

The Sharing of Listing Commissions With Buyers' Agents Is Being Challenged

The way real estate agents are compensated differs from that of any other industry, thanks to the creation of the Multi-List System or MLS, the essence of which is "cooperation and compensation." Imagine going back to the days before the MLS (late 18th Century) when a real estate broker could only sell his own listings. The only way to have brokers show you listings of other brokerages is if each brokerage agrees to cooperate with sales agents from other brokerages by sharing their listing commission if they produce a buyer.

REAL ESTATE TODAY



By JIM SMITH, Realtor®

Association of Realtors by the Department of Justice and other plaintiffs threatens to outlaw that system, which would have huge negative consequences not only for the industry but for buyers and sellers.

I like to contrast how we are compensated with how car salesmen are compensated. Imagine if you were in the market for a car and went to a Ford dealership and spoke with a sales person who listened to your desired features and told you that a Chevrolet or Toyota would suit you best. He could take you to the other dealer's lot, find the vehicle, get the key out of a window lockbox and take you for a test-drive. He or she could then write a purchase contract for that vehicle and earn the same commission from that dealership as from his own. That doesn't happen. The sales person at each dealership can only sell their dealership's cars.

As an aside, there are auto brokers who are hired by car buyers. These brokers can find a dealer with the car you're looking for and get compensated by the car dealer and not by the buyer. I used an auto broker myself in 2012 to buy a Chevy Volt, which was a brand new model and hard to find at any Chevy dealer. He found one that was en route to an Aurora dealership, which paid him a commission after I took delivery. But auto brokers are an exception. The car sales persons working at the typical car dealership cannot broker your purchase from

another dealer the way I can broker your purchase of a real estate listing from any real estate brokerage.

This system of enabling any real estate broker to sell any other broker's listing and earn a "co-op" commission is at the heart of our industry's success, but some parties are trying to convince the Department of Justice and the federal judiciary that buyers, not sellers, should compensate their brokers.

But here's a point that is being missed in this debate — the seller is NOT paying the buyer's agent. Yes, it's the seller's money that goes to the buyer's agent, but the listing agent is the one who is paying the buyer's agent out of the commission which the seller has agreed to pay him or her. It says right in the listing agreement (Sec. 7.1.1) that the listing brokerage "agrees to contribute from the Sale Commission to outside brokerage firm's commission as follows: ___% of the gross sales price...."

Of course, at the closing table the seller's settlement statement shows both commissions (to listing broker and selling broker) debited to the seller, but the total equals that specified in the listing agreement.

If the courts agree with the plaintiffs and with the Department of

Justice in this matter, it would be a sad and unnecessary disruption of a process which has in fact benefited both buyers and sellers and contributed to our healthy real estate market.

The outlawing of co-op commissions would be so disruptive that, yes, the industry could adapt but it's hard to imagine that it would be as easy to buy and sell real estate.

When Can Buyers and Sellers Talk Directly With Each Other?

There's a well-established protocol that buyers and sellers are to communicate with each other solely through their agents and not directly. Here are two things you may not know.

Sellers can talk with buyers and/or their agents at open houses as long as they only discuss features of the house and not price or terms. They can also give their cell number to inspectors to answer questions that may arise.

At closing, buyers and sellers are advised to exchange contact info so they can be in direct communication later on for any reason. During a pre-closing final walk-through, I like to make the seller available to provide an orientation to the buyer to explain how things work.

Don't Fall for This FSBO Scam

There have been reports of scammers pretending to own vacant land that has no mortgage on it. They advertise it for sale by owner, seeking a quick close at an attractive cash price. They claim to be out-of-state and do a mail-out closing providing forged IDs to an out-of-state notary. They communicate only by text or email.

A licensed broker could be fooled into listing such a property with the fraudster, giving it an additional air of legitimacy.

Both brokers and prospective buyers can protect themselves by checking public records for the name and address of the property's legal owner and reaching out to them. Some of us (including me) have an app to find the real seller's phone number.

Electric Trucks Take Center Stage at June 4th Event

The Net Zero Store is hosting another EV Round-up in its parking lot at 17695 S. Golden Road during the SuperCruise event on Saturday, June 4th, 3 to 6 pm. Pictured are three trucks which are sure to catch the eye of gear heads displaying their gas-powered cars and trucks that afternoon. We're trying to get a Ford F-150 Lightning, too. We're announcing the event early so that other EV owners can register their cars or truck for this special event. To do so, email Jim@GoldenRealEstate.com. During the event, you'll want to go inside The Net Zero Store where several staffers from Helio Home, Inc., will be on hand to discuss the possibilities associated with electrifying your home and perhaps moving it toward net zero energy efficiency.



The Net Zero Store Is Open for Business!

Since vacating Golden Real Estate's original home at 17695 S. Golden Road (across from Taco Bell), we have converted that net zero energy location into — what else? — The Net Zero Energy Store, and it is now open for business weekdays. The concept is simple — to sell products and services that make your home more energy efficient — either step by step, or all the way to being "net zero energy."



A net zero energy home is all-electric (no natural gas heating, cooking, grilling or fireplace), has its own solar panels to generate electricity from the sun, and optimizes the use of electricity through super-insulation, heat pump technology, induction ranges, energy recovery ventilators (ERVs) and other widely available technology.

The store, which has many such products on display, is manned weekdays by the sales team of Helio Home, Inc., which sells and installs all those products. Stop by to speak with a sales person who can talk knowledgeably about what's possible in your own home. They also have a relationship with a credit union (Clean Energy Credit Union) which lends money solely for sustainability projects and the purchase of used or new electric cars.



Other EVs registered so far:

- BMW i3
- Nissan Leaf
- Tesla Models S & Y
- Chevy Bolt

Register to bring your EV!



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