

What agents need to talk about when they talk about commissions

BY BERNICE ROSS

With Anywhere's deal on the bombshell commission lawsuits, it's time to take a look at the way you communicate with buyer clients, and what to do next

Anywhere's [settlement agreement](#) of \$83.5 million in the so-called "bombshell lawsuits" (Moehrl and Burnett/Sitzer) is a watershed moment that will ultimately force buyer agents to negotiate their commissions directly with the seller and/or their buyer. If you want to be a viable buyer's agent a year from now, you must take immediate steps to make dramatic changes in your buyer value proposition including how you will negotiate your commission.

While the exact details of the [Anywhere settlement](#) have yet to be announced, its impact [will be far-reaching](#). Agents representing buyers purchasing properties listed by Better Homes and Gardens Real Estate, Century 21, Coldwell Banker, Corcoran Group, ERA, or Sotheby's International will all be impacted. Here's what you need to do.

The most important steps you need to take today

In terms of the buyer side of the transaction, top-producing buyer agents typically conduct a detailed buyer interview where they

uncover their buyer's most important needs and wants. On the other hand, virtually no one shows the buyers all the work that is necessary to close a transaction.

Step No. 1: Be prepared to overcome the objection, 'I'll just call the listing agent'

This trend really took off during the pandemic but will be even more common once listing agents no longer offer compensation to buyer's agents. Here are three questions to ask potential buyers to help you overcome this objection.

- Did you know that the average amount of down payment assistance that was granted in the last year was \$17,000? Would you like me to help you see if you qualify for receiving down payment assistance on your next home purchase?
- Did you know that many sellers are still offering to pay the buyer's agent a commission? Would you like me to search for listings where the sellers are offering a buyer agent commission or may be open to covering part of your closing costs or other expenses in exchange for you paying the commission?
- Did you know that if you make 80 percent or less of the median income here in our area, you may qualify for a loan with only 1 percent down and a 2 percent grant from the lender so you can obtain a 97 percent loan? While several lenders are offering these programs, Rocket Mortgage is also offering to pay your private mortgage insurance (this is a federal requirement for loans with less than a 20 percent down). This can save you thousands of dollars over the first few years of your loan. Would you like to see if you can qualify for this program?

Step No. 2: Immediately sign up for a course on how to obtain a buyer commission agreement

- In the future, listing agents may require a signed agency agreement and/or buyer broker commission agreement before they will schedule an appointment for a buyer to see a property. If you haven't been trained on how to do this, check with your broker or local association of Realtors in terms of what they offer.

Step No. 3: Keep track of how much time you spend on various tasks

- Start keeping track of how long it takes you to schedule each showing, how much time you spend driving to the appointments, the amount of time you spend at each property, and how much time it takes to return to the office. Keep track of this in your CRM, with one of the mileage apps, or even in an old-fashioned appointment book.

Step No. 4: Construct a list of what is required to close a transaction

This will be especially important for those buyers who may try to save money by not using a buyer's agent to represent them. It's important to educate them about what you do to close a transaction on their behalf.

Below you'll find a list of items you can include to construct your personal unique value proposition for buyers. Take this list and compare it against all the steps you take to close a buyer transaction in your area. Next, add any state and local disclosure requirements, retrofits, etc. that are required to close a transaction in your area. The idea is that you will provide your buyer with this information when you first start working with them.

CAVEAT: Only use items from this list that are actually part of your process.

My Service Pledge for Representing You on the Purchase of Your Next Home

When we first begin working together

We will do a buyer interview

Before we start looking at property, it's important that I know exactly what matters most to you. This process is called a buyer interview and takes about 20 to 30 minutes where we will go through about 15 to 20 questions about where you want to live, price range, household, pets, motivation, your lifestyle, etc.

Identify the top 5 properties you want to see that best meet your criteria

During the buyer interview, we will determine what your top five criteria are when it comes to [purchasing your next home](#). I will ask you to rank these items when we start your search, although it's common for this list to change as we view various properties.

State law requires that I have you sign an agency agreement and/or buyer broker commission agreement

Information you need to know about me

1. I will always keep all aspects of your transaction confidential
2. I will keep you up to date as new listings come on the market
3. I will return phone calls, emails, and/or text messages promptly on the same day
4. I will provide you with a complete document package including a sample purchase contract and agency forms

5. I will obtain management assistance immediately if a problem develops in any part of the transaction.

6. Securing Financing

Choosing the lender

In most cases, it's smart to go through a [mortgage broker](#) rather than a traditional bank since you will have access to a wider variety of loan programs. Also, it's important to see if you can qualify for down payment assistance or other programs that can cut down on your closing costs. I can refer you to lenders who may offer these services.

