

# **ZWICKER DISPUTE RESOLUTIONS**

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## **NEGOTIATING QUICK TIPS**

### **How Conflicts Arise**

Conflicts arise when individuals sense that their differences are so great as to be irreconcilable. Those differences are invariably financial and/or psychological. All too often conflicts which appear to be irreconcilable are capable of being resolved. What often prevents resolution is a predisposition to *positional bargaining*. And positional bargaining is a form of negotiation which sees one side telling the other what he or she insists on getting. If you want to improve your negotiating skills, you should consider the following strategies.

### **Determine What You Need, Not What You Want**

Before embarking upon any negotiation, whether simple or complex, first determine what your needs are. If your university-bound, eighteen year old, comes to you and asks for help buying a car because public transit is inadequate, what he is telling you is that *he needs reliable transportation*. If he tells you that a \$45,000.00 sports car would suit him, what he is really saying is that *he wants* a \$45,000.00 car, not that he needs one. Unfortunately, we often mistake our *wants* for our *needs*. So the trick to successful negotiation is careful, realistic reflection by both sides about what each needs. The difficulty which many of us face in any negotiation involves the tendency to stake out positions and to defend them as if we were goal tenders trying to

keep out hockey pucks. What works for goal tenders simply doesn't work for negotiators. And the reason for this is that successful negotiation depends upon realism, flexibility, collaboration, viable alternatives, and creativity. In other words, each side not only has to do its homework. It has to *be prepared to listen, and not just to talk*.

## **First Do Your Homework**

Before embarking upon any negotiation, at a very minimum, it's important to do two things. The first is to *determine your needs and those of the other side*. Of course, determining someone else's needs involves some guesswork. So the more factual information you have about the other person, the more easily you can develop a view of his needs. In any complex negotiation parties need to exchange factual information before formal negotiations begin. And if they don't do this, the negotiations are likely to bog down just when momentum is most important. For example, if you're thinking of buying property, first determine the current market value of that property before making an offer. If you need to retain the services of professionals whose expertise is in valuation, then do so. In other words, be prepared so that you are never blindsided during negotiations.

I suggested earlier that successful negotiation depends upon *realism, flexibility, collaboration, viable alternatives, and creativity*. So the question then is how do these characteristics help us to negotiate more successfully?

## **Realism**

For one thing, *realism* is one of the by-products of preparation. If you're interested in buying or selling property, having up to date data about current market value will help you to avoid a negotiating strategy which puts you out of the ballpark. There is nothing worse than the feeling of foolishness which results from a poor negotiating strategy that lacks factual support.

## **Flexibility**

Flexibility is the second by-product of preparation. If you know most, even if not all, of the critical facts which are relevant to a particular negotiation, you will be better prepared to show flexibility especially where other parties may be negotiating for the sale or purchase of the same goods or services. And flexibility as a negotiating strategy is the other side of the coin of *collaboration*.

## **Collaboration**

When parties to a negotiation collaborate with each other, their flexibility increases in direct proportion to their ability to be collaborative. And the hallmark of collaborative negotiation is *the ability to listen to the other side's legitimate needs and to be responsive to those needs*. Since the purpose of any negotiation is for both sides to have their needs satisfied to the greatest extent possible, *each side needs to give, in order to get*. In other words, a self-centered negotiating strategy is unlikely to work unless one side has absolutely no other viable alternatives and is compelled to take what he can get. And that begs the question as to how other alternatives affect negotiating strategy.

## **Viable Alternatives**

Let's assume that you own a sophisticated, high-tech business and want to sell it. Let's also assume that the market place is so concentrated that only two potential buyers are interested and willing to purchase that business. As always, the market value of that business will reflect 'what a willing seller is prepared to take, and what a willing buyer is prepared to pay'. If these two potential buyers are each having difficulty raising the financing they need to purchase this business, the odds are that the seller will either have to reduce his price; assist with financing ( ie. take back a mortgage), or decide not to sell, holding off until the market improves. For any negotiation to succeed,

both sides need to do a 'cost- benefit analysis' of any viable alternatives, before committing to any particular position. At times, the existing alternatives may not seem very appealing. Where this is the case, it's time to put on your 'creative thinking hat'.

## **Creativity**

If the existing alternatives are not very promising, don't give up hope! Sometimes people in conflict are predisposed to spin their wheels repeating the very positions which the other side would rather not hear again. It may be that the inability to move forward during negotiation produces a 'stuck in the mud' syndrome which disposes each side to aggressive repetition of existing positions. This syndrome reflects not only the parties frustration in not moving forward, but also the proprietary attitude we often have about the quality of our own ideas. You never know when the next seemingly 'off the wall idea' may just be the one which resolves the impasse.

## **Remember People Are People**

At the end of the day, successful negotiation depends upon our willingness to treat each other with respect. Since negotiators and the clients they represent are people, they have to know that they are being listened to and that their needs are being seriously considered. No negotiation can succeed, regardless of the subject matter, if the parties and their negotiators see negotiation as an exercise in getting without giving, and in talking without listening. The path to successful negotiation lies in a 'win-win', in other words, a mutual commitment to each party's success.

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