Legal Matters®

Real Estate
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How home selling has shifted in the past decade

If you haven't sold a home in the last 10 years, you might be surprised by how much trends and expectations have changed over the years. Here are some leading factors changing the home sale market today:

Real estate sites: More than 90 percent of homebuyers use the internet as one of the primary ways to find a home, according to the National Association of Realtors (NAR). With the popularity of online tools like Zillow and Realtor.com, many buyers are searching the market on their own and narrowing their preferred selections before they speak to a real estate agent.

Photography matters: With most sellers searching online, high-quality photos are critical for capturing buyer interest. For many people, their first point of contact with a house is through the internet.

Staging: HGTV has shifted people's expectations about what an ideal home looks like. Various industry studies suggest that staged homes sell more quickly and for more money than those that aren't.

According to a 2019 NAR survey, more than half of sellers' agents say staging decreases the amount of time a home spends on the market.

Similarly, 44 percent of buyers' agents report that staging a home increased the financial offer on a home. A quarter (25 percent) say staging a home increases its dollar value up to 5 percent, and 12 percent said that it increases the dollar value up to 10 percent.

Move-in ready: According to a RE/MAX Brokers Report, demand for move-in ready homes is increasing. Buyers are willing to pay more for a home that doesn't need any renovation.

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For some homebuyers, the motivation is a financial one. As down payment standards have increased, buyers don't have a lot of discretionary cash to make renovations after the purchase.

It's sometimes easier to finance a move-in ready house through a mortgage than to get a home improvement loan after buying a fixer-upper. Plus, due to skilled labor shortages, some homebuyers recognize that getting renovations completed could be a struggle.

As a result, some real estate agents are urging homeowners to invest more on home improvements prior to a sale. Consult with an agent to decide how much investment is worth making before you sell.

Home-flipping seminars under scrutiny


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Have you heard those radio ads for house-flipping seminars endorsed by HGTV stars? Did the sales pitch sound too good to be true? The Federal Trade Commission (FTC) thinks so.

The FTC filed a complaint against Zurixx, a company that hosts real estate seminars endorsed by "Flip or Flop" stars such as Tarek El Moussa and Christina Anstead and "Love It or List It" host Hilary Farr, and others. According to the FTC complaint, Zurixx makes a number of claims that are "false" or "unsubstantiated."

In promoting free seminars, Zurixx says its team of experts will teach consumers how to make money with their real estate investment system. The use of celebrity endorsements, and the careful wording of the ads, leads many seminar attendees to believe the HGTV stars will be part of the training.

But the free events turn out to be little more than high-pressure sales pitches to get people to buy paid workshops. According to the FTC, Zurixx repeatedly tells consumers they "are likely to earn thousands of dollars in profit, often with little risk, time, or effort," and that "consumers who purchase the workshop will receive 100 percent funding for their real estate investments regardless of their credit history."

The complaint also suggests that Zurixx refund claims are misleading. Consumers are told they can receive their money back if they do not make a minimum of three times the price of the three-day workshop within six months.

Customers report that the refund requirements are onerous and aren't adequately disclosed beforehand. Moreover, to receive a refund, consumers must sign away certain rights.

According to the complaint, "When Zurixx agrees to refund consumers' money, it routinely provides only a partial refund, which in many instances, Zurixx conditions on the consumers signing an agreement barring them from speaking with the FTC, state Attorneys General, and other regulators, submitting complaints to the Better Business Bureau, or posting negative reviews or complaints about Zurixx and its products."

The complaint does not bar Zurixx from conducting business operations. An inquiry is under way.

Will home equity affect financial aid for your college student?

With home values rising and college application time upon us, you may want to look at how home equity could impact financial aid decisions at your son or daughter's school of choice.

Nearly every school requires families to complete the Free Application for Federal Student Aid (FAFSA), which asks for basic income and asset information. However, more than 200 institutions nationwide also require the College Scholarship Service (CSS) profile to determine aid. The CSS questionnaire includes specific questions about home value and equity.

The website Edmit.me features a free "home equity financial aid calculator" to help you determine how a particular school would view your situation.

According to Edmit, home equity is generally assessed at around 5 percent, meaning you can expect 5 percent of the total value to be added to the expected family contribution. That means a $150,000 asset could reduce your financial aid package by $7,500.

However, schools that use the CSS profile do look at equity differently. Stanford requires the CSS but announced it will no longer consider home equity. Meanwhile, Cornell limits home equity to 1.5 times the household's adjusted gross income. That means a family with $400,000 in home equity and $150,000 in income will have their home equity calculation capped at $225,000 ($150,000 x 1.5).

Consultants say you can appeal financial aid calculations. Check with your school to determine the appropriate channel and then outline any circumstances, such as rapidly inflating home values, that may be skewing your perceived need for financial aid.

