whichever piece he deems the best. In the end, even if the pieces of cake aren't exactly the same, the kids are likely to be more agreeable to the outcome simply because they both actively participated in the outcome.

While this is obviously a very simplified negotiating situation, it's a perfect example of how negotiation can be used to allow both parties to feel they've received a fair deal and feel that they were empowered throughout the process.

## Negotiation Outcomes

In negotiation-speak, such an outcome is known as a “win-win,” as both parties receive a benefit. But, not all negotiations result in a win-win outcome. As you have probably seen in real life, there are several other possible results of a negotiation:

**Win-Lose:** Only one party perceives the result of the negotiation as positive. This is how many people feel after negotiating with a car dealer or other high-pressured sales situation. It typically results in the party who feels they have lost in choosing not to negotiate with the “winning” party in the future.

**Lose-Lose:** All parties are worse off after the negotiation. We typically refer to this as a “failed negotiation.” Unfortunately, sometimes a negotiation is destined to achieve this result. For example, imagine a divorce or custody battle, where both parties end up in a worse position than when they started. In fact, in these types of negotiations, sometimes the optimal outcome is to ensure that both sides sustain equal loss—in other words, the most successful outcome is equal unhappiness.

**Win-Plus:** An outcome in which each party feels as they've gained more than they expected. While not all negotiations have the ability to achieve this result—especially when both parties want the exact same thing—this can happen more than you may imagine.

Here's an example of a win-plus negotiation:

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## TALES FROM THE TRENCHES

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A couple years ago, I received a call from a seller who had responded to one of my direct-mail letters. She was selling her father's house, as he had recently moved into a nursing home. I asked her the address of the property, and because we had recently renovated two other houses in that little subdivision, I immediately knew which house it was.

Without even seeing the property, I had a pretty good idea of what it would cost to renovate. The house was 21 years old, which meant it almost certainly needed a new roof, new HVAC system, and a full cosmetic upgrade. Given the age, the electrical and plumbing were likely fine, and since I was familiar with the exterior of the house (I had driven past it dozens of times), I knew that there were no major issues with location or the exterior of the property.

It sounded like the house had a very similar layout as the other two I had done in that neighborhood. Based on my back-of-the-envelope rehab estimate and what I was fairly certain I could resell the property for, I was pretty certain that I could pay up to about \$95,000 for the property—though I'd be more comfortable with a purchase price closer to \$90,000.

The woman and I chatted a bit on the phone. Ultimately, she divulged that she would sell the house for \$100,000 and not a penny less. Apparently, her father had picked this nice round number as his absolute lowest selling price, and she believed there was no way he'd go any lower than that. I believed her, and I didn't see any reason to argue or to try to convince her to go against her father's wishes.

Then I said to her:

**Me:** *"I've purchased several houses in your neighborhood. I bought [property address] in April for \$86,000. And I bought [property address] last year for \$93,000. You can look those sales up in the public records if you want to verify that.*

*I don't believe any other investor would be willing to pay \$100,000 for your house. It's just not worth that amount.*

*But, if your dad is anything like mine, I'm guessing he won't budge once he gets a price set in his mind. And I can respect that—I'd probably be the same way. This is what I'm willing to do...*

*I will give you the \$100,000 for the property—full asking price—and I can have my attorney complete all the paperwork in the next ten days. You won't have to make another phone call, you won't have to clean out the house, you won't have to do anything.*

*But, if I'm going to pay a premium on this property, I need something in return to make this work for me—instead of paying you for the house the day I purchase it, I plan to renovate it and resell it and I will pay you the day I resell it. Probably in the next three to six months, but no longer than 12 months from now.*

*If I'm willing to pay the premium price you ask, are you willing to wait a few months to get your cash?"*

Why was I willing to go \$5,000 above my highest purchase price?

I knew that if I were to buy the property, I'd probably get a loan from a local bank to cover much of the purchase price. I'd put down 35 percent as a down payment, and I'd be paying about \$2,000 in upfront loan costs, plus about \$4,000 in interest and other fees on the loan, for a total of about \$6,000 in loan costs.