Why you should be pre-approved for a mortgage, not just pre-qualified

While many buyers wait until they have a property under contract, the smart move is to fill out a loan application, have the lender run your credit, and then obtain a pre-approval letter rather than a pre-qualification letter. This will save you time and money, especially if there are other offers on the property.

Your down payment does NOT include closing costs

Did you know that your closing costs are usually somewhere in the range of 3 percent and are on top of the commission you pay? In other words, if you are purchasing a \$300,000 house with 10 percent down, the closing costs would be about \$9,000 plus the \$30,000 for the down payment (\$39,000 total).

Property search and showings

MLS searches

Most agents search the [multiple listing service \(MLS\)](#) for properties that fit the buyer's criteria. I also look for additional sources of listings that include looking for off-market properties. For example, owners of

high-end rental properties, second homes, or investor properties may be willing to sell if they receive the right offer.

Network with other agents

When we begin working together, I will reach out to other agents who may know of an unlisted property that the owners may be willing to sell. In that case, we could obtain a one-party listing, where the seller agrees to pay a commission to a broker or agent in the event that they sell to their buyer. That would allow you to see the property and possibly make an offer.

I will provide you with detailed property reports for each property you see

I use a Realtor tool called [RPR](#) (Realtors Property Resource) to create a basic property report for each property we view. If you see a property that is not listed, I can quickly check the RPR app to see details about that property as well. (Put the data together in a PDF and text it to them as you start your appointment so they have it for reference.)

After each showing, I will ask you to rank the properties you have seen in your preferred order

This helps me to gain additional clarity on the additional features and/or needs you may have.

Making the offer

Determine the offer price

I will provide you with a detailed property report and a comprehensive CMA on the property you will be offering on so that you can have the most up-to-date information available prior to writing your offer.

Drafting Purchase Agreement

We will jointly draft the offer together. It's important to be strategic about the offer, especially if there may be multiple offers. We will discuss pros and cons of what you will be offering including the inspections and other contingencies. It's often smart to ask for items you may not actually want or need and to use these as concessions if you receive a counteroffer.

Earnest money deposit (EMD)

I will help you determine the amount of the earnest money deposit you want to include with your offer as well as provide you with instructions about how that money will need to be transferred into the escrow or title company where the transaction is opened.

Submitting the offer

Because of recent changes in how commissions are paid, I will meet with the seller in person or via Zoom to present your offer, review the terms, as well as discuss how the commission will be handled. Most agents will simply email or text your offer to the listing agent.

Negotiating the deal

If the seller makes a [counteroffer](#), it's important to discover their reasons for moving and what is most important to them. For example, if you don't care when you close, but the seller must move in a certain amount of time, you can use that information to get a better price or some other concession.

When your offer is accepted

Monitor the opening of the transaction

In compliance with the purchase contract, I will follow up that the transaction has been properly opened with your local title company or

an attorney. I will also ask whoever is handling the transaction to inform brokers of all activity on the file.

Earnest money is deposited

I will advise you on how to transfer your earnest money deposit to the company/attorney who will be closing the transaction.

Title search

A title company will conduct a search to ensure the property's title is clear. There are two major types of title insurance. The seller typically pays for the title insurance that covers the chain of title. If you are obtaining a loan, you must also purchase what is known as a "lender's title policy" that protects the lender if there is any issue with the title after closing.

Securing homeowner's insurance

Due to all the recent major disasters, it has become increasingly difficult to obtain fire, earthquake, and flood [insurance](#). I can help you locate the companies who are still writing the policies you will need to close the transaction. It's important you begin this process immediately when you place the property under contract.

While the property is under contract

Regular Communication

I will keep you updated when any developments impacting your transaction take place.

Compliance

Where appropriate, I will assist you and the sellers in complying with local ordinances that may require installation of smoke detectors, water conservation devices, asbestos removal, etc.

Handling bumps in the road

Ninety-five (95) percent of all transactions have problems or delays that may cause the transaction to cancel. Over 90 percent of the time,

however, we will work together to get the issues resolved and close the transaction.

