

15 Trade Secrets No Broker Will Tell You

By: JEANNE BARON, This Old House online



Photo: Andersen Ross/Getty Images

Brokers, Between the Lines

If you're an experienced homebuyer or seller, you probably already know this: Brokers aren't as loose-lipped as they appear to be.

Of course, they can tell you everything there is to know about the house, from root cellar to widow's watch. They will detail the square-footage to a fraction of an inch and tell you what might influence your home-improvement plan. They will even happily coach you through the home inspection process and offer you mortgage-securing strategies.

But there's a whole lot that they *won't* tell you—secrets of the trade that they wouldn't dare let a client know. Read on to learn just what brokers are saying to themselves—though never, ever to you.



Photo: Jupiterimages/Getty Images

"I Don't Work for You."

"Real estate agents do not generally represent the buyer," says Florida real-estate attorney Barry Ansbacher. "But buyers think they do."

When calling in response to a listing broker's advertisement or showing up at an open house, be clear on one thing: This person is employed by the seller of the home. That seller may be a private person or a corporate developer—and *they* are paying the agent's commission. "My clients will say 'I had a broker,'" Ansbacher says, "but the broker was not representing their interests."

If you want to be sure you've got a pro looking out for you, enlist a buyer's broker. This type of agent signs on to work exclusively for you in whatever deal you may strike, and can help you through the buying process, from search to offer to contract to closing.



Photo: Jupiterimages/Getty Images

"It's My Party."

An open house at an available home may seem to take place for the purpose of recruiting serious buyers, but these receptions are not really for the seller—they serve the agent's long-term plan.

"Most people who show up are 'tire kickers,'" says John Kavaller, an agent with Catskill Sales Associates Inc. in upstate New York.

"People turn up to get a sense of the market or the neighborhood, but they are not ready to buy." They tend to sign in, tour the place and then take off with the agent's business card in hand.

The agent makes an effort to keep in touch with these some-day buyers, in hopes of closing a deal down the line.



Photo: Elenathewise/iStockphoto.com

"My Commission Is Negotiable."

Turns out, that standard 6-percent commission isn't so standard after all. Haggling over commission is a regular practice.

Kavaller says the broker commission is "absolutely negotiable on a case-by-case basis. On a one million dollar property we might be willing to drop a whole point."

Looking for a listing agent? Bargain—up front—with prospective brokers regarding their take. Offer a commission that's hefty enough to give the agent an incentive to work hard for you, but don't feel tied to 6 percent. Especially if you believe your home will be an easy sell.



Photo: PhotoAlto/Eric Audras/Getty Images

"My Big Agency Isn't More Competent—Or Less Costly."

Boutique firms market themselves against biggie rivals by carefully choosing the listings they proffer, offering buyers personalized attention and, more and more, by offering sellers representation at a lower commission. This is especially true in large cities, where the competition is fierce.

Brooklyn real-estate lawyer Howard Brickner says that, in New York City, "the big boys are really holding to the 6 percent. They have a wide net and first-rate marketing on their websites—and you pay for it."

Smaller firms may not have the famous name or slew of exclusives, but they upload their listings to the MLS just like everybody else. And, Brickner says, they're ready and willing to do some fee dickering. So if the cost of selling your apartment rubs you wrong, consider a little guy.



Photo: Ghislain & Marie David de Lossy/Getty Images

"You're Going to Butt Heads with the Zoning Board."

Don't expect an agent, unless they are your friend or otherwise a true ally, to warn you about zoning pains that await you if you buy this property. If you have your heart set on making changes to the place, do your homework carefully and master the zoning maze yourself (or pay a lawyer to untangle the red tape). Anything from a riverside dock or new addition, to a tree house or even a fence, could be governed by conservation easements, right-of-way stipulations or other zoning regulations. That expression, "We'll cross that bridge when we come to it," does not apply here, unless you are exceedingly flexible.

"Beware of the real estate agent who says, 'You can do anything you want to this place, all it takes is money,'" says Delaware County, New York, broker Ron Guichard. Municipal authorities and homeowners associations are the places to start to get the information you need.



Photo: Ron Chapple/Getty Images

"You Saw Them First."

Somewhat widely known but almost never offered up to the inexperienced seller by an agent is that fact that you can BYOB (Bring Your Own *Buyers*, that is) to the table, and get around paying a commission if one of them comes through.

