


Redfin “Offer Insights”: Concerns Raised Over Online Posting Of Contract Negotiation Details



Controversial New Internet Practice Raises Confidentiality Concerns & Realtor® Scorn

The internet based real estate brokerage company, [Redfin](#), is now arming buyers and sellers with insight into the negotiations that take place when the firm’s clients submit winning — and losing — offers to buy a home. On its heavily trafficked website, the Seattle-based brokerage is now displaying “Offer Insights” detailing intimate details of negotiations surrounding offers that Redfin agents submit on listings. Redfin claims that buyers can opt out of the program, and no addresses are revealed *before* closing. (But, addresses are shown for sold properties).


Here is an example for two properties in Quincy, MA, one where an offer was accepted and one where it was rejected:



Liane Parness - Redfin Agent, helped our client buy a home 3 months ago

Status: We got it!	Days on Market: 120
Offer-to-List Ratio: 93%	Down Payment: Less than 20%
Competing Offers: 1	


11 Gilson Rd
Quincy, MA 02169



\$397,000

“ This is a contingent offer that was very difficult to get the seller to accept. We had to get the buyer's signed Offer, purchase and sale and buyer's pre-approval to the seller. In addition, we had to have the buyer's buyer put down additional funds to their down payment and our buyer had to get a pre-approval from the seller's preferred lender. ”

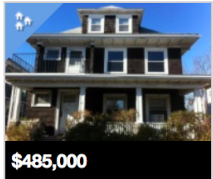
[? Ask Liane a Question About This Offer](#)



Liane Parness - Redfin Agent, competed against 15 offers 2 months ago

Status: Not Accepted (Multiple Offers)	Days on Market: 13
Offer-to-List Ratio: 104%	Down Payment: Over 20%
Competing Offers: 15	

14-16 Beach St
Quincy, MA 02170



\$485,000

“ There were 15 offers on this property - several for cash and above asking. I suggested the buyers waive the inspection contingency to give them a better chance because they were submitting a good offer - \$21,000 above asking and putting 25% down. The property was clearly in need of MUCH work and had been priced accordingly. They declined to waive inspection but agreed to purchase the property "as is". The accepted offer went to a cash buyer who also waived the inspection contingency - which was very important to the sellers. ”

Confidentiality & Ethical Concerns?

From a strategic and marketing perspective, this new idea is certainly creative, as it gives Redfin agents and their potential clients a competitive advantage over other agents and aids in providing transparency in the marketplace. However, posting details about private contractual negotiations raises some thorny legal and ethical concerns, and many non-Redfin agents are crying foul.

Some Realtors assert that the details of offer negotiations are private and confidential, and therefore, cannot be disclosed without the consent of all parties to the transaction. I don't necessarily buy into that. I'm not aware of any legal confidentiality protection given to

private contract negotiations — indeed they are 100% discoverable in litigation. A buyer and seller are in an adversarial position, so there is no special legal relationship between them warranting a duty to keep negotiations private. A seller (and a creative attorney), however, could manufacture a tortious interference claim if a Redfin Offer Insight proves to interfere with a potential deal with another party. That's a lawsuit for another day...

Other Realtors say that the Redfin practice violates Multiple Listing Service rules and the NAR Code of Ethics. Multiple listing services have rules for commenting on sites which contain MLS information. A seller may instruct her listing agent to disallow public comments on listings. A Redfin buyer's agent could be in violation of MLS rules if he leaves remarks about the house or negotiation, according to some non-Redfin agents. It will be up to the particular MLS to enforce its own rules against agents; they have no legal effect per se.

The National Association of Realtors Code of Ethics prohibits Realtors from using confidential information of clients for the Realtor's advantage or the advantage of third parties unless the clients consent after full disclosure. The catch is that "confidential information" is defined as whatever state law says is confidential. As I said earlier, private contract negotiations are not legally confidential in Mass., so I'm doubtful this would apply.

In sum, the Redfin Offer Insight feature may well be legal, but tight-walks through the ethical rules governing MLS's and Realtors. As long as they don't disclose names or property addresses until the deal closes, I think it's ok, and I do appreciate giving buyers as much market information as possible. On the flip side, it may put non-Redfin listing agents at a competitive disadvantage. Maybe that's why they are crying foul?

Agents, what are your thoughts?

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