

Real Estate Ripoff

You could save big selling your home -- if only the brokers would let you.

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Blacklisted

Last fall, Marjorie Deprez decided that she didn't need a traditional real estate broker to sell her Chappaqua, New York, home. After all, she had bought the house as an investment and wanted to maximize her profit any way possible. So she paid an online discount broker a flat fee of just under \$1,000 to list her home on the Internet.

Deprez would handle everything else. She'd pay the buyer's agent a 2.5 percent commission but save on the usual seller's commission -- in this case, about \$25,000. Smart idea, except when she held an open house for brokers, only a few showed up. When Deprez joked with one of them that she'd been blacklisted, the agent replied, "Who told you?" To Deprez's amazement, she was then informed that a local real estate executive had been calling brokers and urging them not to show her house.

Sure enough, Deprez got very few nibbles, even though her house was priced to sell quickly. Frustrated, she finally took her home off the market.

"It was an organized boycott," says Deprez, who reported her experience to the New York Attorney General's office. Put another way, it was a case of insiders rigging the system to protect their sweet deal. In a traditional home sale, the brokers for the buyer and seller split a commission that usually amounts to around 5 to 6 percent of the sale price. This broker fee doesn't just hit the seller's wallet; the buyer pays more because the commission gets built into the price of the home.

Without question, many sellers are quite willing to pay those commissions, since they want to benefit from services ranging from promoting and showing the property to negotiating the sale. "You also get an arbiter -- someone who can help a husband and wife agree on what price to set and which bid to accept," says Barbara Corcoran, owner of a prominent real estate firm in Manhattan.

Still, plenty of homeowners are eager to reduce their costs by using Web-based discounters to cut out the middleman -- a formula that has worked for sales of books, stocks and travel deals. But some traditional brokers have found a way to resist this threat.

Nothing is more important to real estate cartels than controlling the Multiple Listing Services (MLS), the databases of homes for sale. Real estate websites often allow homebuyers to peruse local MLS listings on the Internet. Yet they sometimes censor or omit listings sponsored by a discount broker. And many established real estate agents won't

allow their own listings to appear on a discount broker's site. That spiteful move led the U.S. Justice Department to sue the National Association of Realtors (NAR), the industry's ultra-powerful lobbying group, for allowing members to discriminate against Web-based brokers. (The Justice complaint is expected to take years to resolve.)

Biased Laws

And that's not the only tactic real estate brokers are using against their lower-cost rivals. In 2005, Utah passed a law requiring brokers to provide certain minimum services to consumers. The law defined their business in a way that would keep discount competitors out of their lucrative market. So to qualify as a broker in Utah, you're now required to present sellers with all offers and counteroffers as well as help with price negotiations -- services that discount brokers often don't provide.

It was like requiring Burger King to have waiters. Pay for waiters -- or real estate agents -- if you want the service, but why mandate it? This logic didn't matter since the mainstream brokers had friends in high places. Fully 22 of Utah's state legislators were also real estate brokers. One of the state senate's most powerful members also happened to be president of the NAR. And many others had recently been greased by more than \$400,000 in campaign cash from brokers. You can guess what happened next: The bill sailed through the legislature and was signed into law.

At least six other states have passed similar laws -- Alabama, Illinois, Indiana, Iowa, Missouri and Texas. In some cases, legislators ignored warnings from the Justice Department's antitrust division that the laws could hurt consumers.

According to the NAR's Steve Cook, "The intent is to make it easier for consumers" -- for instance, by ensuring that people don't wind up getting burned trying to tackle a complex transaction without professional help. Realtors provide a human touch that "a computer just can't provide," Cook says.

The risks may be more illusory than real, however. "We've yet to see any evidence that consumers have been harmed" by using discount brokers, says James Cooper, an attorney for the Federal Trade Commission. The only sure thing is that the agents are doing a pretty good job of protecting commissions that totaled \$61 billion in 2005 alone.

The industry's muscle is no surprise when you consider that the NAR contributed more money to candidates in federal elections last year (almost evenly split between Democrats and Republicans) than any other donor, even ahead of the trial lawyers and teachers unions. In fact, the NAR has been the biggest donor to these campaigns every year since 1997. At the state level, the National Institute on Money in State Politics says the real estate industry contributed \$43 million to campaigns in 2006.

It helps, too, that the brokers often "regulate" themselves. A recent study of 47 states by the Consumer Federation of America found that 70 percent of all real estate

commissioners are also real estate brokers or salespeople. In fact, more than two-thirds of commissioners nationwide are required by statute to be real estate salespeople, brokers or licensees.

Glenn Kelman, CEO of the low-cost brokerage Redfin.com, says 63 percent of his customers have reported meddling from other agents, including one client who sat on the floor and cried after getting a hostile phone call from an angry broker. Kelman says his own home address was once posted on the bulletin board of a broker website, and that a message on the board mentioned a company that sounded like his, and read: "Don't you think someone ought to go over there and break his kneecaps?"

If anything needs breaking, it's the real estate cartels. No one says that brokers can't make a buck like everyone else. But they shouldn't be allowed to rig the system at our expense.

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