But you need to negotiate this up front, before you've signed on with the agency. "Disclose any legitimate buyers you have found on your own before hiring the broker," says Memphis real estate lawyer John B. Philip. You will need to do this in writing, as a component of the contract they ask you to sign. If you sell to one of the individuals named in the clause within whatever time frame you negotiate, Philip says, "You will owe the broker nothing."



Photo: Chris Ryan/Getty Images

"My Inspector Doesn't See So Well."

Every real estate salesperson has a home inspector up her sleeve. "Some un-scrupled agents," upstate New York broker Guichard says, "recommend inspectors who are content to catch small problems and ignore big ones." In fact, home inspectors, as well as those who detect and treat mold and termite problems, consistently complain on Internet forums that they are black balled by brokers if they reliably find and expose problems—despite their own fiduciary responsibilities to their clients.

If you are a buyer, select your own independently recommended, licensed inspectors to go over your prospective purchase with a fine-toothed comb. Seek out experts who know how to recognize problems and can advise you on what it will take to fix them.



Photo: Image Source/Getty Images

"You Can Sell this House Yourself."

FSBO, the more and more familiar acronym that stands for "For Sale By Owner," works. Sellers with the stamina to create a marketing plan, list a house online, field possible buyers' responses, arrange showings and see a deal through to closing can save a bundle by putting the cash that would have covered the agent's commission directly into their pockets.

Brooklyn's Brickner says, "There is a lot of savings to be had. Now with Craigslist and other Internet sites, it's easier than ever before. But it takes a certain kind of person to deal with the minutiae of trying to sell a piece of property." Just not always the *broker* kind of person.



Photo: Ryan McVay/Getty Images

"I'm a Secret Agent."

For some real estate professionals, unfortunately, FSBO stands for "Flag, Stalk, Bully and Outsmart." If you are listing your property on your own, be clear that you are open to direct sales only by punctuating your ads with the phrase, "No Brokers, Please."

Beware of agents who will call you anyway, pretending to represent a buyer. They may be—but more likely they are looking to get their foot in the door and convince you to list the house with them.

Another salesperson gambit is to undermine your confidence in your ability to competently do the deal. An agent will tell you the house is priced too low, then promise that he can do better. Hire an appraiser at the beginning of the process and you will price your house right.

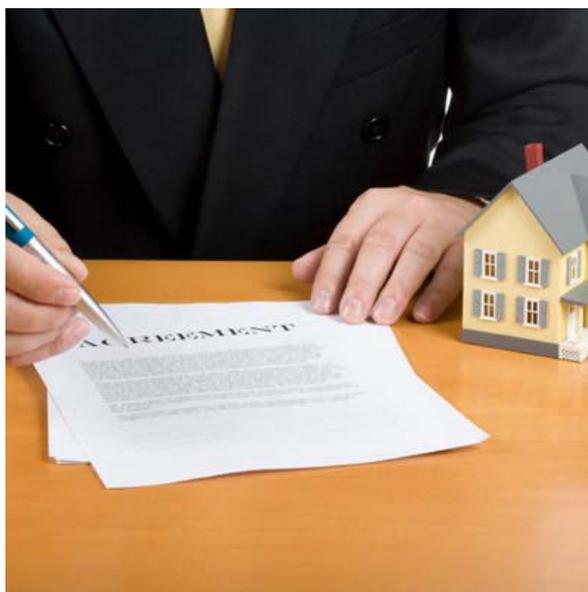


Photo: ericsphotography/iStockphoto.com

"You'll Screw Yourself by Signing This Contract."

In much of the country, real estate brokers provide a form document for both buyers and sellers to sign when a sale goes into contract. These printouts often include a provision known as a Disclaimer of Promises, which states that the buyer is not relying on any verbal statements of the seller or real estate agent. "In reality," Florida attorney Ansbacher says, "the buyer typically relies almost exclusively on such promises."

Ansbacher says the cost of getting a lawyer, usually around \$500, onboard to review a contract before you sign it is a sound investment. In addition, he suggests, "Get everything in writing as an addendum to the contract (i.e. all pool equipment is included, seller will repaint the walls), or independently verify all promises (i.e. call the zoning board to confirm that zoning will allow the home to be expanded)."

"One the biggest things I hear when I am litigating a dispute," he adds, "is that the buyer is confused as to why they were not better protected by the contract." A buyer's broker is one more person who you can enlist to watch your back in this sort of scenario.

