

How Should a Seller (and Listing Agent) Handle Multiple Offers?

Just because homes sell quickly with multiple offers does not mean they sell easily. It's hard being a buyer's agent and winning a bidding war, but it's no easier being a listing agent guiding your seller through the process of choosing the best offer.

The term "agent" carries with it, under Colorado law, the legal obligation to represent your client with "utmost good faith, loyalty and fidelity." The listing agent is also obligated to seek the price and terms contained in his/her listing contract with the seller.

In today's competitive seller's market, however, I believe that I'm obliged to seek not just the listing price, but the highest possible price through the process of competitive bidding.

I touched on this topic in my Dec. 6,

2014, column, "Negotiating Multiple Offers Can & Probably Should Resemble an Auction," which you can

read at www.JimSmithColumns.com. There is, however, disagreement among agents and brokers regarding this process.

I've observed that most agents subscribe to the idea that you shouldn't reveal the terms of competing offers to agents who want to know "what it will take" for their buyers to submit the winning offer.

There is no rule — or law — against doing so. I heard attorney Oliver Frasca tell a class on contracts that it was perfectly okay to reveal the terms of competing offers to agents (or to unrepresented buyers) who are competing for your listing.

Ask yourself: Is a listing agent serving his or her seller properly if he

doesn't do, within the bounds of law and ethics, what he has to in order to obtain the best price and terms for his seller?

When I'm on the buyer side of a bidding war, I *appreciate* being fully informed, because I don't want my client to lose a house he wants, especially when it sells for a price he would have exceeded if he'd only known the price he had to beat.

I certainly understand the upset of a buyer and his/her agent who thinks conducting an auction is unfair or plain wrong. Agents accustomed to blindly submitting their buyer's "highest and best" offer without knowing their competition may feel that the seller is being greedy, but that's not a fair criticism. A seller is entitled to get the most he can for his home, and it's my job as his agent to make it happen.

The situation gets sticky when one of the buyers is not represented by another agent. The listing agent must

keep his seller's best interest foremost and not try unfairly or otherwise to win the contract for this buyer.

So how does an ethical and law-abiding listing agent handle that sticky situation?

For starters, he keeps in mind that the essence of an auction is full awareness by *all* participants of the current highest offer. It needs to be an open, fair process.

At the same time, the seller is the boss, and when the seller says to stop the bidding and take the current highest offer, then the agent must comply. The seller gets to choose the buyer — and it may not be the buyer with the highest price. It could be one that the seller likes for a variety of subjective reasons. That's why agents often submit personal letters in which their buyers urge acceptance of their offer on very personal terms.

What's *your* opinion on this topic? Let me know!



Denver Metro Area Saw 4th Highest Increase in Rents

Renters are finding themselves in a downward spiral in terms of qualifying at some future time to buy a home. Since 2009, rents in Denver have risen 24.1%, while the income of renters, on average, rose only 11%. Denver's increase was 4th highest in nation, behind only New York (50.7%), Seattle (32.4%), and San Jose (25.6%).

Many renters mistakenly think that they have to wait until they have a large down payment, which may never happen, given such statistics. If you'd like to know about programs that let you buy a home with as little as \$1,000 out of pocket, call me at 303-525-1851. I know lenders who can help you.

Our Next Lunch-and-Learn Is About 'Green Architecture'

Next Monday, March 30th, 11am-1pm, Golden Real Estate is hosting a presentation by Harrison Phillips, a local architect specializing in designing energy efficient homes and Lance Wright, a "certified passive house consultant." I met them both at a recent meeting of the Colorado Renewable Energy Society and knew they could help educate our agents — and you, if you care to join us — on green design in home building. Call or email me to reserve your seat at this event.

Beware of Internet Rental Scams

It happened again this week. I got a call from someone who saw a craigslist post advertising one of my listings for rent at a bargain rate. Fortunately, this person realized it was a scam and was kind enough to tell me. She agreed to flag the posting so that craigslist would remove it, and I immediately hung the sign rider at right under my "for sale" sign in front of the house.

This kind of scam has been propagated for years, which is why I have this ready-to-use sign rider in my office. What happens is that someone, usually in Nigeria, scans the internet for homes for sale, then advertises them for rent on craigslist. (Scammers don't want to spend money, of course,

to list them on rentals.com or another web site that charges for listings.) Scammers usually target vacant listings because their victims can be expected to go to the home and peek through the windows.



The scammer will typically tell a story of serving as a missionary in Africa, saying that their house isn't selling, and they just want a renter who, for a

super-low rent will "love the house as much as we do." They say to wire the first month's rent plus a security deposit, and they'll mail you the keys.

Sellers are never hurt by this scam, but I hate to hear of would-be renters being hurt, which is why I rush to put up the sign rider. Be careful out there!



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