

# Disclose, Disclose, Disclose

## Real Life Scenario #1

Barry Broker had a new listing which was for sale for \$350,000. Shortly after putting it on the market, the first showing occurred. Barry had properly set up his listing on showing time, so he knew he would be getting feedback from at least some of the brokers who schedule showings. Indeed, many of the brokers who showed his listing submitted feedback for him to share with his seller. He knows the seller has been reading the showing feedback because the seller has been making changes to their living based upon it. Or so he thinks.

The property had been on the market for about a month and had received 12-13 showings but no offers, when suddenly, he received a call from his seller client who sounded very excited,

“We just had a great showing,” his seller gushes. ‘The buyers and their broker spent 45 minutes in our home, and they’ve been here once before to see it! They were placing their furniture in our home, and they said it would all fit perfectly. They also remarked that the house looked much larger after we painted the living room walls a lighter color and removed some of the furniture. They’re going to be making an offer!’”

“You won’t be receiving the offer until around 3:30 this afternoon, because the broker needs to have some lunch first, but then she is going right back to the office to write it up. Let us know when you get their offer, and oh, it’s going to come in at \$325,000, but we’re going to counter back at \$350.000. And we’re not going to give the buyer’s any compensation towards the buyer broker’s commission! Tell them we say “no way” to the amount in paragraph 7 of the Purchase Agreement because we know the buyer has the money to pay their broker!”

When the listing broker hears all of this he can't believe his ears, and he asks the seller where they got all of this information. The seller responds that they have been using video and audio recording in their home to listen in and watch all the buyers at the showings, like that HGTV show, and that's why they painted the living room a lighter color and put the really big section sofa in a storage space.

## Questions

1. By law, are sellers required to disclose video and/or audio recordings when their house goes on the market?
2. Should the listing broker have disclosed the video and audio recording to buyer's brokers on the MLS?
3. Are there other steps you would take to make sure recording was disclosed to buyer brokers before showings?
4. If you are the listing broker, when the buyer's broker calls you, are you going to disclose that the seller was recording the broker and the buyers and that they, as well as you, know all about the buyer's ability to pay their broker themselves and that you also know that they are willing to pay the listed price, or are you going to remain silent?