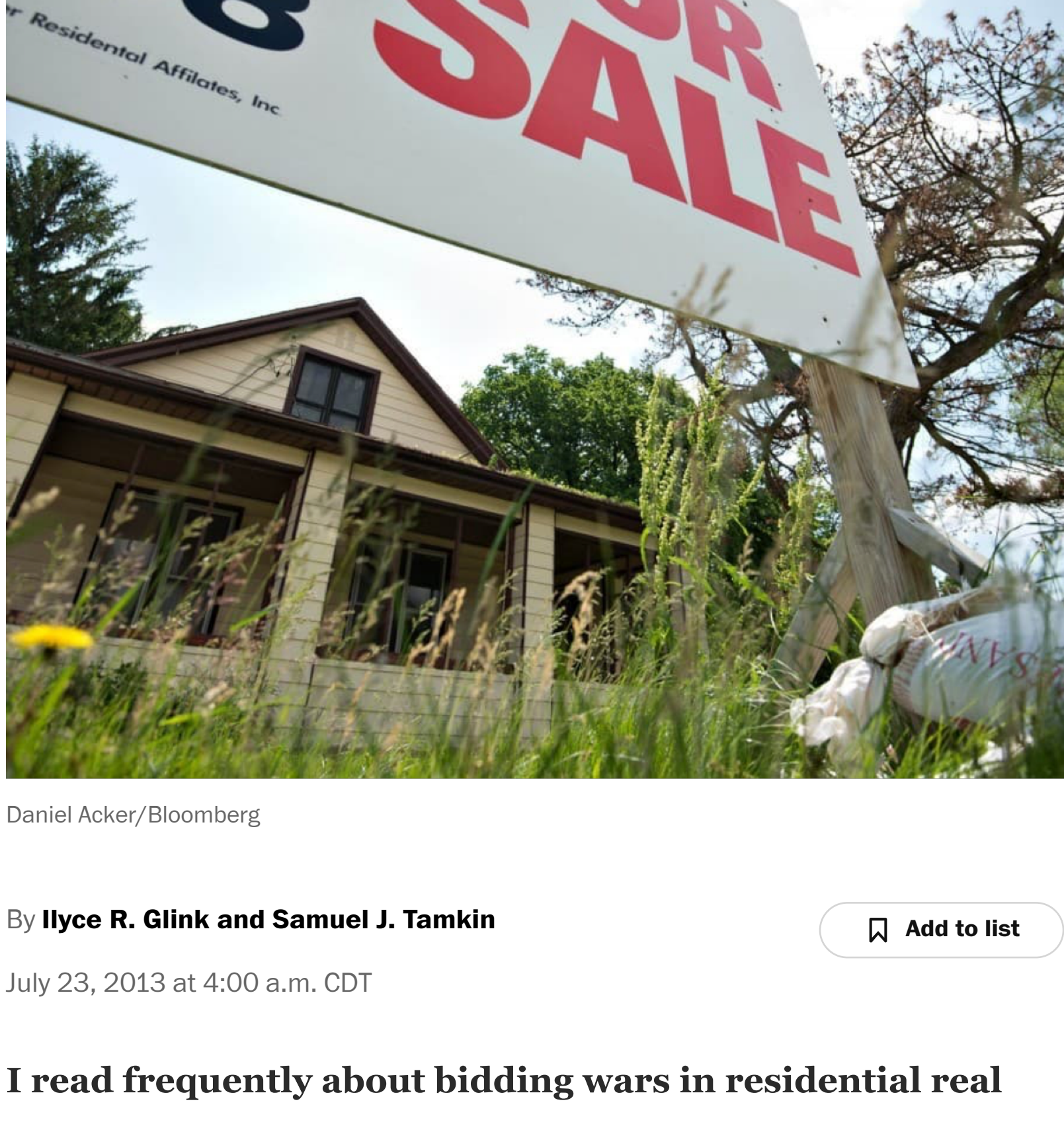


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Where We Live

What’s your agent’s duty to you in a bidding war?



