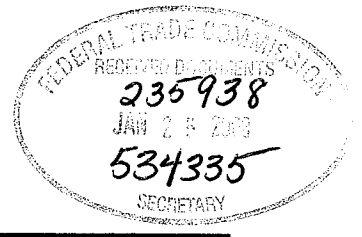


ORIGINAL



PUBLIC

---

**UNITED STATES FEDERAL TRADE COMMISSION**

---

**Docket No. 9320**

*In the Matter of*

*Realcomp II LTD.*

*A CORPORATION*

**Motion of  
THE AMERICAN HOMEOWNERS GRASSROOTS ALLIANCE  
FOR LEAVE TO FILE RESPONDING AMICUS CURIAE BRIEF ON ISSUES OF  
REMEDY**

**In support of the position of complaint counsel as to reversal of the Initial Decision**

Bruce N. Hahn  
President  
American Homeowners Grassroots Alliance  
6776 Little Falls Road  
Arlington, VA 22213  
703-536-7776

January 25, 2008

## Argument

Pursuant to 16 C.F.R. 3.52(j), the American Homeowners Grassroots Alliance (“AHGA”) respectfully moves for an Order granting it leave to file the accompanying *amicus curiae* responding brief on the issue of remedy in support of the position of complaint counsel as to reversal of the Initial Decision, and in support thereof states as follows:

### Interest of Amicus

The American Homeowners Grassroots Alliance (AHGA) is a grassroots advocacy organization serving the nation’s homeowners. Established in 2000, the Alliance addresses issues that have, or would have, a significant economic impact on the over 70 million U.S. homeowners. AHGA advocates on issues before the federal and state executive, legislative and judicial branches, and participates in the policy formulation process of other consumer advocacy organizations that AHGA belongs to, such as the Consumer Federation of America. One of the areas of AHGA’s policy interest is the body of laws and regulations, including federal and state laws and voluntary industry regulations that affect the process of selling and buying homes.

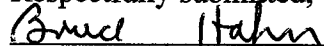
AHGA’s brief presents an independent homeowner’s perspective of the process of buying and selling homes in the Internet era that should help the Commission in fashioning a remedy. It is respectfully submitted that the AHGA’s independent status and concern for the vitality of competition in real estate services can provide a useful perspective for determining the appropriate remedy to be ordered in this case.

AHGA believes that this issue is particularly pressing given the current economic situation. Millions of homeowners owe more than their home is worth because of the subprime mortgage crisis. Many of them do not have sufficient savings to both make up the difference and pay the traditional 5-6% commission to a full service real estate broker. To the extent that this ruling limits the ability of home sellers to use discount real estate brokers, it will increase foreclosures, drive down real estate values, and increase the likelihood of a recession.

### Conclusion

BASED ON THE FOREGOING, the AHGA respectfully requests an Order for leave to file the accompanying *amicus curiae* brief on the issue of remedy in support of the position of complaint counsel as to reversal of the Initial Decision. A proposed Order is attached.

Respectfully submitted,



Bruce Hahn

President

American Homeowners Grassroots Alliance  
6776 Little Falls Road  
Arlington, Virginia 22213

**UNITED STATES OF AMERICA  
BEFORE THE FEDERAL TRADE COMMISSION**

\_\_\_\_\_  
In the matter of                    )  
  )  
Realcomp II, LTD.                    )  
\_\_\_\_\_)

Docket No. 9320  
  
Public Record

**ORDER**

Upon consideration of the Motion of the American Homeowners Grassroots Alliance for Leave to Brief *Amicus Curiae* in support of the position of complaint counsel as to reversal of the Initial Decision, the Commission finds that the proposed brief amicus curiae may assist in the determination of the matters presented by this appeal.

Accordingly, IT IS ORDERED that the American Homeowners Grassroots Alliance is hereby granted leave to file the proposed amicus curiae brief.

