

Is a Secret Sale the Best Way to Sell Your House?

Off-market deals, in which a house is never listed publicly, are the preferred method for many ultra-high-end or privacy-conscious sellers to go to market, but they may be leaving lots of cash on the table



ILLUSTRATION: DAVE KLUG

By Robyn A. Friedman

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There are many ways to sell a home. Most owners follow the traditional route and list their home using the local multiple listing service to market it publicly. But some people are choosing to do private, or off-market, transactions.

Private transactions arise in several different scenarios. In tight markets, where the inventory of available homes for sale is low, intrepid real-estate agents may try to

drum up business through mail or phone solicitations or even by knocking on doors to advise homeowners, who may not be thinking of selling, that they have buyers for their home. Many times, when owners hear how much their home is worth, they jump at the chance to sell privately.

Celebrities, high-net-worth individuals or anyone who craves privacy might also be tempted to engage in an off-market transaction to prevent photos of their home from appearing on a public listing site.

But just because you *can* engage in an off-market transaction to sell your home, should you?

“The chances of getting a bidding war when you’re not fully exposing a home to an international market are much lower,” said Danny Hertzberg, a real-estate agent with The Jills Zeder Group at Coldwell Banker Realty in Miami Beach. “Top dollar is most often achieved in the open market. When a property sells without being fully exposed to the marketplace, there’s always a question mark as to whether you actually got top dollar.”

Other real-estate agents agree that sellers often leave money on the table when they sell privately.

About six months ago, Carl Gambino, an agent with Compass in Beverly Hills, approached the developer of a home under construction in Encino, Calif., on behalf of a buyer interested in purchasing it. He was able to put the house under contract for \$5 million. It could sell now for \$6.75 million, he said. “The developer locked it up, but the market is changing every week,” he said. “So, for sellers I don’t see a benefit at this moment unless it’s done for privacy or for an ultra-high-end home.”

Of course, agents benefit as well when their clients use the multiple listing service. The higher the sales price, the greater the commission, so it is understandable why many agents would be negative on private sales.

But private sales can benefit sellers as well. If only one agent is involved in the transaction, the seller may pay a reduced commission. “I don’t want to gouge anyone,” said Jeff Kahn, a broker-associate with Re/Max Premier Realty in The Villages, Fla. While working with a buyer recently, trying to find him a home in the tight market, Mr. Kahn approached the owner of a home that wasn’t on the market to see if he could show the house with the understanding that the homeowner would pay Mr. Kahn a 4% commission if his buyer decided to purchase the home, worth approximately \$650,000. The seller hadn’t previously considered selling the house, but the price offered enticed him to change his mind, as did the reduced commission. The deal went to contract but ultimately fell through.

Mr. Kahn said he has even been involved in off-market transactions where the buyer paid the commission, saving the seller tens of thousands of dollars or more.

SHARE YOUR THOUGHTS

Would you ever consider selling your home in an off-market transaction? Tell us why, or why not, below.

Margery N. Weinstein, a real-estate attorney with Ganfer Shore Leeds & Zauderer in New York City who has worked on a number of private transactions—which she said often occur among friends or neighbors—said there is “expediency and efficiency” built into a private transaction and that sellers can avoid having strangers traipse through their home. She recently closed a private deal where the buyers didn’t even want to do a walk-through before closing because they were confident the sellers, personal friends of theirs, would leave the property in good condition.

Although the National Association of Realtors encourages homeowners to use the MLS to publicly expose their home to the widest number of potential buyers, in certain circumstances, such as when the need for privacy outweighs the need for exposure, NAR rules do allow agents to market a property exclusively within their own listing firm and not distribute information about that property to other brokers

or members of the local MLS, according to Rodney Gansho, NAR's director of engagement.

These so-called office exclusives or pocket listings are allowed as long as a property isn't publicly marketed, including on social media. Under NAR rules, once a listing is publicly marketed outside the original brokerage firm that took the listing, it must be entered into the MLS. Failure to do so would subject an agent to sanctions ranging from additional training to help him or her better understand the rules to financial penalties, Mr. Gansho said.

Here are some things to consider if you're thinking about selling your home in an off-market transaction.

- **Get the comps:** Before attempting to sell your home in a private transaction, know its value. "Don't believe the local rumor mill," Mr. Kahn said. "Sellers often hear what their neighbors supposedly sold their house for, and many times that's not accurate." In many jurisdictions, you can check deed or tax records online to see what a house sold for. Some websites even include sales information for other homes in the same subdivision, making it easier to review comparable sales.
- **Confirm your home is private-sale worthy:** Homes that are unique or located in highly desirable neighborhoods or buildings often sell more quickly and easily than others in a private transaction. "If you're in that prime building that everyone wants to get into, and you know that by not putting it out to the greater market you're still going to get top dollar, try it privately first," Ms. Weinstein said.
- **Know if agent loyalty lies elsewhere:** If you work with an agent, ensure he or she has a fiduciary duty to you. Someone who knocks on your door on behalf of a buyer they represent may owe a duty to that client only. So, for example, if you mention to that agent your minimum price to sell the house, that agent can transmit that valuable piece of information to their client. In situations where the buyer and seller negotiate directly and come to terms, an agent may not even be necessary, although it might be helpful for a seller to work

with an agent at that point to complete the necessary paperwork. Mr. Kahn said he has worked with sellers who had already negotiated a contract with the buyer to help them take the deal to closing. For his services, Mr. Kahn charged a sharply reduced commission of 1.5%.

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