

**The New York Times**  
Reprints

This copy is for your personal, noncommercial use only. You can order presentation-ready copies for distribution to your colleagues, clients or customers here or use the "Reprints" tool that appears next to any article. Visit [www.nytreprints.com](http://www.nytreprints.com) for samples and additional information. Order a reprint of this article now.

MARTHA

September 15, 2011

# The Buddy System, or the Buyer's Broker

By SUSAN STELLIN

IN this do-it-yourself era of online real estate listings, it is easy to find out what is on the market, visit open houses and even research sales data to come up with a reasonable price to offer for a home.

So why should a buyer bother using an agent?

In a nutshell: to protect his or her interests in an expensive, often complex purchase that can become even more complicated by the labyrinthine co-op approval process in New York City.

A buyer who relies on the seller's agent to handle both sides of the deal may not hear about problems with the apartment or the building, or have a real advocate during contract negotiations.

"When you work with a buyer's agent, their fiduciary responsibility is to you as a buyer," said Walter Molony, a spokesman for the National Association of Realtors. The organization has helped establish state laws that require clearer disclosure to consumers about which party in the transaction an agent represents.

In New York, real estate agents must have clients sign a disclosure form that explains the difference between a seller's agent, who provides undivided loyalty to the seller, and a buyer's agent, who represents the buyer's interests. A dual agent can represent the buyer and the seller, but both parties must consent to the arrangement and acknowledge that they are giving up the benefits of exclusive representation.

"Obviously if you're representing a buyer and a seller in a transaction," said Neil B. Garfinkel, the residential counsel to the Real Estate Board of New York, "you can't have undivided loyalty."

A dual agent can maintain each party's confidence, Mr. Garfinkel said — for instance, by not disclosing to the seller that the buyer just received a big bonus check, or by not telling the

buyer that the sellers are divorcing and want a quick sale. But things get murky when it comes to negotiating a price or discussing a home's flaws.

"Perhaps it's a defect in the property or potential financial issues in the building," said Gea Elika, the founder of Elika Associates, a real estate agency that works exclusively with buyers. "Or maybe the resale potential is terrible. Buying a home is an emotional thing, so buyers may not see what's wrong."

When the market was booming, it was sometimes difficult for buyers to find a broker to show them properties unless they had millions of dollars to spend. That is because properties were selling so fast that agents preferred working with sellers rather than buyers who might take months to make up their minds. But agents say that with listings taking longer to sell, there is generally more willingness to work with buyers.

Noah Rosenblatt, the founder of the real estate data site Urban Digs, is among the agents who focus exclusively on the buy side of the deal.

"The buyer clients who come to me tell me that they're not interested in someone to show them what's on the market," Mr. Rosenblatt said. "Once they find a property they like, my services really kick in at that point."

Those services include providing a market analysis, evaluating comparable sales, coming up with an offer based on the value of features like outdoor space, and handling the back-and-forth of negotiations and contract terms. The role of a buyer's agent may also involve preparing a co-op board package and navigating speed bumps that can derail deals, like delayed seller responses to a bid.

"I would not allow my client's offer to be used as leverage by a seller who might be entertaining two or three other deals on the side," Mr. Rosenblatt said. "I would put a deadline on the offer."

A common uncertainty is at what point a buyer should start thinking about bringing an agent into the picture. Many savvy shoppers are happy to visit open houses on their own, and many even acknowledge, when signing visitor's logs, that they are not working with an agent. But brokers recommend finding a buyer's agent before making an offer or scheduling an appointment for a second viewing.

---

Engaging a buyer's agent later in the process opens up the potential for a dispute over whether the new hire is entitled to a portion of the selling agent's commission. Also, by this

point in the proceedings, a buyer may have chatted too much with the selling agent, revealing information that could influence the outcome of the deal.

“You may have already lost your negotiating power because you’ve already told them what you’ll spend,” said Kimberly Kahl, the executive director of the National Association of Exclusive Buyer Agents.

Although the seller typically pays the agents’ commission, that fee comes from the purchase price of the home — in other words, out of the buyer’s pocket — so buyers who think they have no financial obligation to an agent are deluding themselves.

“You’re paying for it,” Ms. Kahl said. “You might as well hire someone to represent you.”

Some buyers worry that if they work with a buyer’s agent, their offer may be less attractive to the seller, whose fee to his own agent could be smaller than the full 6 percent if that agent represented the buyer too. In many cases, the listing agreement stipulates a 6 percent commission if the deal is split between brokers and a 5 percent commission if the listing agent represents both buyer and seller.

But with financing tight and qualified buyers scarce, Mr. Rosenblatt said, for the seller to be swayed on this issue, he would have to receive two very similar offers, with similar terms and financing conditions, and both buyers would have to have similar appeal to a co-op board.

“How often does that really happen?” Mr. Rosenblatt asked. “It happens, but the stars do not align that perfectly often enough that it’s something buyers should be paranoid over.”