By the Commission

\_\_\_\_\_

**PUBLIC**

---

**UNITED STATES FEDERAL TRADE COMMISSION**

\_\_\_\_\_  
**Docket No. 9320**  
\_\_\_\_\_

*In the Matter of*  
  
*Realcomp II LTD.*

---

***AMICUS CURIAE BRIEF OF***  
**THE AMERICAN HOMEOWNERS GRASSROOTS ALLIANCE**  
**In support of the position of complaint counsel as to reversal of the Initial Decision**

Bruce N. Hahn  
President  
American Homeowners Grassroots Alliance  
6776 Little Falls Road  
Arlington, VA 22213  
703-536-7776

January 25, 2008

## TABLE OF CONTENTS

INTEREST OF <i>AMICUS CURIAE</i> .....	5
STATEMENT OF THE CASE.....	5
I THE NATURE OF BUYING AND SELLING HOMES IN THE INTERNET ERA.....	5
A Brokerage Sectors have all been dramatically changed by Internet Commerce.....	6
B The real estate brokerage sector is deriving great efficiencies and savings from Internet Commerce.....	6
1 Real estate consumers are now doing much of the transactional work online. ....	6
2 MLSs have evolved into important business to consumer organizations through their feeds to public websites.....	7
3 Unlike other brokerage sectors the substantial savings and efficiencies of Internet commerce aren't being passed on to real estate consumers.....	7
4 Government agency and consumer organization websites are increasingly assuming the education function, saving real estate brokers and agents time and money.....	7
5 The many public websites of MLS member brokers and agents have become the main buyers source of homes for sale.....	8
C Many home buyers today are in financial trouble and can't afford a full commission..	9
D Today 80%+ of home buyers search for homes online and the engagement and relevance of real estate agents to the process continues to diminish.....	9
E Home sellers want their listings exposed on public websites to all buyers; home buyers want to see all appropriate listings on public websites (duh).....	11
F History of Exclusive Right to Sell (ERTS), and Exclusive Agency (EA) listings and free riding in pre and post Internet era.....	11
G Real estate brokers and agents frequently receive unearned commissions from reverse free riding, but are rarely injured by free riding according to the data.....	12

H The EA boycott will require all home sellers to give brokers and agents the opportunity for reverse free rides and will undermine their incentive to try to sell our homes.....13

I The high cost of traditional commissions makes home sellers even more inclined to use discount brokers..... 14

J Realcomp EA boycott is protectionist and denies consumers the benefits of Internet commerce.....14

**II THE IMPACT OF THE INITIAL FINDING ON AMERICAN HOMEOWNERS AND RESIDENTIAL REAL ESTATE COMMERCE.....14**

A An affirmation of the Initial Decision would create a government-sanctioned group boycott of new Internet-centric real estate brokerage models by Realcomp..... 14

B The effectiveness of that boycott will only increase over time as Realcomp continues to absorb competing local MLS's. The precedent set by this case will spread nationally, leading to the eventual end of EA listings in real estate. ....15

C How the boycott will prevent many home buyers from finding homes for sale that best suit their needs while denying many home sellers the higher prices and reduced selling costs they might have achieved through EA/discount broker listings..... 15

D Why the national public websites are less important than the many MLS-supplied local public websites of local agents and brokers.....16

**III DEFICIENCIES IN THE FINDINGS IN THIS CASE**

A. There is no harm whatsoever to Realcomp or its members (except their discount/EA members).....16

B The evidence on record demonstrates obvious and manifestly anticompetitive effects and actionable consumer harm..... 17

C Initial Decision reflects the misleading and inaccurate information about how consumers do real estate searches and the extent of consumer injury provided the ALJ by Realcomp.....17

D The EA boycott would injure home buyers who don't know that they are prevented from seeing all the homes that meet their search criteria.....17

E Rule of reason leads to the conclusion that there are obvious anticompetitive effects and actionable consumer harm .....17