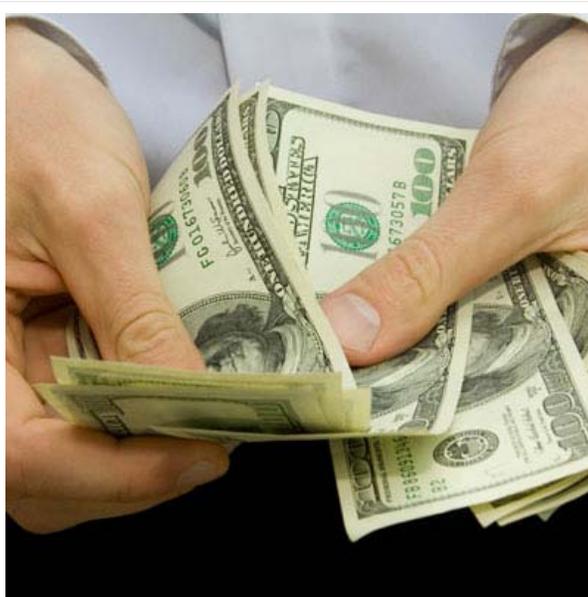


Photo: AlexKalina/iStockphoto.com

"I Favor the Fast Money."

What's better to a broker, a dozen percolating sales at \$300,000 each or four potential \$900K deals? You might suppose that fewer transactions would be sweeter—less paperwork, after all—but since any given sale can fall apart, most salespeople prefer volume to price.

And so, while many agents are serious in their promise to get you the top payoff possible, it is not necessarily in their interest to wait for the very best offer. "When listing agents are competing for your business, they will talk about your lovely house and the high price they can get," says Florida lawyer Ansbacher. "Once they have you signed, that's when they mention the old roof and tell you to drop your price for a quicker sale." Here again, paying for an independent appraisal is money well spent. Set a solid asking price and tell your broker you'll sit tight.



Photo: jamirae/iStockphoto.com

"That Warranty Is Worthless."

Developers, and the agents who represent them, may offer warranties on new home construction. Ansbacher, the Florida attorney, says buyers are foolish if they find much comfort in such guarantees. "The definition of a 'defect' in those warranties," he says, "is so carefully worded" that most claims end up null and void. Beware the standard contract for any new development you are considering buying into.

All builder contracts include a waiver of right to sue, which means you-know-who will bear the cost of repairs for shoddy construction. Get your own lawyer to pinpoint that pesky clause and negotiate it out of the contract.



Photo: Ghislain & Marie David de Lossy/Getty Images

"I'll Fly Solo—At Your Expense."

In most states, a broker has a legal obligation to inform a seller about each and every offer that comes in on a listing—unless a seller declines their right to such communication, opting to be informed only of offers that total a certain percentage of the asking price. Still, a competitive bid can sometimes fall through the cracks, especially if it would require a listing agent to co-broker the deal. It's always in a salesperson's best interest to put forward an offer from an unrepresented buyer before one who is working with a buyer's broker. The second agent, after all, is in a position to split the commission.

"A broker could be fined or lose their license for such an abuse, but it's not so easy to discover the misdeed," says a seasoned anonymous real estate lawyer.



Photo: Peter Dazeley/Getty Images

"Those Lawyers Charge a Lot."

A number of fees are attached to the home's closing, or final sale. These items vary from state to state, but one of them, the insurance on the property title, is often costly—and can be negotiated on with your lender. Brokers are unlikely to mention your right to negotiate, since at this point in the process they're just thinking about their paycheck.

In some places, "as much as 70 percent of the cost of title insurance represents a commission paid to lawyers or title agents handling the documentation," says Florida attorney Ansbacher. The buyer or the seller may be expected to kick in on these costs; whichever you are, find out if you're responsible, and instruct your own lawyer to push for a lower commission.



Photo: GSO Images/Getty Images

"You're a Greedy Bloodsucker!"

You're in the market for something mansionesque, and you're looking for a major deal—it being a buyer's market, after all. Rest assured, the listing agent is not cooing compliments behind your back. One veteran broker from Fairfield County, CT, says high-end bidders—especially ones that are young, cocky and clueless to the pride that comes with home ownership—are ruthless and unrealistic. "They want to draw blood from the veins of the seller," Barbara Schmerzler, a lead broker with U.S. Homefinders. "They are waiting for the bottom of the market, which has already passed them by."

Copyright © 2011 Time Inc. All rights reserved. Reproduction in whole or in part without permission is prohibited.

AMERICA'S MOST TRUSTED HOME IMPROVEMENT BRAND