If the woman chose to accept my offer, my down payment would go away (less cash I needed to spend out of my pocket), and I'd be able to eliminate the \$6,000 in loan costs. With \$6,000 in costs gone, the \$100,000 purchase price was actually equivalent to about \$94,000, which was within the range I was targeting.

It turned out that her father wasn't in desperate need of the cash, so she was willing to consider the future payoff. Her biggest concern—rightfully so—was that she didn't know me and didn't trust that she'd ever get paid.

After some back and forth, we eventually agreed that, instead of waiting to get the entire \$100,000 purchase price, I would pay \$20,000 upfront (still less than the 35 percent I would have paid to the bank for a down payment), and I agreed to pay the remaining amount within six months instead of 12 months, which was still longer than I needed to complete the project. I also agreed to pay to have her attorney draw up the note and deed, so she could be confident I wasn't taking advantage of her.

This was a perfect example of a win-plus negotiation. The seller got everything she needed and wanted from the deal, as did I. In fact, each side actually got more than they would have gotten had they walked away and tried to negotiate the same deal with someone else who was less creative.

Keep in mind, not every real estate negotiation is that quick and easy. In fact, we've never done a single deal over the phone like that before or since. But, this is a great example of how we—using cooperation, compromise, and some creativity—were able to reach an agreement that likely never would have happened had I dug in my heels and refused to budge off my \$95,000 purchase price.

## Negotiation Strategies

Even a five-year-old knows that the manipulation techniques used on mommy probably aren't going to work on daddy. And vice versa.

Different situations—and different people—will call for different amounts of negotiating “force.” You aren't going to deal the same way with someone who is timid and averse to conflict as someone who is argumentative and always feels the need to be right. Understanding common negotiating strategies and styles will help you apply the right method at the right time.

Most negotiations are going to fall into one of two specific approaches, driven by the styles, skills, and goals of those doing the negotiation:

***Distributive (competitive) approach:*** This approach is most typical of negotiations around zero-sum outcomes. In other words, “There's only so much cake to divide between us, and I want to win by getting the biggest piece.” In these types of negotiations, one party's loss is the other party's gain.

While there are some situations when this approach is necessary—generally resulting from both parties wanting the exact same thing—it often ends in a win-lose or lose-lose result. A competitive approach to negotiating stifles creativity by limiting potential solutions that could lead to an outcome that would expand the benefits for all parties.

This type of negotiation is most common when making a simple purchase. The negotiation struggle is over a single issue—money. One side wants to receive more of it and the other side wants to spend less of it. In the end, the best outcome is one where both sides are not unhappy.

That said, these types of negotiations often end with one side feeling like they were taken advantage of, or in some cases, both sides left feeling like they lost.

***Integrative (collaborative) approach:*** In contrast, the integrative approach to negotiation doesn't view the cake as finite. Instead, this strategy looks for ways to actually create *more* cake, so that all parties can get a bigger piece. The key to creating “more cake” is building a relationship of trust that involves asking questions, listening to answers, offering solutions and sharing just the right kind and amount of relevant information—not too little and not too much.

Also, understanding exactly what the other party really needs—as opposed to what they say they need—is integral to creating additional value that can benefit both sides. This is an extremely important topic when it comes to negotiating real estate and we'll delve more deeply into this concept throughout the book.

## How Real Estate Negotiation Is Different

We've spent the first part of this chapter talking about the basics of negotiation. All of this information can be found in dozens of other books and—so far—we haven't provided much in terms of unique ideas (though this stuff really is important to understand before we get further into the book).

If there are plenty of other negotiating books out there, why do we need another one? Why did Mark, Carol, and I decide to spend more than a year of our lives putting this book together when we could have just found another book on negotiation to recommend to investors?

The answer is simple:

There are some very important differences between real estate negotiations and other types of negotiations. While there are plenty of books out there that will teach you how to be a better negotiator in general, there are none that we're familiar with that will make you a better *real estate* negotiator.

