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.

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’s not clear that sellers would have agreed to this discount. I’m pleased to report that 25% of the sellers have been harmed.

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, 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 fails.

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 nonprofit 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.

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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 remodeling/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.

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