

Did Your Listing Agent Produce the Buyer? You May Have Left Money on the Table

With today's limited inventory of active listings, the Colorado Real Estate Commission (CREC) is concerned that some agents are feathering their own nests by withholding listings from the MLS

REAL ESTATE TODAY



By **JIM SMITH, Realtor®**

to increase their chances of selling their own listings and not sharing their commissions with other agents.

One strategy is to put a "coming soon" sign in front of a listing, granting showings only to buyers who don't have an agent. Other buyers and agents are told to wait until it's on the MLS. This is what's known as a pocket listing.

Only after a listing is put on the MLS are other agents allowed to show it and sell it.

When one of those agents sells the listing, the listing agent must share his commission as stated in the MLS.

As the number of active listings has plummeted and it has become a "seller's market," this practice of withholding listings from the MLS has become more common.

Recognizing this surge in withheld listings, the CREC issued a position statement, CP-44, last year which said in part:

"If the property is being marketed as 'coming soon' in an effort for the listing broker to acquire a buyer and 'double end' the transaction, this would be a violation of the license law because the broker is not exercising reasonable skill and care. If the broker is a single agent for the seller or landlord, the broker may be viewed by the Commission as also failing to promote the interests of the seller or landlord with the utmost good faith, loyalty and fidelity. Finally, a broker who places the importance of his commission above his duties, responsibilities or obligations to the consumer who has engaged him is practicing business in a manner that endangers the interest of the public."

In a previous column, I wrote that generally 5% or less of listings are sold by the listing agent. However, 48% of the listings sold during January of this year without a single active day on the MLS were sold by the listing agent. And I showed in that column that the sellers of those homes did not, in the aggregate, get nearly as much money for their homes as did the sellers of homes which went under contract after 1 to 10 days on the MLS. Specifically, of the homes which were listed as under contract the day they were posted on the MLS, only 15.7% sold for more than their listing price. More than 50% of the homes which went under contract after one to three days on the MLS sold above listing price.

As I write this column, there are 369 listings currently under contract on Denver's MLS showing zero days of active status. Only 15% of those sellers are going to receive a discount on the listing commission because their listing agent "double-ended" the transaction.

It should be noted, of course, that sometimes an off-MLS sale is exactly what the seller wants. What the CREC cares about is that the listing agent has advised the seller that he may get less money by accepting

a pre-MLS contract. This needs to be in writing.

For an agent to sway his seller toward accepting an offer from his or her own buyer before exposing the listing to other buyers via the MLS is possibly, in my opinion, a violation of both license law and the Realtor Code of Ethics. Article 1 of the Code of Ethics requires Realtors to "protect and promote the interest of their client," and Article 3 states that Realtors "shall cooperate with other brokers except when cooperation is not in the client's best interest."

Real estate licensees are getting away with this viola-

tion of ethics and law because the CREC can only respond to complaints, and it's hard for a seller to know that the price he got for his home may not be the best that he or she could have received.

If you are one of the thousands of sellers who sold your home before it was made active on the MLS and suspect that your agent convinced you to accept the offer because he made more commission, you owe it to yourselves and the integrity of our industry to file a complaint with the Division of Real Estate. You can do that online at www.colorado.gov/dora/division-real-estate.

This Week's Featured New Listings from Golden Real Estate

2-Story Home with Main-Floor Master Suite Really Shines

This magnificent home at 8715 Tall Grass Place is in the Fairways subdivision of Lone Tree, near Lincoln Avenue and Yosemite Street. That puts it less than a mile from the Sky Ridge Medical Center and just over a mile from the Park Meadows Mall. Although close to both I-25 and C-470, the home is in a super quiet cul-de-sac with many features that will appeal to today's high-end buyers. It has a 3-car garage, a fenced yard (plus a separate sunning patio with privacy fence), a main-floor master suite, 2 upstairs guest bedrooms and loft, plus a finished basement with a family room, additional bedroom and lots of storage space. A main-floor piano room would also work fine as a home office or study. Like some but not all homes in this subdivision, this home has a concrete tile roof that is hail resistant and will lower your insurance premium. Take a narrated video tour at the website above, then ask for a private showing. Or come to our open house **this Saturday, 1-4 pm.** See you there!



\$609,000

Video Tour at www.LoneTreeHome.info

Updated Golden Pines Condo Has Great Tenant in Place

I have listed and sold several Golden Pines condos over the years, but this is definitely the nicest! It has two bedrooms and one bath and 773 square feet of space, plus a storage closet and east-facing deck. A complete rehab was done a few years ago and there are beautiful finishes throughout — new kitchen, new bathroom, new carpeting, new vinyl windows, fresh drywall and paint, and more! The tenant, who is paying \$990 per month, would very much like to stay but is on a month-to-month lease and could be displaced by an owner occupant. If you keep her and her young daughter, you'll find her to be an excellent tenant — a full-time minister who keeps a very clean home. (Check out the pictures and video tour at the above website.) There will be no open house, so call me at 303-525-1851 for a private showing.



\$125,000

Video Tour at www.GoldenPinesCondo.info



All Agents Are Certified EcoBrokers®

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