

Real Estate 101

(To become a smart buyer read all topics)

The Real Estate Industry

Topic Objective:

1. Provide home buyers an awareness of the illusions in the industry and why exclusive buyer brokers identities are not widely known by the masses.

Home buyers can not successfully purchase a home without understanding how the industry works. The sad fact is, most buyers don't identify the illusions they must deal with. When a buyer learns that most real estate agents will tell buyers what they want to hear instead of what they should be hearing that buyer has reached a stage of awareness that most buyers never reach. Real estate agents are trained to be sales people. The process starts with the first phone call or meeting at a house. The focus is always on the good features of the house or what all the agent will do for you. This focus keeps the buyer from seeing any undesirable features of the house. The agent's goal is to get the buyer interested and to quickly obtain a contract on the home. It is amazing how often these agent will inform the buyer that there is another offer pending. Oh, really? Do you wonder why?

While the history of the industry is interesting, what you need to know are the illusions. Most states have real estate laws that are quite similar. Therefore, this information will be general, applying to all states, however minor differences may exist. The National Association of Realtors (NAR) is heavily involved in the creation of laws. This involvement comes about through their leadership and funding (NAR has 1,000,000 plus members who pay dues of approximately \$80,000,000 annually.) Real estate associations at the state level with NAR's funding lobby for legislative changes which have a negative impact on all consumers.. Is this involvement good for the home buying consumer? Definitely not!

Every real estate broker and agent that wants access to the services of multiple listing services must be a member of NAR and their state association, there are some exceptions brought about by court cases. The millions of dollars paid in dues gives NAR and state associations power to control the industry. The control benefit's the major real estate brokers. Through out the country laws have been created which put home buyers at a disadvantage. These laws are driven by the desire of the brokers to want both sides of the commissions (listing and selling) the broker collects from the seller when a home is sold.

The history reveals that agents have always made buyers feel that they (the agent) was working for the buyer. A study conducted by the American Consumer Federation in the late 70's showed that 75 % of the home buyers thought the agent helping them find a home was working for them, when in fact they were legally bound to work only for the seller.

In the mid 80's a few real estate brokers started serving only buyers. These firms were known as exclusive buyer brokers. The major brokers knew this concept would be popular with home buyers and they began to push for legislation that would allow their firms to offer buyer agent service on in-house sales (this is when their firm list the home and also secures the buyer for the property.) The legislation created what has been classified as a

“designated buyer agent.” With this change also came a requirement that all agents must provide a “Broker Disclosure Form “ to a consumer prior to giving them any assistance or taking any financial information from the consumer. These forms were designed by real estate commissions and were to inform consumers that they have the option of using agents that represented the seller or an agent that represented the buyer.. The major problems with these changes were that the states would not include exclusive buyer agency as a choice on the disclosure. Thus there was the illusion that designated buyer agency was created to benefit the buyer. In fact it was a legal maneuver to allow the major brokers to continue collecting both the listing and selling commissions, with their agents claiming to be carrying out the duties of a buyer agent. When buyers are questioned about the service received from these agents, we learn that the agents are still carrying out the selling techniques they learned as agents working for the seller. The only enforcement of these regulations is what appears in document audits by state auditors.

Exclusive Buyer Brokers promote that they serve only buyers. To overcome this market advantage, the traditional brokers attempt to simulate exclusive buyer agency by using a state or association designed “Exclusive Buyer Agent Agreement” form. A review of many state forms and their Regulations reveal that these traditional brokers and their agents are fraudulently claiming to be exclusive buyer agents. Exclusive buyer agents are associated with brokers that do not list homes for sale. The Oklahoma Supreme Court has ruled against the Oklahoma Real Estate Commission in a case where the Commission was claiming that an exclusive buyer broker was fraudulently advertising their service, these were services that the major power brokers could not provide. The Judge also stated that an exclusive buyer agent could provide a higher level of service than a designated buyer agent, a dual agent or a transaction broker. In addition the Federal Department of Housing and Urban /development in their brochure “ABC’s of Home Buying” recommend that buyers secure exclusive buyer agents for service when purchasing a home.

While the two problems of lack of enforcement of brokerage disclosure and fraudulent exclusive buyer representation keeps many consumers from seeking services from true exclusive buyer brokers, there are other practices of the industry that create Illusions. Another control by NAR was the purchase of a business that was providing buyer agency training. While NAR has certified over 50,000 buyer agents, almost all these agents are associated with brokers that list homes for sale. This training has not taught agents how to effectively help buyers find defects or negative aspects of a home, buy the right home, address all concerns when preparing a contract, refer the right home inspector, be available to view problem identified by the inspector, and assist the buyer with shopping for and evaluating a home loan. What the training does teach the agents is how to avoid liability problems for themselves and their brokers. Therefore, you should be aware that hiring a certified buyer agent is not an assurance that you will receive the type of service that an exclusive buyer agent could provide.

One would think that NAR would not have any influence with the state real estate commissions. That is not the case, When you learn who the real estate commissions are you will know they have influenced the Governors . In Missouri all the commissions except one must be real estate brokers and the other member is the representative of the consumers. However, this member in Missouri is an attorney who just happens to represent several real estate firms. As a result of this commission make up, exclusive buyer brokers have not been able to get any proposals accepted. You are quite safe to assume that all state real estate commissioners are going to protect the brokers more often than protect the consumers. Because of the power of NAR you can also expect that these conditions are not going to change.

Self Evaluation on The Real Estate industry

1. NAR’s control of the industry affects home buyers by:

- a. protecting agents and brokers liability
 - b. creating legislation that allows listing agents to serve as designated buyer agents.
 - c. preventing exclusive buyer agency as an option on the Broker Disclosure.
 - d. all the above.
2. A designated buyer agent can provide buyer agency service:
- a. equal to that of an exclusive buyer agent.
 - b. as a level not equal to an exclusive buyer agent.
3. As a practice one can assume that real estate commissions:
- a. protect real estate brokers rather than consumers.
 - b. protect only consumers.

ANSWERS: 1. All the above 2. b 3. a