Colleges that factor home equity into financial aid packages seem to assume that parents will borrow against that equity to help fund their child's education. But the Tax Cuts and Jobs Act eliminated interest deductions for home equity loans, potentially reducing a family's incentive to do so.

Challenging a quitclaim deed

The next-door neighbors convinced your aunt to sign over the deed to her house. Your stepfather's long-lost son came to visit and walked away with a quitclaim deed to the family cottage. What do you do when you suspect someone did something "fishy" to get his or her name on a deed?

A quitclaim deed is a legal tool that allows one person to release the interest they have in a piece of property. In most states, quitclaim deeds are difficult to overturn. To do so, you need to be able to prove the document was invalid in some way, that the signer was incompetent or that someone exercised undue influence to compel the person to sign.

Notarization: In order to be recorded in the register of deeds, a quitclaim deed must have been executed before a notary public. The notary's job is to ensure the signatures are valid and that the signatory appears to be acting freely and voluntarily.

The notary should not notarize a deed if he or she has "compelling doubt" about the signatory's understanding of the transaction. However, the notary is not responsible for making any judgments about the legality or accuracy of a deed.

If the quitclaim deed hasn't been notarized, then it isn't official and can't be filed with the local recorder's office. Note, however, that once a quitclaim deed is notarized, it is still considered legal even if it isn't filed.

Undue influence: Challenging a deed often involves suspicion of undue influence. That suggests that the signatory to a deed has been improperly coerced. It could be that the beneficiary threatened the signatory or otherwise manipulated them.

Proving undue influence can be a challenge. Cases typically require medical records and experts who can testify as to the victim's mental state. Because family members may not discover the deed transfer right away, it may be necessary to look back at records that are many years old.

Mental capacity: Similarly, transfers can be challenged based on lack of mental capacity. When someone signs a deed, that person must have a minimum knowledge of what they are doing and a capacity to act of their own free will.

Lack of mental capacity can be found in a variety of situations, such as mental deterioration due to age, brain damage caused by illness or accident, mental illness, cognitive disabilities or drug impairment. Notaries are not always able to determine such incapacity, and some people may present as mentally capable for the few minutes it takes to sign a deed. Proving incapacity can be shown with witness testimony or medical records, or both.

Forgery: A forgery occurs when the proper signatory did not actually sign the deed. That means someone else forged the signature on the document and either fooled the notary or arranged for a false notarization. Proving a forgery usually requires a professional handwriting analysis.

When challenging a deed, it's best to have an experienced real estate attorney work with you. The attorney can help determine whether the deed is false and manage any subsequent litigation.

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Appraisals no longer required on certain home sales

Starting in October 2019, some home sales under $400,000 no longer require an appraisal. Previously, appraisals were not required on home sales of $250,000 and below. But federal regulators just approved a rule that will raise the threshold for the first time in 25 years.

Loans that are partially insured by, or eligible for sale to, a government agency such as the FHA, VA, Fannie Mae or Freddie Mac will still require an appraisal, per each agency's rules.

Generally, that means loans affected by this rule are those held in a lender's private portfolio or those sold to secondary market investors via private-label securitization. Regulators say the new rules will apply to approximately 40 percent of home sales.

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FHA reduces cash-out refinancing limits

The Trump administration is limiting the amount of cash borrowers can withdraw from their homes under the Federal Housing Administration (FHA) financing program.


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As of September, the FHA now limits cash-out refinancing to 80 percent of the home value. Previously, borrowers could take out up to 85 percent of their property's equity. The new FHA rule brings the limits in line with standards already in place at Fannie Mae and Freddie Mac.

Veterans Administration (VA) loans also face new cash-out limits. After Nov. 1, 2019, cash-out refinances with loan-to-value ratios exceeding 90 percent will no longer be eligible for Ginnie Mae's flagship securities. While the VA still allows for 100 percent cash-out loans placed in Ginnie Mae's custom pools, the new restrictions will hamper availability.

Refinances and cash-out loans have increased as home prices have risen and mortgage rates have declined. Cash-out refinancing made up 63 percent of all FHA refinancing through September 2018, up 39 percent from the previous year, the Wall Street Journal reported.

According to a letter issued by the U.S. Department of Housing and Urban Development, the agency is looking at past trends as a warning indicator of possible problems ahead. Cash-out refinances increased rapidly as housing prices rose through the mid-2000s. Studies suggest that a significant increase in foreclosures may have been the result of a high number of cash-out refinances completed prior to the collapse of the housing market.

The total number of FHA endorsements with cash-out refinance mortgages has increased from 43,052 in FY 2013, which had the lowest share of cash-out refinances, to 150,883 in FY 2018.