

## **Realtor VS "For Sale By Owner"**

"Why do we need a real estate agent? After all, an agent will charge thousands of dollars to sell even an average home, and that commission comes right off the top! Heck, with the Internet and all, we can do practically everything that an agent would do, so why should we pay out all that money?" Many home sellers have similar thoughts, and because so much money is at stake, these questions deserve some serious thought.

In today's world, the sale of real property is not just a marketing exercise; there are many legal issues involved which can create liability in the sellers. Of all the things you want and expect from selling your home, a lawsuit is probably not one of them.

Unfortunately, residential transactions have seen an alarming increase in the number of claims and lawsuits. Of these claims, the majority are filed against sellers, by their buyers. Home sellers who think they can "go it alone" might want to seriously ponder the observations of a lawyer who has defended many sellers and real estate agents against claims made by "the Buyers from Hell."

In most states, the process by which title to real property is transferred is rather complicated, and the typical home seller is not familiar with the many legal issues that can and do arise, even in a fairly simple transaction. Important decisions must be made concerning contract terms, escrow matters, transfer of title, apportionment of costs and any number of other matters. Also, bear in mind that a simple missing word, or a mistake in grammar can create a dispute which, in turn, can give rise to a lawsuit. Aside from the problem of drafting the contract language itself, sellers can face other dangers as well. For example, did you know:

- that buyers who look for "FSBOs" usually offer 6-10% below the price of comparable properties because they know you are not paying a commission?
- that there are substantial risks involved when a seller agrees to "carry back" a note from the buyer; risks that can cost you thousands of dollars?
- that your good credit rating can be ruined by your buyer's default, many months, or even years, after that buyer "assumes" your loan?
- that a clever buyer can stay in possession of your property for many months after he defaults on the contract, and in effect "live for free" at your expense?
- that most buyer complaints involve alleged damages of less than \$10,000, yet you could be forced to spend thousands in attorney's fees to defend such a claim?
- that alleged failure to disclose such things as previous repairs, insects, exact lot lines, and the presence of certain types of mold/fungus in the property are the source of many lawsuits against sellers?

In short, a lawsuit can ruin your whole day! Even if you know that the buyer's claims are completely bogus, it can take many months and many thousands of dollars to prove that you are "innocent." What's worse, you have no "malpractice" insurance to pay these bills; you will have to write all the checks yourself. And, of course, you could lose ... and losing a case like this can be disastrous. You and the buyer have a contractual relationship, and sellers who lose such suits can find themselves having to pay not only the amount of damages awarded to the buyer, as well as their own attorney, but they may also be ordered to pay the fees of the attorney who sued them!

Experienced, professional real estate agents understand these kinds of risks, and they can help you to minimize them in a variety of ways. They devote many hours to training and educational programs which emphasize risk reduction, and protecting their clients' interests. Now, there are any number of reasons why your buyers may decide to take action against you (sometimes, they just don't feel like making the payments any more). However, most of these complaints allege problems with the condition of the property, and/or representations made to them about the property or the transaction. An experienced agent knows how to reduce the risk of these types of complaints, by including effective "AS IS" and other clauses in the contract language, and by providing for such things as a professional home inspection, and a home warranty.

When a problem arises in the transaction, an experienced agent can move swiftly to "nip it in the bud." Their thorough understanding of the myriad facets of modern transactions can help them to identify the real problem, and to either solve it themselves, or by calling upon resources that the typical seller simply does not have access to.

There is no escaping it: the best way to deal with a complaint is to prevent it in the first place. The organized real estate community has spent a lot of time thinking about how to reduce the likelihood of claims, and has responded to this threat in a number of ways. For example, the standard contract forms that most agents use are chock full of language which can help protect you, and reduce your exposure to claims and litigation.

Of course, I don't mean to scare you with all this! But hey, it is a jungle out there. Indeed, I've only touched on a few of the pitfalls of selling your home on your own. Take it from someone who knows: selling your home without professional help is very risky business indeed. Yes, it costs money to employ a real estate agent, but if you find the right one, you will likely be able to sell your property faster, while at the same time reducing the chances that your buyer will come back to haunt you.

*(Source: <http://www.americanhomeguides.com/>)*