

Expose the phantom offers, ease the bidding wars

By Kara Kurylłowicz



Across the GTA, it's been a challenging few years for homebuyers in the face of skyrocketing prices, scarce listings, bidding wars, and buyers' fear of competing with phantom offers.

As of July 1, 2015, homebuyers and their agents will find the offer process more transparent than ever, as Bill 55, the Stronger Protection for Ontario Consumers Act, takes effect. Brokerages acting on behalf of sellers will be required to keep a copy of all written offers and each counter offer/sign-back for at least one year. The winning offer must still be kept for six years. As before, the seller's broker can make buyers' brokers aware only of written offers validated with the buyers' signatures.

The GTA housing market has been so hot for so many years that bidding wars and multiple offers continue to make headlines while the market shows no sign of slowing. After committing months, and in some cases years, to the home hunt and repeatedly losing to the highest bidder, buyers are justifiably frustrated. Understandably, they may wonder how many competitive offers the seller's agent actually received and how competitive they truly were.

"The Ontario government wanted to increase consumer confidence in the bidding process by improving transparency, and that is good for consumers," says Joseph Richer, registrar, the Real Estate Council of Ontario (RECO), responsible for regulating real estate professionals in the province, and administering and enforcing the Real Estate and Business Brokers Act, 2002 on behalf of the Ontario government.

Richer notes, over the past few years there have only been a few complaints to RECO about phantom offers. "The new legislation provides a paper trail that will give

consumers additional confidence that the information they are receiving is correct and provides RECO with additional tools to investigate complaints.”

“This is a good starting point and certainly better than what we had before, because it proves there were valid offers, but to really benefit the homebuyer in a multiple-offer situation, prices and conditions also need to be disclosed at the time of the offer, much like an auction,” says Jamie Johnston, owner, broker of record, Re/Max Condos Plus, Toronto.

The dollar-value of the various bids still remains confidential, but as of July 1, each offer summary must include the buyer’s name/ signature, seller’s name and contact information, the time/date the offer was made, the time/date the offer was received, the date of the presentation of the offer, and more. While the buying agents have never

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seen and still won't see the hard numbers on the offers, they can and do look at the selling prices of comparable neighbourhood homes to accurately determine a range.

“Most of our buyers are educated and knowledgeable – in fact, they know the prices as well or better than the agents, and are clear on what a particular home is worth to their families,” says Sandra Pate, broker, Royal LePage/ Johnston & Daniel Division, who has been representing buyers and sellers in the GTA for 34 years. “Bill 55 sets out hard and fast rules as well as consequences, and as a salesperson, I now know exactly what [documentation] I have to keep and for how long.”

As of July 1, 2015, consumers and real estate professionals who placed an offer on a property can contact RECO to determine how many valid offers (written and signed) were received. RECO will contact the listing brokerage to confirm the number of offers received and may ask for supporting documentation for each offer. RECO will disclose only the number of offers received, but will not offer any details.

What are the consequences for non-compliance? A brokerage that fails to meet the new requirements can be prosecuted under the Provincial Offences Act, and if convicted, could face a maximum fine of \$50,000 and/or a prison term of up to two years. Corporations could face fines of up to \$250,000.