*Published July 28, 2016, in the YourHub section of the Denver Post*

# *Who Pays for What When You Buy or Sell Real Estate? It's All Negotiable*

**REAL ESTATE TODAY**

**By JIM SMITH, Realtor®**

Compared to most other states, Colorado is blessed with low costs for both buyers and sellers. The biggest costs for buyers apply only when there's a mortgage. For sellers, the only significant costs are the purchase of title insurance for the buyer and the commissions owed to both agents.

But buyers don't always pay the "buyer" costs and sellers don't always pay the "seller" costs. What follows is more detail about typical closing costs and how the payment of them can be shifted between buyer and seller:

♦ **Commissions to the listing and selling agents** are always paid by the seller, although it doesn't have to be that way. Listing agreements specify the total commission paid by the seller, and how much of that commission the listing agent will share with a buyer's agent — if there is one. The MLS requires that the listing agent offer compensation to other MLS members, but that offer could be as low as $1.00. Typically it is 2.8%, but not always.

Denver's 2.8% co-op originated when listing commissions were fixed by the Board of Realtors at 7% and it was deemed appropriate to give 40% of that amount to the buyer's agent. When the Department of Justice declared such price-fixing illegal, the listing commissions started dropping to where they now average between 5 and 5.5%. The 2.8% co-op commission, however, has lived on, out of fear that agents wouldn't show homes which paid them smaller commissions. As a result, it's not uncommon for buyers' agents to get bigger commission checks than listing agents at closings.

Many buyers are under the impression that the seller pays the buyer's agent's commission, and that an unrepresented buyer saves a seller 2.8%, but it doesn't work that way. If the buyer doesn't have an agent, it just means that the listing agent keeps that 2.8% — unless his listing agreement with the seller provides for a "variable" commission. For example, my listing agreements always have a provision that if I don't have to share my commission with a buyer's agent, the commission charged to the seller is reduced by 1%. This way it's a win-win. I earn more, and the seller pays less. Only 15% of listing agents (my calculation) include this provision in their listing agreements. If a listing agent doesn't proactively offer that discount, you will want to request it.

♦ **Title insurance** is the other big cost to sellers at closing. Here in Colorado (unlike elsewhere, I'm told) this is typically the seller's expense on the theory that it's the seller's obligation to provide clear title to the property being sold. The cost of title insurance is pegged to the sale price and is regulated by the state. Each title company must file their rates with the Division of Insurance, so they tend to be competitive. What's not competitive and therefore varies a lot is the "re-issue" rate. Most title policy underwriters offer big discounts if a title policy had been written on the property (even by another company) up to 5 years or more prior to the current closing date. Title policies are issued when you refinance a mortgage, not just when you buy a house, so the majority of transactions nowadays qualify for a re-issue discount — ***if you choose the right title company for the closing***. Ask!

♦ Buyers who don't pay cash have the highest closing costs on real estate transactions. These **fees are imposed by the lenders** and can vary greatly. Typically, the lower the interest rate you are quoted, the higher these fees will be, so don't just go by the interest rate. That's the purpose of the "Loan Estimate" document now required in all such transactions. Space does not permit me to be more detailed here, but you absolutely should comparison shop lenders.

Mortgage-related costs are sometimes paid by the seller through "concessions." The purchase contract can include a provision that the seller will pay up to "x" dollars toward buyer's loan costs, but this is a direct hit to the seller's bottom line. Buyers use this strategy so that closing costs can be included in the mortgage. For example, instead of buying a house for $250,000, the contract might have a purchase price of $255,000, with the seller paying $5,000 of the buyer's loan closing costs.

♦ One of those mortgage-related expenses is the **title policy that protects the lender**. This is a "piggy-back" policy on the policy purchased by the seller to protect the buyer. As with re-issue rates, the rates for these lender policies vary among title companies. Buyers theoretically get to choose their own title company for the lender policy, but the title company writing the seller's policy will give the buyer the best price.

♦ **The fees charged by HOA management companies** can be scandalously high and are totally unregulated. We're talking hundreds of dollars for nothing more than providing a status letter (showing whether the seller is current on his HOA dues), providing board meeting minutes and financial statements, and changing the name of the property owner on their books. Worst of all, these fees benefit only the management company, not the HOA itself. Usually the seller pays these fees, but a buyer might offer to pay them as an incentive to accept their contract. over the contract from another buyer.

♦ The "**closing services fee**" charged by the title company for conducting the actual closing can vary significantly. I've seen this fee range from $100 to $700. It is typically split 50/50 by the buyer and seller, but again a buyer could offer to pay the full fee as an inducement to accept their contract instead of another buyer's.

That covers the common costs of closing a real estate transaction. There are other deductions from sellers' proceeds, but these are not ***costs*** of selling. The biggest of these is paying off any mortgage or other liens. In addition, the seller will be debited for property taxes pro-rated to the date of closing, and a few hundred dollars will be escrowed toward of the final water bill.

**After closing**, the seller can expect three checks—a tax & insurance escrow refund from the mortgage company, a return premium on the homeowner's insurance, and the balance of the water escrow from the title company.

## *Just Listed by Broker Associate Chuck Brown*

## Enjoy Good Cash Flow From This Central City Rental


This 2-home property at **350 Spring Street** is 1/4 mile from Central City's historic downtown, casinos and opera house. It consists of a 2-bedroom, 1-bath main house as well as a separate 1-bedroom, 1-bath guest house. As the buyer, you have several choices: live in one house and rent the other; rent out both houses long term; rent one house and use the other for weekend getaways; Airbnb one or both houses to vacationers — you decide. Both houses have been well maintained and are in move-in ready condition. The guest house is currently rented at $600/month and the tenant would like to stay if the new owner allows. As with all Gilpin County homes, the taxes are low — $360/year covers both houses! Take the narrated video tour at www.CentralCityHome.info, then call Chuck Brown at **303-885-7855** for a private showing.

## *Buffalo Bill Days Parade*

Look for Golden Real Estate's entry in Saturday's parade in downtown Golden. We'll have our two moving trucks, plus three or more electric cars.

***All Agents Are Certified EcoBrokers®***

**Jim Smith**
**Broker/Owner**
**Golden Real Estate, Inc.**
DIRECT: **303-525-1851**
EMAIL: **Jim@GoldenRealEstate.com**
**17695 South Golden Road, Golden 80401**
WEBSITE: **www.GoldenRealEstate.com**
Like us on Facebook at
www.Facebook.com/GoldenRealEstate1