What are those differences in real estate transactions that make negotiation more complex than with most other transactions? Here are just a few of the differences:

- Real estate deals tend to be very expensive transactions. This means

that the ability to successfully negotiate even relatively small details can result in large financial gain. Conversely, the inability to negotiate can lead to large financial loss.

- Along with the big money comes a longer transaction cycle—most real estate transactions take at least a month, and sometimes several months, from the time an initial offer is made to the day when the deal closes. A lot of things can happen during that time that can make or break the deal.
- There is often a big emotional attachment with real estate. Home sellers may have grown up in the house they're selling, or may have raised their family there. While you may be valuing the property purely based on market conditions, you can bet that many sellers will be viewing the value of their home from a much more emotional standpoint.
- Real estate negotiation often involves several parties, as it's frequently conducted with, or even through, intermediaries. Real estate agents commonly negotiate transactions, but mortgage brokers, inspectors, appraisers, and other stakeholders may also be involved in the negotiating process.
- A real estate negotiation may contain many separate smaller negotiations. A single deal may require multiple negotiations between parties such as buyers, sellers, inspectors, appraisers, agents, lenders, and title companies.

Along with everything above, it's important to realize that every real estate transaction is going to be unique. Some deals are hammered out between buyer and seller over drinks at the bar, while other deals take months to negotiate and the buyer and seller never exchange a single word—they let their real estate agents or attorneys handle the communication.

In fact, some deals seem to not involve any negotiation at all!

To illustrate this point, here's a story of a house we purchased in 2012:

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**TALES FROM THE TRENCHES**

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One Saturday, back when we were still pretty new to this business, I received a call from a friend who also happened to be our closing

attorney at the time. While walking in his neighborhood he had stumbled across a garage sale. He spoke to the woman running the sale, and apparently, the woman's mother had lived in the house and had passed away a few months earlier. The daughter was selling the household possessions.

My friend asked if she was planning to sell the house, and she responded that she hadn't really gotten around to thinking about it yet. That's when he called us.

We loved the neighborhood and immediately drove to check out the estate sale, though our real motivation was to meet the woman running the sale, as she was likely the one who inherited the house and now owned it.

It turns out we were correct. My wife spoke with the woman for about an hour, got a tour of the house and listened to the woman talk about her mom's legacy. Eventually my wife asked about the house and the woman reiterated that she hadn't really thought about what she was planning to do with it. My wife left her a business card, collected her information, and we left.

About three months later, just after New Year's, my wife came to me and said, "Remember that house we saw at the estate sale a few months ago? It's ours if we want it!" It turns out my wife had sent the woman a Christmas card over the holidays, with a nice note about how hard it must be to celebrate a first Christmas without her mom.

The woman was so touched that she immediately called my wife to thank her, and in the midst of the conversation, decided that she was ready to sell the house, and did we want to buy it?

About a month later, we purchased the house. We got a great deal, and the woman who sold it to us seemed to be even happier to be able to sell it to us. Never did this transaction feel like a negotiation, which was part of the reason it was so successful.

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## Negotiate Everything!

Most of us aren't born negotiators, but the good news is that anyone can learn. Learning to negotiate is just like learning a new sport, the game of chess, or a musical instrument—the more you practice, the better you get. Similarly, your negotiation skills are like muscles; the more you work them, the stronger they'll grow.



As a real estate investor, it's especially important to both develop your negotiation skills and keep them honed by practicing negotiation whenever you can. Why? Because successful negotiation is just as much—actually, even more!—about practice and preparation as it is about “toughness.” And the last thing you want is to be unprepared.

The best negotiators get that way because they are always practicing.

Why is practicing so important? In real estate transactions, skilled negotiators can make small financial gains across many situations. While these may not seem like much at the time, they can quickly add up and make a considerable difference in the outcome of a project. In fact, the cumulative gains from small negotiations may ultimately overshadow the gains from the big negotiations.

