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IMPORTANT MARKET UPDATE

Ten Ways A Realtor Can Rip You Off
By Richard Stanley

Lately, the real estate market has been characterized by a severe scarcity of properties coupled with an army of buyers waving low-interest loan approvals—and often cold, hard cash. It's a combination, unfortunately, that can sometimes lead to unscrupulous behavior by Realtors, and their brokerages, as they battle for coveted property “listings” to sell. The motive is greed, but why doesn't someone stop these agents? The answer is that most people are not aware of how real estate agents work. Here's what to watch for:

1. The “Pocket Listing” (and “One-Party Exclusive Listing”): A pocket listing is no listing. Rather, it is a property that a Realtor knows is owned by a prospective seller who might sell if the price and terms were right. No public marketing is done by the agent on behalf of the seller. That the seller is even considering selling is usually kept a secret, the idea being that the best chance of putting a deal together—and perhaps “double-ending” the deal (when the same Realtor represents both the seller and the buyer, and thus gains both listing and selling commissions) is to have NO competition from another buyer and/or broker.

Sometimes the Realtor will have the seller sign an agreement, the “One-Party Exclusive Listing”, stating the terms of representation in the event a specific buyer purchases the property. Sometimes all parties to the transaction benefit from a good deal.

So what's the problem? It just depends... Such an agreement is not offensive in principle, but sometimes the Realtor may actually favor the buyer, often a speculator who has promised the Realtor that he or she will “get the listing back” when the house is remodeled. Further, in a tight market such as now, sellers will never know how much money they may have received for their property if they had a Realtor market the property effectively by inviting buyer competition. Some agents cultivate pocket listings by assuring sellers that not putting the property on the market will spare them the intrusions of open houses and showings. If you're a seller who likes to be short-changed, this is your kind of agent. **Remember: competition among buyers is always in a seller's interest. The more competition there is for a property, the higher the price rises.**

2. “Pre-Marketing” Your Property: Pre-marketing is another way of stifling competition for a property so that a small group of Realtors®, usually within a single brokerage, will have an advantage over the rest of the Realtor® community. Information about newly-listed properties is circulated within the brokerage so

that the buyers represented by agents of the same brokerage will have an early opportunity to write an offer. Sometimes a brokerage will “caravan”, or tour, a property with their entire office’s agents *without having the property listed for sale*. The goal with any of these tactics is not to get the seller the highest price. Rather, **the goal is to keep “both sides of the commission” within the same brokerage, or “in house”** (a brokerage usually splits the commission with the brokerage that represents the buyer—more about this below).

Some brokerages actively encourage keeping both sides of the commission in house by offering financial incentives to their agents. Other brokerages encourage doing the right thing for the seller by disseminating the information immediately to the entire broker community in a way that encourages the most competition. Which brokerage would you like to have looking out for your interests?

3. The Unequal Commission Split: Real estate commissions are negotiable between brokerage and seller. Once set with the seller, however, how much the listing broker shares with the buyer’s broker is the listing broker’s business, right? Wrong. Longstanding agreement and practice in real estate is that the listing brokerage “cooperates” with the selling brokerage by sharing the commission paid by the seller. However, there is no obligation for the listing agent to share the commission **equally**. What difference would that make to the seller? If a seller, for example, pays a customary six percent commission, that seller might infer that a three percent commission will be sufficient motivation for agents to bring their buyers to the seller’s property. But what if the seller’s agent decides to keep **four percent** of the commission and offers only **two percent** to the buyer’s agent? How many agents are going to be inspired to show this seller’s house, when other sellers’ agents offer three percent to the buyer’s agent? Don’t think this slick maneuver doesn’t happen. **Remember: people are coin-operated. Don’t let a greedy agent short change the cooperating agent—and you. Put the exact commission split between listing and selling brokerages in the listing agreement.**

4. “Hide the Listing”: The idea here is, once again, to stifle competition for the property by playing “Hide the Listing”. Here’s how it works: First, the seller’s agent will put the listing into the Multiple Listing Service (MLS) computer system on a Friday afternoon, or even over a weekend (to avoid being fined by the MLS for violating rules regarding marketing the property while withholding it from the broker community). Then, the agent will hold an open house at the property on the weekend. Most of the broker community, who have eager buyer clients, will be caught unaware of the new listing. The listing agent will have an improved chance of finding a buyer to represent at the open house—or even a chance to “poach” another agent’s buyers who may be disgruntled because their agent was lax in informing them of this new listing—thereby “double-ending” the property before competition arrives. (Some agents will even wait until AFTER a weekend open house to place

the listing in the MLS—what’s a \$250 fine if they can double-end a deal, right?) By the following week, when most brokers and their clients find out about the listing, there might already be an offer on the table (which can discourage some buyers), or, if the agent is really lucky, the agent might get the property sold and cancel the open house. **Who needs more buyers when all you need is one? You, the seller, do.** Don’t put up with this subterfuge.