Property inspections

When the property goes under contract, I will coordinate with the listing agent for the property to be available for the required inspections and the appraisal.

Negotiating repairs

If issues are found during the inspection, I can help you draft a letter to the seller asking for the repairs you would like to have them handle. In most cases, the smart move is to take a credit and do the work after the transaction closes. That way if there is a problem with the contractor, it's much easier to deal with the contractor directly.

Negotiating other contingencies

No house is perfect and there can be problems with appraisals or a host of other issues. This is where having an agent with strong negotiation skills matters most—you want your deal to close.

Property appraisal

The lender will order an appraisal to ensure the loan amount matches the home's value. I will ask your loan officer to keep all parties involved as to the date and time of the appraisal. I will go to the appraisal and provide the appraisal with the most updated comparable sales that I can access.

Low appraisals

There are a wide variety of ways to deal with this process. The best approach is to make sure the appraiser has the updated comparable sales data on the day of the appraisal.

Coordinating the other professionals in the transaction

This includes escrow, title, mortgage, appraisal, repair people, contractors, attorneys, etc. My role is to help move the transaction to the closing table.

Provide referrals to other professionals

If you need help with contractors or other professionals, I can provide you with a list of people I have used in the past. Services such as Angi and HomeAdvisor.com are often great choices for locating people to do work on your home after you close.

Document handling

As your buyer agent, I will be monitoring whether you have received the seller's property disclosure statement, the agency disclosures, and federal, state, and local disclosures by the dates specified in the contract.

Order a home warranty

This protects you if there are any post-closing problems. If there is an existing home warranty, I will assist in having that policy transferred to you when the property closes.

Preparing to close

Final loan approval

The lender finalizes the loan after all conditions are met. At that point, the lender will draw up the loan documents and send them to your closing officer.

Closing date set

Once the loan is approved and all the contingencies have been met, the closing date, time and location are set. (Outline the process in your state, especially if the buyers are from outside your area where they may have a much different process, i.e., closing with an escrow vs. attending the closing in person with your agent.)

Walk-through inspection

Together we will do a final walk-through of the property to ensure all agreed repairs are complete and the property is in the expected condition. Be sure to take pictures of the property at this inspection. This protects you in case a seller takes something that was agreed to in the transaction or somehow damages the property.

Reviewing settlement statement

You will review the final estimated closing costs statement with your escrow, title officer or attorney for accuracy prior to closing.

Closing process

Coordinate closing logistics

This includes setting appointments for signing loan documents or in-person closing appointments if required, as well as checking in regarding whether the seller will be vacating the property in a timely manner.

Signing the loan documents

If you're obtaining a loan, you must sign all the final mortgage and purchase-related documents. There will be several documents that must be notarized—be sure to have your driver's license or other state-issued ID with you at closing.

Generally, you will go into the escrow or title company office to sign these documents. If this is not possible, the closing agent can arrange to have the documents sent to you and/or provide you with a mobile notary.

Final payment

The closing agent will advise you of the exact amount you will need to transfer. If you are wiring funds, **UNDER NO CIRCUMSTANCES** do you accept wiring instructions from any person other than the closing officer. Always double-check by calling the closing officer to verify the final closing instructions.

Recording of the deed

The title company records the deed(s) and the property is transferred into your name. You will receive your final documents from the escrow/title company.

Receiving the keys

I will remind the seller to bring keys, garage door openers, alarm codes, and any other information you may need to the closing. If necessary, I will personally be available to transfer keys and garage door openers from sellers to you on closing day.

Time to move in

Post-closing check-in: After you close, I will check in with you to make sure there are no post-closing issues. If there are, I'll do my best to help you get these resolved.

Enjoy your new home!

This list provides a general overview of the steps you need to take today to show your value to buyers and earn that buyer-side commission. The time to prepare is now.

***Note:** Bernice Ross is not an attorney, this is not legal advice, and the homebuying process and requirements may vary by state.*

Bernice Ross, president and CEO of [BrokerageUP](https://www.BrokerageUP.com) and [RealEstateCoach.com](https://www.RealEstateCoach.com), is a national speaker, author and trainer with over 1,500 published articles. Learn about her new and experienced agent sales training programs at [BrokerageUP.com](https://www.BrokerageUP.com) plus her latest initiative to help women build wealth and secure their financial independence at [RealEstateWealthForWomen.com](https://www.RealEstateWealthForWomen.com)