

# Off-Market Transactions Hurt Sellers By Shutting Out Buyers Who Might Pay More

As I have written in previous columns, our limited inventory of active listings is due in part to sales that occur without the home being listed as "active" on the MLS. This can be frustrating to buyers waiting for a house they like to come on the market, only to learn that it was sold off-market. Given the chance, some of those frustrated buyers might have paid more than the selling price, in which case both those buyers **and** the seller have been harmed.

## REAL ESTATE TODAY



By JIM SMITH, Realtor®

The scope of this problem is illustrated at right. For the past three years, up to 4% of the sold listings on the MLS were entered **after** they had sold. This January and February, 4.4% of the sold listings were entered after they closed, so it seems that the trend continues. REcolorado, our local MLS, has reason to believe that many additional homes are being sold off-market – often by MLS members – without being entered on the MLS at all.

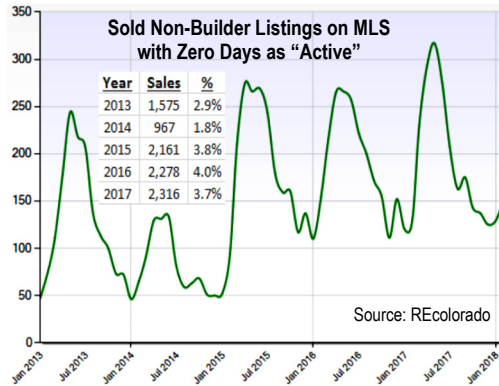
Statistical analysis provides a clue as to how much money sellers might be leaving on the table by allowing agents to sell their homes without going "active" on the MLS.

Homes listed as sold on our MLS in January and February with zero days on market, sold on average for 99.7% of their median listing price, which was \$375,000. But homes with 1 to 4 days on market sold for 101.8% of their listing price. That's a 2.1% differential, suggesting that **if those off-MLS listings had been on the MLS at least one day, their selling price could have been \$7,875 higher on average.**

It's reasonable to ask how listing agents may have profited from keeping listings off the MLS, because it certainly doesn't appear as though their sellers did. An analysis of the listings that were entered as sold with zero days on market in January and February reveals that 37.5% of them were double-ended, meaning that the listing agent kept the entire commission instead of having to share it with a buyer's agent. Homes which went under contract after 1 to 4 days on the MLS were double-ended at a much lower rate — under 5%..

## Debbi Hysmith Joins Our Team

We are pleased to announce the addition of a new Realtor to our team. Debbi Hysmith has 16 years of remodel/renovation experience, and began her real estate career following 15 years as a stay-at-home mom and community leader. She enjoys connecting buyers and sellers. "I want the very best for my clients all the time, and I am available to them at any hour of the day or night," she says. In addition to her love of real estate, she enjoys the Colorado lifestyle in her electric car with her kids and dogs, including hiking, biking, hunting, fishing, skiing, and dog parks. Contact Debbi at 720-936-2443.



This is not to say that zero days on the market is **never** in the best interests of the seller. For example, the seller and buyer might know one another, or otherwise found each other, and simply asked an agent to handle the transaction without seeking other buyers. Or perhaps it was a for-sale-by-owner (FSBO) property where an agent brought the buyer and entered the sale on the MLS after closing as a courtesy to other agents and to appraisers. Or a seller might not like the idea of opening their home to lots of strangers.

One would hope, however (and sellers should expect), that when a broker double-ends a transaction, he or she would at least give the seller a break on the commission, rather than keeping the portion (typically 2.8%) that would have been paid to a buyer's agent. This practice is referred to as a "variable commission" and is office policy at Golden Real Estate. Unfortunately though, only 15% of listings on the MLS (my calculation) indicate that they have offered their sellers this discount. I'm pleased to report that 25% of the listings that sold in January and February with zero

days on market — all of which were double-ended — specified a variable commission, saving money for the seller. However, that also means it's possible, if not likely, that 75% of those sellers did **not** benefit from their agent's double-ending the transaction.

The Colorado Real Estate Commission has expressed its concern about "coming soon" listings which could be used to increase the chances of a listing agent selling the property himself. In a June 2014 position statement, the Commission stated that "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." Further, "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."

REcolorado rules require that a listing be put on the MLS within 3 business days of the listing agreement being signed. However, that rule does not apply when the seller instructs the agent (in the listing contract) **not** to put their home on the MLS. As a member of REcolorado's Rules & Regulations Committee, I have suggested that this rule be modified to state that the seller may instruct the agent to not make the listing **active** on the MLS, but they would still be required to enter the listing under a different status, including "under contract," versus not entering it at all or waiting until after it closes. Currently, if those off-market sales are entered on the MLS at all, it is done only after closing. By showing a home as under contract, there's at least the possibility that interested buyers could submit back-up contracts, which could serve the seller's interest if the original contract falls.

**'Last Call' for a Net Zero Energy Home**

I have been surprised at the limited activity for my listing at **1960 S. Gilpin Street**, near Denver University. Thanks to its passive house design and solar array, this home has a monthly energy bill of \$5.89 — the cost of being connected to Xcel's grid. The seller has decided to take it off the market if it doesn't go under contract by March 31st. This might well be the most energy efficient home in Colorado, yet it's priced competitively with other homes its size. It's like getting that net zero efficiency for free! See [www.DenverPassiveHouse.com](http://www.DenverPassiveHouse.com), then call your agent or me if you'd like to see it.

## Golden Real Estate Has Joined Good Business Colorado

Good Business Colorado strives for the sort of values we at Golden Real Estate hold dear. This non-profit group "advances the values of its business members by: 1) Advocating for local, state and federal policies that elevate our values; 2) Providing an alternative point of view to traditional business chambers in the media; and 3) Sparking more involvement of like-minded responsible businesses." Call me if this speaks to you as it does to me, and get involved! Learn more at [www.GoodBusinessColorado.org](http://www.GoodBusinessColorado.org).

**Jim Smith**  
Broker/Owner



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