Daniel Acker/Bloomberg

By **Ilyce R. Glink and Samuel J. Tamkin**

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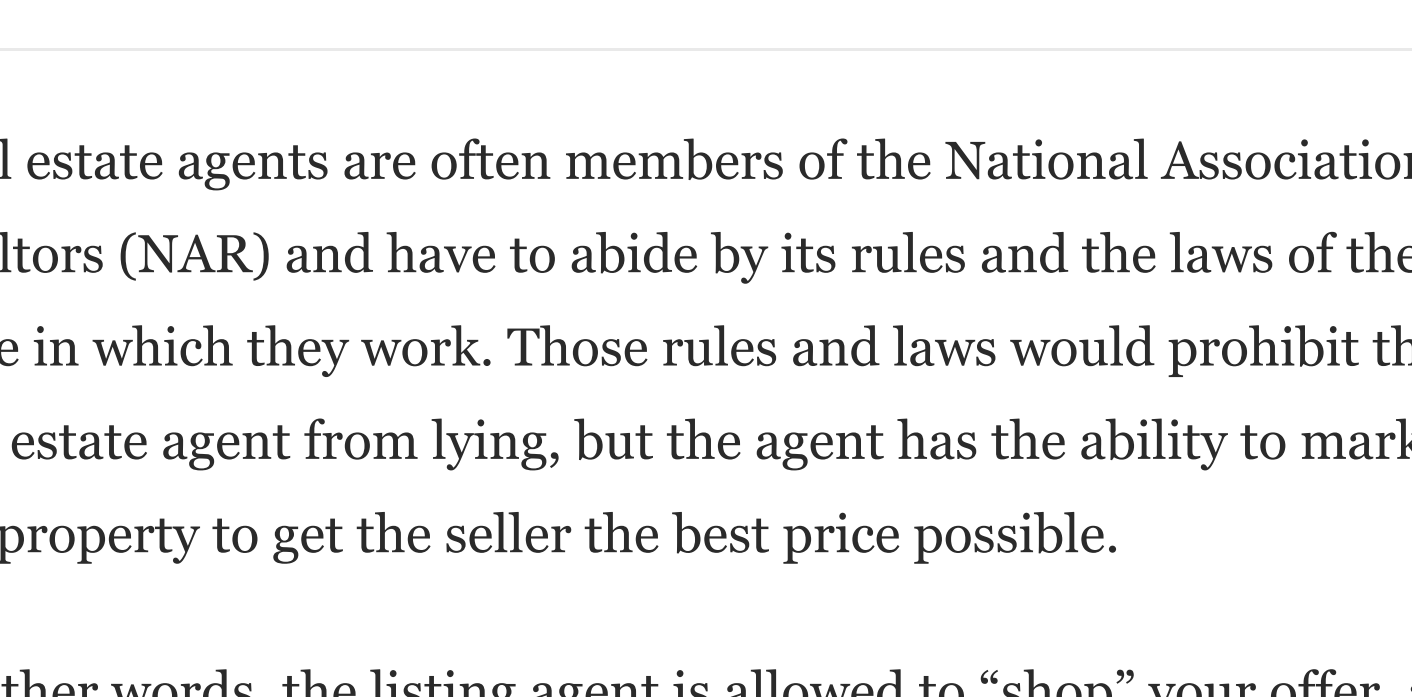
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I read frequently about bidding wars in residential real estate sales. How do I know for sure there are other bidders? Do I get some sort of proof that other offers have come in?

I am a soon-to-be buyer. It seems to me, if the agent lies and can get folks to raise their offer, his or her commission will increase. Isn’t this a conflict of interest?

Let’s start with the issue of bidding wars. Yes, we have heard of bidding wars in some real estate markets. Recently, we read about a bidding war for a very small apartment in New York City. If you live in a market where there are now more buyers than there are homes for sale, you may encounter a multiple-bid situation.

You won’t get proof from a listing broker that there are other offers on the table. Moreover, when it comes to a conflict of interest, the listing broker is there to serve the interests of the seller and get the seller the highest offer for the home. Understanding that the listing agent owes his or her fiduciary to the seller is key to the whole transaction.



Real estate agents are often members of the National Association of Realtors (NAR) and have to abide by its rules and the laws of the state in which they work. Those rules and laws would prohibit the real estate agent from lying, but the agent has the ability to market the property to get the seller the best price possible.

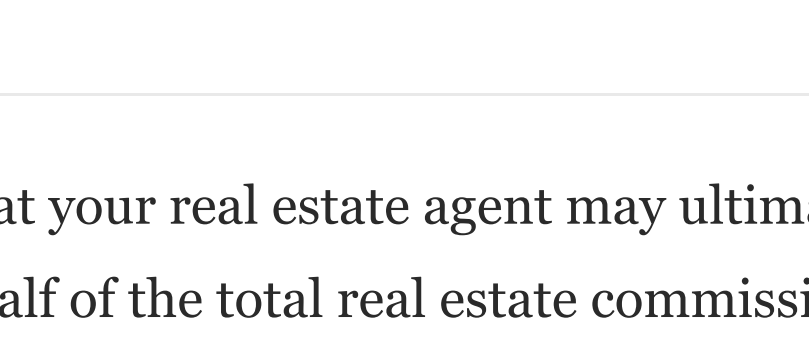
In other words, the listing agent is allowed to “shop” your offer, as it is known in the field. How does that happen? You make an offer, and then the agent calls the other folks who have been looking at the house to alert them that a “good offer” has come in and they should come forward with their best offer. And, yes, this sort of behavior might actually start a bidding war.

