

In Real Estate, Truth Matters, Unlike in Politics and the Legal Profession

I was brought up to respect the truth by always telling the truth and expecting others to tell the truth. Dad drummed this into me, as did the private schools that I attended. My boarding school, Choate, had an honor code (and still does) that requires students to handwrite on every test or paper submitted, "I pledge this paper on my honor," which we knew was shorthand for the following longer statement, "I pledge upon my honor as a gentleman that I have neither given nor received help on this paper."

To this day, it upsets me when someone knowingly lies, and it pains me that some of America's leaders, who serve as role models, have made lying in the face of clear evidence acceptable instead of condemned, as it should be.

So, I'm glad that I ended up in the real estate profession, where truth is important and is still honored. The National Association of Realtors, to which we agents are required to belong if we join any major and most minor brokerages, has a Code of Ethics to which we swear allegiance upon induction as members. In the preamble to the Code, the word "integrity" appears twice, including in this paragraph:

"The term REALTOR® has come to connote competency, fairness, and high integrity resulting from adherence to a lofty ideal of moral conduct in business relations. No inducement of profit and no instruction from clients ever can justify departure from this ideal."

The Code of Ethics even commands Realtors to take action when they find another Realtor violating the Code. I myself have filed (and won) an ethics complaint against

another Realtor who advertised that he was selling "4 homes every week," violating the article which says members shall not misrepresent their level of success. That agent was ordered to stop making that claim in his advertising.

With the bidding wars of recent years, buyer clients have understandably wondered whether other agents were telling the truth when claiming multiple above-listing-price offers on a listing.

I am pleased to tell them, and to state here, that I don't recall ever being lied to by another Realtor, although I do worry on occasion when the agent on the other side of a transaction is a non-Realtor. Agents who are not NAR members don't have a code of ethics to which they subscribe, which is why NAR advertising has often urged consumers to "make sure your agent is a Realtor."

State laws regarding real estate do impose requirements of an ethical nature that aren't imposed on other professions such as car sales. When you buy a used car (or anything else), it's usually without any disclosure of past or current defects, but state law, like the Realtor Code of Ethics, requires that sellers of existing homes disclose all known past or current defects, and we can be disciplined even to the extent of losing our real estate license if we, as listing agents, fail to disclose a defect, past or present, of which we are aware.

Since every *brokerage* is also responsible for the actions of its *agents* (another term for the managing broker is "responsible broker"), every brokerage should instruct its broker associates to refuse

to list any property where the owner is unwilling to fully disclose all problems or defects with the home. I'm happy to report that I have never had a seller who didn't recognize and accept his or her obligation to disclose known defects.

One of the standard forms for every listing is the "Seller's Property Disclosure" (SPD). The document itself is voluntary, but (1) I've never had a seller who refused to complete it, and (2) failure to complete it does not relieve the seller and his/her listing agent of their responsibility to disclose all known defects or problems.

The SPD is very thorough in the questions it asks, but one shortcoming is when it asks about unpermitted renovations. It only asks the seller to disclose renovations done without a permit in the last 12 months. This creates a loophole which can be exploited by an unscrupulous buyer after closing.

Consider the following scenario:

A seller does not disclose a basement that was finished decades earlier because it was done professionally — and the SPD didn't ask about it. A few weeks after closing there's a plumbing leak in the renovation. The buyer hires a lawyer who takes the seller into mediation (required by the contract), where the lawyer asserts that the seller told a neighbor, "There's a plumbing problem, but we'll let the buyer take care of it." The lawyer had requested separate rooms for the mediation, so there is no way to confront the buyer or lawyer on what the seller knows is a totally bogus assertion. The seller would have to reject mediation and go to trial, at great expense, to make the buyer produce the false claim from a neighbor. So the seller agrees to settle for a 5-figure amount, plus his already high legal fees.

To me, this is legal bullying, but such tactics are sadly a tool that some lawyers are willing to utilize.

Just Listed: Golden Gate Canyon Home on 12 Acres



This spectacular 4-bedroom, 3-bath mountain retreat is located just 5 miles or 10 minutes from Downtown Golden and is perched upon an 11.83-acre lot! The address is **26202 Golden Gate Canyon Road**. As you walk through the front door you will be impressed with the vaulted ceilings, open floor plan, stone fireplaces, gourmet kitchen, modern lighting and amazing views through every window. Enjoy the spacious master suite, complete with gas fireplace, and the living room which is currently a study and trophy room. The gourmet kitchen features a 6-burner gas stove, granite countertops and 12-foot ceilings. The finished basement, with 10-foot ceilings, is a great place to watch a movie in surround sound or walk out to enjoy the expansive views after fixing your bike in the workshop. Exterior features include a shooting range (could also be a pasture for horses), a 10,000-gallon cistern, multiple outbuildings and an old building site with two wells (not permitted). Visit www.FoothillsHome.info for more information and pictures. *Just listed by Kristi Brunel, 303-525-2520.*

REAL ESTATE TODAY



By JIM SMITH, Realtor®

Buffalo Bill Days This Weekend

As we've done for over a decade, Golden Real Estate is a sponsor of this annual multi-day event, and we'll have an entry in this Saturday's parade in Downtown Golden. The parade begins at 10, but is preceded by a pancake breakfast at the Golden Fire Department on 10th Street and followed by many other activities. See www.BuffaloBillDays.com for a complete list of those activities, and come play in Golden with us this weekend!



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