For example, imagine flipping a house and negotiating a mere \$20 savings every time you purchase materials or pay a contractor. If you have 50 such transactions on your project, that's \$1,000 in savings. If you do 20 projects per year, that's \$20,000 extra in your pocket at the end of the year!

Good negotiation can mean more dollars in your pocket. But, it's actually more than that. Smart negotiation can provide you with extra control over your deals, resulting in easier and less stressful transactions. This, in turn, can make your entire business easier and more profitable.

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## **TAKE ACTION**

*Next time you walk into Home Depot or Lowe's try to negotiate the price of your purchase. If you're buying an appliance with a big scratch in it or some poor-quality lumber, you should find it easy to get 10 to 20 percent off.*

*Are you willing to buy a floor model? If so, you can generally get a 10 to 15 percent discount. And, once you get comfortable haggling, there's no reason why you shouldn't be able to negotiate discounts simply based on the fact that you're a good customer or because you feel like you deserve a discount.*

## Win-Win Isn't Always Possible

While we'd always like to have win-win and win-plus outcomes, the truth is that it isn't always possible or practical.

This is particularly true when buying or selling real estate, where both sides typically want one thing more than anything else: money. In many cases, deals involve 1) an investor, who needs to get the lowest price to make a profit, and 2) a desperate seller, who needs to make enough money from the sale to pay off their mortgage or other bills.

For a buyer to pay the lowest price and the seller to receive the highest price for that same thing just doesn't work. The two scenarios are incompatible, so a win-win based purely on financial gain typically isn't possible.

You shouldn't expect to always be able to achieve a successful outcome in every real estate negotiation.

There are many times when the best strategy in a particular negotiation is to just walk away. Later in this book, we'll discuss the best way to do that.



## CHAPTER 2

# PRINCIPLES OF NEGOTIATION

We all essentially know how negotiations work: One side throws out an offer, the other side suggests a counteroffer, and they go back and forth until they either come to an agreement or give up.

From a 10,000-foot high view, that's a good summary.

But, when you *really* dig in, you'll find that there is a set of principles to successfully doing what we just described. In this chapter, we're going to review many of these basic, but not necessarily obvious, principles behind the negotiation process. Understanding them will give you a framework from which you will be able to analyze the various aspects and stages of the negotiation, and will give you the context necessary to understand the strategy and tactics we'll cover throughout the rest of the book.

### Negotiating Mechanics

We're going to try to minimize the amount of new terminology we introduce in the book, but there are some basic negotiating concepts and terms that are important to understand before we get too far into the details. In order to truly understand the dynamics that go into a negotiation, we need to be able to step back and take a higher level view of what a typical transaction looks like.

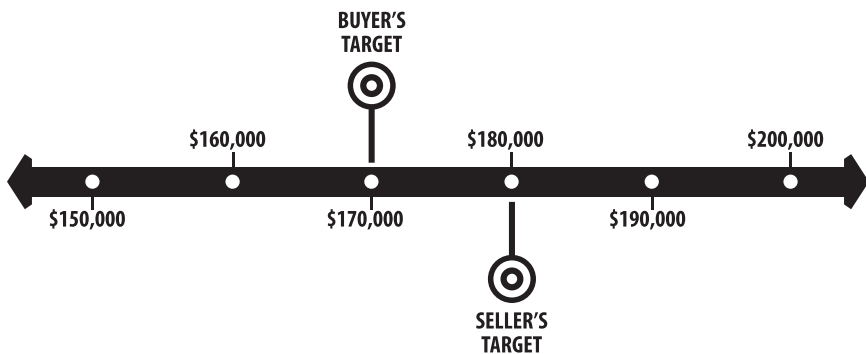
With that in mind, here is some basic terminology that will help you think about the mechanics of a typical negotiation. For this discussion, we're going to assume the buyer and seller are negotiating the sale of a property valued between \$150,000 and \$200,000.