If we know that bidding wars are possible, the listing agent may not even tell your agent about other offers until they actually come in. In other cases, the listing agent may make your agent aware that other offers are expected. In either case, you will have to decide how you want to deal with that information. You can choose to ignore it, or place your offer and hope the seller considers it.

If the seller has other offers, the listing broker usually will come back to you and ask for your best offer. You might think of it as bidding against yourself — and you are — but the choice is yours as to how you want to participate in the home buying process. If you have time, you can control the process. If the offer isn’t accepted, you can move on to the next property.

However, if you have pressures that require you to purchase soon, your negotiating options may be a bit more limited. If you have children that must attend school in the fall and you’re looking to enroll them before school starts, your search for a home in a specific school district may require you to be more aggressive in bidding for a home.

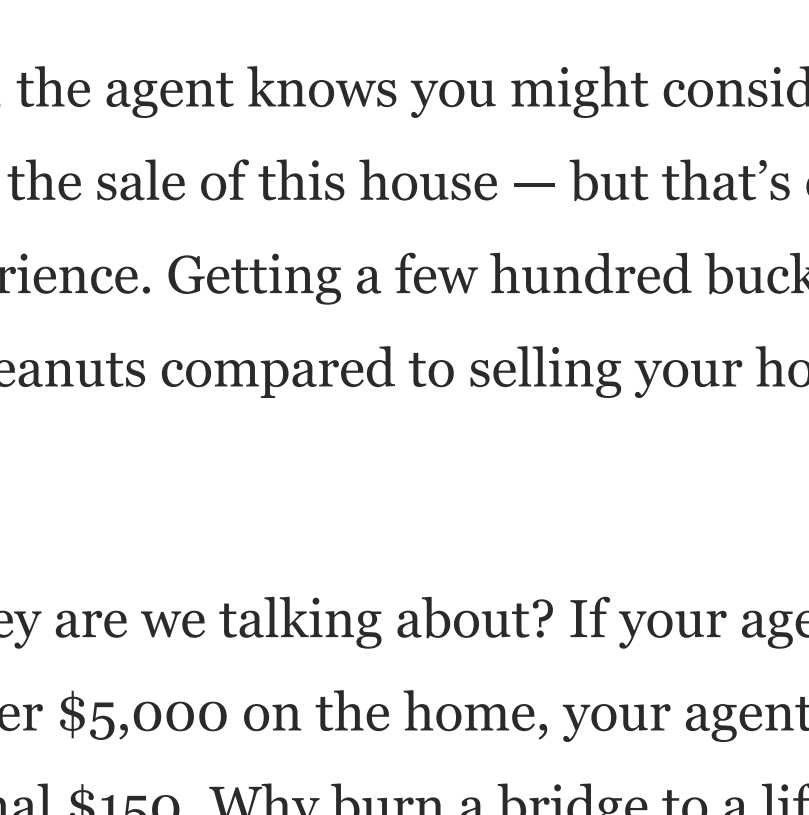
While you may not like the process and may perceive that the parties trying to sell you a home are working against you, the reality is that your agent is working to find you a home, and the listing agent is working to sell a home. If you feel that your agent isn’t working for you, you might need to find a different agent. If the “conflict of interest” issue you raise is with your agent, and at the end of the day you don’t trust your agent, then you need to find someone new to work with.



Keep in mind that your real estate agent may ultimately receive one-quarter to one-half of the total real estate commission paid from your purchase of the home. Part of that commission will also go to his or her brokerage house.

We find that buyers and sellers don’t really understand how commissions work, so here’s an example: If the seller agrees to pay the broker a 6 percent commission on a \$200,000 home, that comes to \$12,000. The brokerage firm your agent works for will typically get half of the commission, or \$6,000. Of that \$6,000, your agent may actually get between \$3,000 and something less than \$6,000. (Your agent usually has to share her half with the company he or she works for.)

While you are right that your agent will get more money if you pay more for the home, that’s small potatoes compared to the future value of your referrals. A top agent knows that the real way to build a business is to have his clients love him and the service he provides so much that they refer all of their friends, colleagues and acquaintances to him.



At the very least, the agent knows you might consider him or her to represent you in the sale of this house — but that’s only if you’ve had a great experience. Getting a few hundred bucks more in commission is peanuts compared to selling your home five or 10 years from now.

