

How to Protect Yourself: Real Estate Brokers

Source: Florida Attorney General's Office

If you are planning on purchasing or selling your home, you may want to use the services of a real estate broker. There is no legal requirement that you must use a broker, but many consumers do. Before selecting a broker you should consider the following:

When choosing a broker to sell your home, interview several and ask the following questions:

- What are the current prices for a similar home?
- What would be an appropriate price to ask for my home?
- What is your commission? Will your commission remain the same if I find a buyer, if there is no need to split the commission or if you cannot sell my home within a specific period?
- How long do you estimate it will take to sell my home?
- What steps will you take to advertise my home? Will you place my home on the Multiple Listing Service (MLS)? Will you post my listing online and on mobile apps?
- Will you provide the names of former clients, so that I can call them for a reference?
- Will you arrange for an "open house"?

Understand the two basic contracts that engage the services of a broker.

Before signing any contract be sure you understand the terms and conditions. If you are uncertain or concerned, you may want to consult with a real estate attorney.

- **Exclusive Right to Sell Contract** – The first type of contract is an exclusive right-to-sell contract. If you enter this contract the seller is obligated to pay the broker a commission if a purchaser is found. Even if you find a buyer yourself, you must pay the broker his or her commission. Most brokers favor this type of contract. If you know of someone interested in purchasing your home, you may want to place a "reserve clause" in the contract. The "reserve clause" would allow you to sell your home to that individual without having to pay a commission.

- **Exclusive Agency Contract** – The second type of contract is an exclusive agency contract. In this type of contract you will not pay a commission if you locate a buyer. However, there may be some restrictions on using the MLS. A broker may not want to enter this type of agreement because it is not as favorable to them as an exclusive right-to-sell contract. If they do enter this contract you may not get the highest level of service. All contracts have a beginning and ending date. If you do not sell your home within the dates of the contract, you may want to choose another broker after the contract expires.

Understand the costs of buying a home through a broker.

Even real estate brokers chosen by you to help you locate a home may represent the

seller. According to most Multiple Listing Services, a broker helping the buyer locate a home is actually working as an agent of the seller's broker. Therefore, they represent the seller rather than the buyer. Before disclosing confidential information, such as your top offer, be sure the broker is not going to share that information with the seller. There are some brokers that only represent buyers. They owe their allegiance to the buyer. There may be a fee involved for this service, in addition to their commission. Make sure you understand what financial obligation you owe the broker before entering into any agreement.

Know that brokers are licensed by the state.

Real estate brokers and salespersons must obtain a State of Florida real estate license. The Florida Real Estate Commission (FREC) administers and enforces the real estate license law and is a division of the Florida Department of Business and Professional Regulation. The FREC can provide information as to the status of the license of a broker or salesperson and can provide information about any past or present disciplinary actions. Contact the FREC at (850) 487-1395.

File a complaint.

Should you need to file a complaint against a broker, you may contact the Florida Real Estate Commission at (850) 487-1395. Additionally, you should file a complaint with the Attorney General's Office online at www.myfloridalegal.com or by phone toll-free at 1-866-9-NO-SCAM.

You may also file a complaint with the Florida Department of Agriculture and Consumer Services, which acts as the State's consumer complaint clearinghouse, at www.floridaconsumerhelp.com.