## Target Point

The *target point* (or just “target”) is the deal that each party would be thrilled to get out of the negotiation. The buyer is going to have his target (generally lower price and better purchase terms) and the seller is going to have her target (generally higher price and better sale terms). While the targets of the buyer and seller could be identical, in most negotiations, this won’t be the case. This makes sense, as the buyer typically wants to purchase at the lowest price and the seller typically wants to sell at the highest price.

For this example, let’s assume that the buyer would be happy purchasing a seller’s property at \$170,000 (buyer’s target) and the seller would be happy selling the property at \$180,000 (seller’s target).

Here’s what it looks like in visual form:



**DIG DEEP**  We use the term “wants” many times throughout this book as a way to describe those things that each side desires to get out of the negotiation (i.e., “The buyer wants to buy the house for \$150,000”). While we tend to use this term very loosely, consider that the idea of a want equates nicely to each side’s target (their best-case outcome of the negotiation).

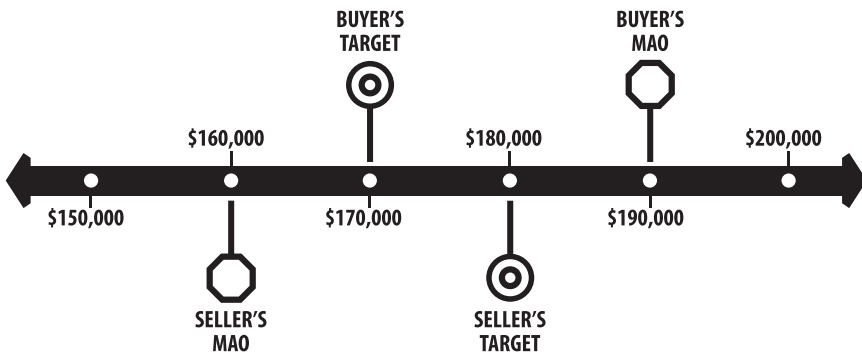
## Minimum Acceptable Offer (MAO)


The *minimum acceptable offer* (“MAO”) is the most extreme point (the worst deal) that each party would reluctantly accept out of the negotiation. The buyer’s MAO is going to be a higher number than his target point, because he wants to pay as little as possible. Conversely, the seller’s MAO is going to be a lower figure than her target point, because she wants

to receive as much money as possible.

Let's go back to our example above and let's assume that the buyer would reluctantly agree to pay \$190,000 for the property (buyer's MAO). Further, let's assume that the seller would reluctantly agree to sell the property for \$160,000 (seller's MAO).

Here is what that would look like overlaid onto the same visual chart above:

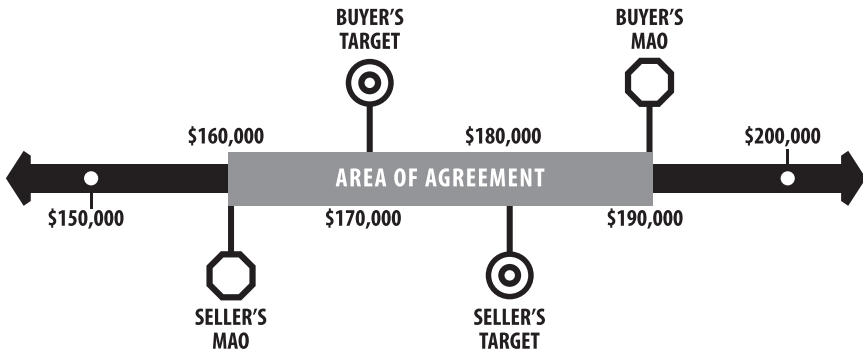


**DIG DEEP**  We use the term “needs” many times throughout this book as a way to describe those things that each side requires to get out of the negotiation (i.e., “The seller needs to get at least \$200,000 out of the sale”). While we tend to use this term very loosely, consider that the idea of a need equates nicely to each side’s MAO (the minimum each is willing to take in order to agree to a deal).