How much money are we talking about? If your agent were to get you to bid another \$5,000 on the home, your agent stands to gain at most an additional \$150. Why burn a bridge to a lifetime of referrals for that little cash? Most agents wouldn’t.

The working relationship you have with your agent is of utmost importance, and you must feel that you can trust your agent during your home buying experience. We don’t mean to imply that you should divulge all of your financial information, personal life or life experiences with your agent, but we do mean to tell you that you should have a healthy exchange of information that allows your agent to work for you, allows you to have trust in your agent and allows you to understand the home buying experience better.

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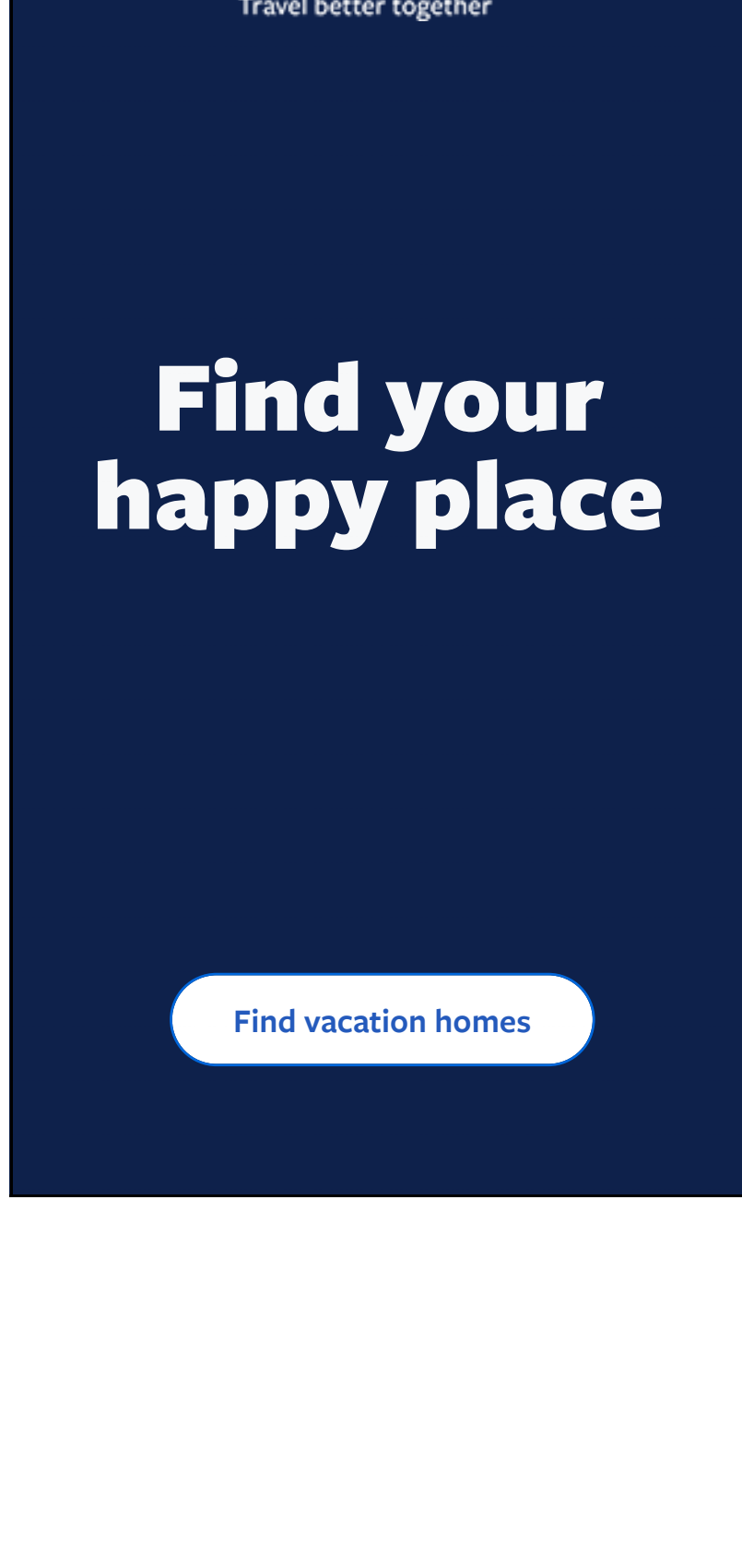
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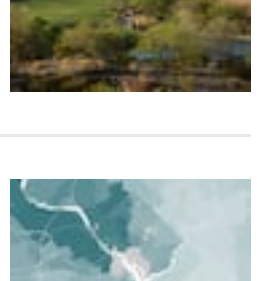


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