

By Carl Medford, CRS

Special to the Forum

A Realtor grabbed me the other day for my opinion. Seems he'd shown a buyer client a number of homes, written many offers and been unsuccessful every time. He and his buyer were understandably frustrated. The current market is exceptionally volatile — hundreds of buyers are trying to purchase tens of listings. The math simply doesn't work. What he said next, however, caught my ear.

"My client," he informed, "Just saw a house he loves. He's asked me to write an offer. And..." he added, with frustration, "He also called the listing agent to see what he needed to do to get his offer accepted."

Desperate times breed desperate tactics.

In reality, it's not kosher for a buyer with an agent to contact the listing agent directly to try to participate in the negotiations. Ideally, each party has their own separate agent and there should be a "wall" of agents between the two parties.

The agents are there to represent only *their* client: to negotiate for them, protect them, ensure the transaction goes smoothly and doesn't end up in court.

In reality, when you talk to an agent, you're establishing an agency relationship with them. In real estate, by law, agency relationships have to be very clear. There are numerous documents used in every property purchase that define agency relationships.

When a buyer tries going around their agent and negotiating directly, they're violating the agency relationships in place for that transaction (*for more information, visit rebac.net/descriptions_of_agency.cfm*).

Other desperate buyers have concluded that the only way they're going to get a home is to bypass a buyer's agent and go directly to the listing agent. This trend occurs every time the market heats up and is fraught with potential issues.

The last time we saw a market like this was in 2004-2005. Many buyers went direct, resulting in the largest number of agency-related lawsuits in recent history.

There's an irony to this: So many buyers are currently trying this tactic that many listing agents are being asked by numerous buyers to write offers on the same listing. When this happens, there's absolutely no advantage at all and significant risk of a lawsuit.

While it's totally understandable that desperate buyers are trying anything they can to get a home, the maneuvers they're using may come back to haunt them. In the end, they might have a house but, in reality, wind up in court as well.

Carl Medford is a licensed Realtor with Prudential California Realty in Castro Valley and a licensed general contractor. This article is sponsored by the Central County Marketing Association at www.ccmgtoday.com.

Current Market Produces Inappropriate Maneuvers

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