5. The Quick Sale: Part of the success of many ploys of greedy agents depends upon the quick sale. The idea is to lock up a deal, especially a double-ended deal, before other buyers with possibly higher offers materialize. Again, suppress the competition. You, the seller, lose, while your agent feathers his or her own nest. **Don’t be bullied or rushed by your agent.**

6. Bad Timing: A variant of the two ploys above is to follow a weekend open house with the brokers’ open houses, instead of having the brokers’ open houses first, then the public, weekend, open houses. Why? **The best way to foment buyer interest in a new listing is to expose the property to the broker community, give the brokers a chance to promote the property among their clients—even to send their clients to a public open house—and to announce that any offers may be reviewed at a date and time AFTER the public open house.**

Have your agent build momentum for your property. It’s what you’re paying a commission for. Also, review offers no earlier than the Monday afternoon following a week’s market exposure. You’ll be amazed at the difference in the number of offers—and the prices offered in today’s market. Anxious buyers who are serious will wait a reasonable amount of time—even if they whine a lot.

7. “Just Pick One”: If you are lucky enough, as a seller, to have more than one offer (“multiple offers”) on the table, count your blessings. So should your agent, but some agents hate to negotiate. “All that paperwork—just get it over with,” they must reason. “How many offers do you need to decide? Just pick one, and let’s open escrow.” Unless there is a very wide difference in the price and/or terms of the offers, i.e., one is overwhelmingly outstanding, it is much better to make counter offers to all the serious offers. You might be surprised at what some buyers will do when desire becomes compelling. **If your agent is too lazy to write up a few extra pages and make a few more phone calls, you need another agent. It’s YOUR money, after all, that is on the table.**

8. The “Numbers Game”: Nothing disappoints a person more than the surprise of a promise not kept. Many agents, to gain the listing, will over-promise and underperform—especially if the property sits on the market too long. They will also cut commissions to a point that, economically, there is no way that the agent could, or would, do all that was promised at the commission rate that was negotiated when the listing was signed. Remember what your parent told you: “You get what you pay for”. The discount brokerages—and agents who offer deeply discounted commissions—desire one thing: to sell lots of

properties **FAST** with as little effort and expense as possible. Aging listings are liabilities—or written off as losers and ignored by the listing agent. **To these brokerages and agents, real estate is not about personal service and fiduciary responsibility—it's just a numbers game.** Is this the kind of fiduciary you want on your side?

9. The Cheapskate: A variant of the “Numbers Game” agent above is the cheapskate. Even some rather successful brokers are loath to spend their own money when it comes to marketing their clients' listings. This is false economy for a seller. Timely promotion of the property while it is available for sale is critically important to receive top dollar. Ironically, many cheapskate agents spend lavishly on marketing materials **after** the sale is closed. “Just Sold” cards, and the like, serve no purpose other than to self-promote the agent. As a seller, it's better to **get a commitment from the agent as to what is to be done to promote the property while it is on the market.**

10. Hiring Your Mother's Friend's Cousin's In-law:

When you hire a Realtor®, you have many choices, both good and bad. **The best choice is to hire a local expert with a resume of successful sales, who has the best tools (personally and brokerage-wise), is professional and ethical—and with whom you would enjoy working.** Even the best agent, however, has limitations. Other things being equal, an agent with better local market knowledge and more availability for showings of a property would be a better choice to represent the seller of a house in Los Feliz, for example, than an agent in Orange County, or even in Beverly Hills—even if that agent is your mother's friend's cousin's in-law. **Keep sound business sense foremost. In summary, the watchwords in the current local real estate market are not so much “buyer beware”, more than likely they are, “seller beware”. For further details, please contact me.**