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Home Buyer, Beware

Desperate sellers are paying brokers supersized commissions, which get incorporated into the price ultimately paid by buyers

by [Peter Coy](#)

Ever wonder why a real estate agent seems to be steering you toward a certain house? The agent just might be in line for a jumbo commission or bonus from the owner if he or she manages to sell you that particular property. As the housing market continues to soften, some desperate sellers are offering outsize incentives to influence buyers' agents.

While the typical commission for a broker who works with a buyer is 2% or 3%, outsize commissions are becoming more common. There are 10% commissions on luxury condos in Miami and even a 20% commission on a house in Atlanta. The result can be a strong financial incentive to push a certain home. A 10% commission on a \$500,000 property means \$50,000 for the buyer's broker, instead of the \$15,000 the broker would get with the standard 3% commission.

There's nothing wrong with incentives, even sizable ones, if they're disclosed and buyers fully understand what's motivating the agents who are showing them around. But in many states disclosure is poor or inconsistent. In Arizona, for example, brokers who show houses are encouraged to sign agreements specifying how they're compensated. But the agreements aren't required.

THE SKY'S THE LIMIT

Also, they can be signed after someone has already fallen in love with a home and isn't looking at the fine print. And the compensation can be explained as generally as, "3% and up," meaning the sky's the limit. Add it all up, and, "I don't have to disclose to you how much I'm getting paid," says Realtor Greg Swann, the designated broker of BloodhoundRealty.com in Phoenix, who says he voluntarily imposes stricter rules on his own agents. By offering extra-high commissions without informing customers, he says, "the builders are trying to bribe me to sell their houses."

Diane Scherer, CEO of the Phoenix Association of Realtors, says the association has a strict code of ethics and anyone who believes it's being violated can ask for an investigation.

Even though commissions are technically paid by the sellers, ultimately they come out of buyers' pockets, because sellers incorporate them into the sales price. And sellers aren't anxious to publicize the large fees they agree to pay with buyers' money. In Phoenix, for example, one "builder closeout special" is on the market for \$550,000, with a buyer commission of \$75,000. That's nearly 14% of the purchase price. The ad also says, "This is a Professional Real Estate Communication. Do NOT Forward to the General Public." (To shield the parties involved, the person who sent this ad to a blog deleted the advertiser's name and address.)

WASTE OF MONEY?

Homebuilder Pulte Homes ([PHM](#)) has recently run ads offering a three-day, two-night vacation for two at the Ritz

Carlton in Naples, Fla., including airfare and rental car, to any real estate office that sells three Pulte Homes by the end of 2006. This, of course, is instead of simply cutting the price of the home, which would benefit the consumer, instead of his agent. Pulte did not immediately respond to messages Dec. 14 requesting a comment on the promotion.

From the homebuyer's perspective, the worst kind of agent incentive is the one that's contingent on a full-price offer. In other words, your agent won't get the bonus if he or she negotiates as much as a penny off the asking price. Yet the incentives are commonly advertised on Multiple Listing Services, generally in a comment space that is not visible to the general public.

Some buyers' agents say paying big commissions is a waste of sellers' money because home buyers can't be fooled. Agents who try to steer their clients toward overpriced houses just to get a bonus will end up alienating their clients and wasting a lot of their own time, says Frank Borges LLosá, owner of FranklyRealty.com in Arlington, Va. But others in the industry say that incentives can work as long as the properties that the agents are favoring aren't wildly out of line with others on the market.

POWER SHIFTING TO BUYERS

Commissions paid to buyers' agents are supposed to be reported on the so-called HUD-1 settlement statement that buyers sign at closing, but many buyers overlook the numbers in the flurry of paperwork, or feel that it's too late to renegotiate. And there's no requirement at all for buyers' agents to report noncash compensation such as Florida vacations.

Advice to consumers: Start with the assumption that the nice person showing you around is not your ally. Ask up front how much the person would be compensated if you bought a place. If possible, sign a buyer-broker agreement before you start looking at houses. This guarantees that the agent is working solely for you. Specify in the agreement how much he or she will be paid, either as a percentage of the sales price or, best of all, in a flat fee, such as \$5,000 or \$10,000. Then, if you like a house that happens to have a bonus involved, your agent can ask to have the value of the bonus knocked off the price of the house.

In today's slow market, buyers have the potential for more power than they've had in years. But if you don't know how the game is played, you can still get fleeced.

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