

Agents Aren't Allowed to Put Your House on MLS — and Do Nothing Else

On December 13, 2010, the Colorado Real Estate Commission (CREC) released a position statement (CP-36) stating that real estate licensees may not sell their access to the MLS by itself without also providing a broad spectrum of real estate services for which they're licensed.

Those services include presentation and negotiation of offers and keeping all parties fully informed throughout a transaction.

For years, some real estate agents have chosen to sell their MLS access, especially to FSBO's (For Sale By Owners) who don't want to pay for a full service listing agent. For a flat fee of a few hundred dollars these agents will enter your home in the MLS under their agent and office IDs, but indicate on the MLS that their service is "Entry Only" and that all showing requests and offers should be submitted directly to the seller.

In such cases, the seller's phone number will typically be entered as the "Showing Phone" on the MLS. The local MLS is an easy gateway to wide exposure for a FSBO listing, because that also gets the home listed on realtor.com and on scores of consumer websites via syndication.

Home builders who have their own sales office but no access to the MLS are also among those who will hire an MLS member to enter their inventory on the MLS, thereby gaining for their homes that same broad based internet exposure

Currently, in Jefferson County alone, there are over 130 "Entry Only" listings on Metrolist, which is Denver's MLS. Many of them are FSBO's, many are builders, and some, it appears, were wrongly entered as "Entry Only" by agents

who haven't learned what that term means — or made a typo.

In the position statement mentioned above, the CREC listed the services performed by real estate licensees, whether as "agents" or "transaction brokers" (the only two working relationships allowed by state law), in great detail, describing those services as "*duties and obligations.*" If a listing agent is "obligated" to perform the enumerated services, then it follows logically that those services must be performed and may not be withheld in return for a lower fee.

The entry of a listing on an MLS is not among the "obligations" of a real estate licensee, but is rather an "additional" service, such as holding open houses or soliciting feedback from showing agents.

In CP-36, the CREC said, "*A broker is not allowed to solely perform 'additional' services which require a real estate license... without providing the minimum*

duties required by single agency or transaction brokerage."

We can expect that within the coming weeks all MLS's in Colorado, including Metrolist, will take steps to eliminate "Entry Only" as a level of service for their members. I believe that "Limited Service" will also go away, since only "additional" services may now be withheld by a licensee. IRES, the other MLS serving this part of Colorado, has informed me that they will eliminate "Entry Only" shortly.

I have posted online at www.JimSmithColumns.com, the full CREC position statement with its list of those "duties and obligations" which every real estate licensee must provide. Current sellers and their agents should read it.

Postponing a Purchase or Sale May Not Be Good Idea

I know what you're thinking — I want to earn a commission, so "*buy now!*" But let's be honest about the current market situation. Interest rates will only keep going up — no one is saying they'll go lower again, and they could go much higher.

And real estate values are starting to rise, too, especially in those neighborhoods that have gone as low as they can go. (Look east of I-25 or anywhere with a high concentration of foreclosures and short sales.) And if you're a seller, don't be shy about taking a loss on your current home when your replacement home is this affordable..

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