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What You Need to Know When You Choose to Buy Without Your Own Agent

REAL ESTATE TODAY

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Choosing to deal directly with a listing agent — without the services of a buyer's agent — has important ramifications. This week I was reminded of a serious misconception held by some buyers.

The #1 Misconception:: *Since the seller pays both agents in a transaction, the seller saves money when the buyer does not have an agent. Because the seller saves money, the buyer can get a lower price on the purchase.*

This could be true, as I'll explain below, but only partially, and usually it is not true at all. The first thing you need to know is that the listing brokerage and not the seller pays the buyer's agent.

For example, let's say that a home is listed for 5.6% commission, slightly above the statistical average. In the listing agreement it states that the listing brokerage will offer part of that commission to a "cooperating" broker. In our market that "co-op" commission is typically 2.8%, regardless of the total commission. If the total commission is 5.6%, then the listing agent retains 2.8% of the commission for himself. If it is 5%, he retains only 2.2%. If it is 6%, he retains 3.2%, and so forth.

In any case, the seller does not benefit in any way if there is no buyer's agent in the picture — unless the listing agreement specifies that the commission is reduced when there is no buyer's agent to compensate. That's called a "variable commission" arrangement, and MLS rules require the listing agent to disclose that arrangement on the MLS.

Most sellers do not think to ask their listing agent to charge them less if they "double-end" the sale of their home, but if they do ask, the listing agent will likely agree to it. Only about 25% of agents put this provision in each listing agreement without being asked. I just looked at a sampling of 92 listing agents, and only 22 of them specified "variable commission" on their MLS listings. I'm one of them.

Anyone without access to the MLS — that's you, unless you're an agent — can't tell whether a particular listing entails a variable commission, because this fact is not displayed on the consumer websites, only on the MLS.

The bottom line is that if you think you can pay $5,000 less on a property by not using a buyer's agent, then the listing agent will be thrilled to write up the contract, but the chances are that the seller is getting that much less for his property and you just doubled the listing agent's commission. Not what you intended, is it? Meanwhile, you sacrificed your opportunity to have an agent on your side, fighting for your best interest.

Good & Bad Effects of eContracts

I have written previously about how eContracts and eSignatures have revolutionized the real estate business. It really is great to be able to write a contract and have both parties — no matter where in the world they are located — sign them with their mouse and then deliver the contract to a title company, all within just a few minutes and without anyone, including me, printing out the document. (It also means an agent can write a contract from anywhere in the world.)

Those are some good effects. But there is one bad effect of this eco-friendly revolution. That is the reduced explanation of documents to those who sign them. In the past, I would print out every document and go over each provision, paragraph by paragraph, with the client before he or she signed it.

To a large extent, that's not happening anymore with me and many agents, and that can lead to problems. For example, last Friday I wrote an offer for $40,000 less than the asking price on a property. The seller asked her agent to counter at $10,000 less than asking price, but a typo caused that provision to be omitted. Seller signed without reading and is now under contract for $30,000 less. On paper, this wouldn't happen.

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