### Area of Agreement

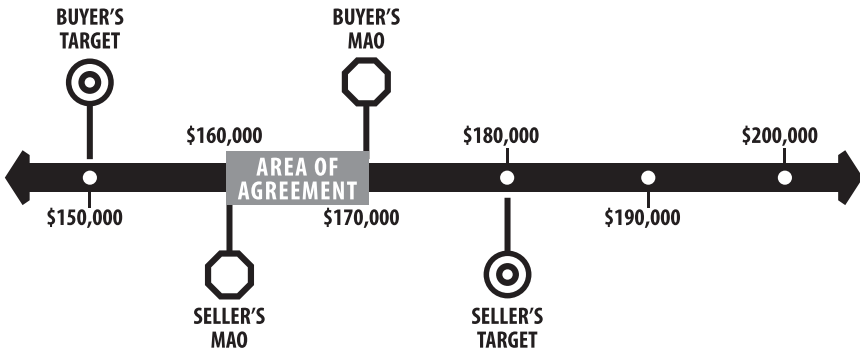
The *area of agreement* is the range of prices where the buyer and seller would both accept a deal, even reluctantly. This area extends from the seller’s MAO (the low end of the range) to the buyer’s MAO (the high end of the range). It’s within this area where a deal can potentially be reached.

Here is what the area of agreement would look like for our example transaction:




Note that the size of the area of agreement will fluctuate based on the location of the MAO each party sets. In some cases, the area of agreement can be very small. When this is the case, it's possible that—even though there is a range in which both parties would be willing to settle—an agreement may never be reached.

Here's an example of the area of agreement being small:



In this example, there is no chance that the buyer or the seller will get everything they want (their targets).

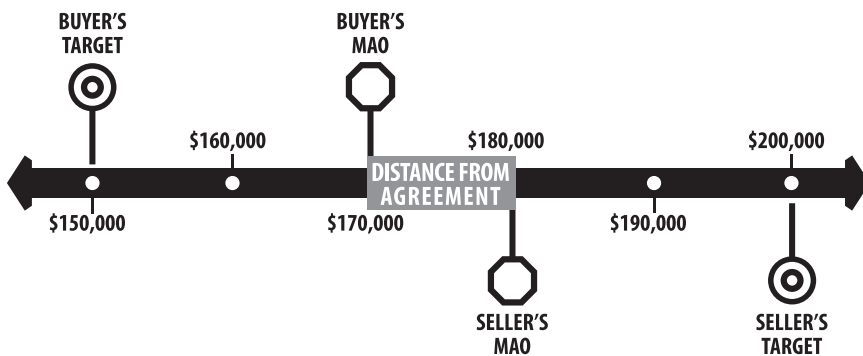
In fact, if a deal is to be reached in this situation, it's likely that both sides will need to be willing to settle for much less than they really want. When the area of agreement is small, this is when trust, rapport and cooperation are most important, as each side must believe that the other side is also making big sacrifices to get the deal done.

**DIG DEEP**  If you can get a deal at the other party's MAO, you've likely gotten the best deal possible. For this reason, one of the most important jobs of a great negotiator is to gather the information necessary to try to determine (guess!) the other party's MAO.

## Distance from Agreement

In some cases—and this is actually quite common in real estate transactions—there will be no area of agreement whatsoever. That occurs when the buyer's MAO is below the seller's MAO.

For example, modifying our example a bit, our negotiation might look something like this:



In this case, we have no overlap in acceptable price—the buyer isn't willing to pay even the lowest amount the seller is willing to accept. And there is actually a gap (our distance from agreement) that would need to be overcome in order to reach a compromise. Given that the buyer is unlikely to have a change of heart and go above his MAO and the seller is unlikely to have a change of heart and go below her MAO, this situation will often result in a stalled negotiation and no deal being made.

As we saw in the story of the woman who was selling her father's house, if the distance from agreement is small, we can often bring into the negotiation other terms besides price, which can help one or both parties get over their resistance and reach an agreement.

For example, perhaps the seller isn't going to be ready to move for a few months, and is willing to sell a little bit below her MAO if the buyer was willing to wait a few months to complete the purchase; and perhaps