

Regulatory Trends

Zillow offers “coming soon” listings — but they could pose legal problems

Listing site Zillow recently launched “coming soon” inventory, a feature that lets home shoppers search for homes not on the market but expected to be listed for sale within 30 days.

The National Association of Realtors immediately jumped on the practice as problematic. If a coming-soon listing turns into something akin to a pocket listing, it's possible the home might not be fully marketed to the broadest swath of buyers.

Agents who use such listing tactics would be wise to fully disclose the potential downsides, NAR says.

Zillow, for its part, says coming soon listings are simply a nod to the reality of today's market. With inventories tight and bidding wars common in hot markets, buyers need any edge they can get.

“In competitive markets, where inventory moves quickly and bidding wars are common, access to coming soon inventory gives home buyers an important leg up,” Zillow said in announcing the feature. “Buyers interested in a coming soon property are able to line up their agent and get pre-approved in order to

move quickly to place an offer once the home is listed for sale.”

Zillow argues that its site at www.Zillow.com/ComingSoon is simply a way to build buzz for a desirable listing.

But NAR notes that agents who aren't cautious about coming-soon listings can run afoul of state laws, MLS policies, or the Realtor code of ethics. What's more, an unsatisfied seller could allege in a lawsuit that a broker breached his duties if the broker didn't seek the highest possible price, or if the seller didn't understand that a marketing strategy might not bring the highest price.

NAR says the logic is simple: Just as restricting the marketing of a seller's property to only small networks or private clubs narrows the number of buyers, so might a coming-soon listing limit a property's exposure.

“It's important that sellers understand the implications of various ways of marketing the property so that they can knowingly determine the choice that best serves their interests,” says NAR General Counsel Katie Johnson. “If a broker determines that ‘com-

This article was reprinted from the August 2014 issue of *Real Estate Broker's Insider*.

Interested readers may subscribe to the monthly newsletter by visiting www.BrokersInsider.com or phoning (973) 265-2300.

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ing soon' advertising is in the client's best interest and confirms that the client understands the possible consequences, then it is imperative for the broker to know the real estate license laws and regulations of their state to ensure that such advertising is in compliance."

In South Carolina, advertising a property as "coming soon" before entering into a listing agreement with the seller violates state license law, NAR says.

The group clearly worries that coming-soon listings might not reflect well on the industry.

"Realtors must remember to promote and protect the interest of the clients, present a true picture in their advertising, marketing, and other representations, and make property available to other brokers for showing to prospective purchasers when it is in the best interest of the seller," Johnson says. REB

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