F There is strong evidence of anticompetitive barriers.....18

G Realcomp members get most of the free rides and their free riding argument is bogus.....	18
H Realcomp has the tools to prevent free riding.....	19
I The logical business purpose of boycott is to reduce competitive pressures on commission rates, eliminate discount brokers, and assure that Realcomp members always have the potential for a reverse free ride.....	19
I ALJ's rule of reason conclusions re minimal public exposure limitations caused by Realcomp are flawed. ....	20
J Realcomp arguments re competitive/consumer benefits of ERTS listings are flawed.....	21
K Realcomp subsidy arguments do not a justify "standard" commission.....	21
L Realcomp policy conflicts with article 1 of National Association of Realtors code of ethics and other NAR policies.....	21
M Realcomp EA policy ignores NAR code of ethics and agents' and brokers fiduciary duties, and disrespects real estate consumers.....	21
N There is no data to suggest that Realcomp members are denied fees or commissions for representing either buyers or sellers.....	21
O Multiple Listing Services have evolved into business-to-consumer intermediaries with substantial market power.....	22
P MLS's are discriminating directly against their member's clients.....	23
Q \$300,000 investment in this case by NAR suggests that the case will be used to justify EA listing boycotts by MLSs across the country.....	23
R Other national real estate trade associations join consumer organizations and FTC in opposing Realcomp EA policy.....	23
IV PROPOSED FORM OF ORDER.....	24
V CONCLUSION.....	24
VI CERTIFICATE OF SERVICE.....	25

## **Interest of Amicus Curiae**

The American Homeowners Grassroots Alliance (AHGA) is a consumer advocacy organization serving the nation's homeowners. Established in 2000, the Alliance addresses issues that have, or would have, a significant economic impact on the over 70 million U.S. homeowners. AHGA advocates on issues before the federal and state executive, legislative and judicial branches, and participates in the policy formulation process of other consumer advocacy organizations that AHGA belongs to, such as the Consumer Federation of America. One of the areas of AHGA's policy interest is the body of laws and regulations, including federal and state laws and voluntary industry regulations that affect the process of selling and buying homes.

### **STATEMENT OF THE CASE**

This case is about whether a Detroit-area multiple listing service (MLS), Realcomp II, is illegally restricting competition by failing to share information about a category of properties with public real estate web sites of its 14,000 member brokers and agents and through its own public web site. Public web sites are used in home searches by over 80% of home buyers today. Prospective home sellers also often search local public websites in order to get a sense of pricing of homes for sale in their neighborhood and to identify brokers with significant market presence in that neighborhood that they might consider as their listing broker. At issue is whether the Initial Decision contained errors in assessing the record and in analysis by the administrative law judge.

The Realcomp and six related FTC investigations have focused on MLS restrictions that discriminate against a long established form of listing agreement known as exclusive agency (EA), under which a seller is not obligated to pay a commission to a broker in the sale of a property if the seller finds a buyer without the assistance of the broker. Under the alternative type of listing agreement, Exclusive Right to Sell (ERTSs), a commission is owed in all cases if the house is sold, even if the real estate broker and/or agent had nothing to do with the sale. Efforts of real estate organizations to prohibit EA listings prior to the Internet era were found to be in violation of the nation's antitrust laws. EA listing agreements are most frequently used by and favored by companies that offer alternatives to traditional full-service real estate brokerage business models. Among these new "discount" business models are flat-fee, limited-service, low-cost and/or unbundled real estate services.

### **I. THE NATURE OF BUYING AND SELLING HOMES IN THE INTERNET ERA**

Homeowners and other consumers have benefited greatly from the emergence of Internet commerce, and its influence continues to grow rapidly. Despite a flat season of holiday sales overall, Internet sales were up 20% in the 2007 holiday season over the same period last year. One of the areas most transformed by Internet commerce is the brokerage industry. Many brokerage companies in sectors have embraced the changes in the marketplace caused by Internet commerce. In the course of adapting to Internet commerce, other brokerage sectors have achieved great cost savings and have also found it necessary to alter their business models to succeed the new Internet economy. In real estate brokerage, changes that improve the efficiency of brokerage businesses have also been embraced, but market driven modifications to traditional



business models that should or could result in any of those savings from being passed on to consumers have been thwarted and/or undermined in many instances by a variety of protectionist tools.

In addition to real estate, other brokerage sectors where a consumer's decision factors are very complex and financially significant have been substantially altered by Internet commerce. Investments in securities, like the purchase of a home, have a very significant impact on the economic future of consumers, and the factors involved in evaluating stocks, mutual funds, and other investments are extremely complex. This explains why financial services professional certifications/designations require many hours of study and high minimum educational background qualifications. These standards are much higher than real estate license standards, which require as little as 30 hours of classroom study and only a GED (high school equivalency degree) in some states.

Despite the complexities and the unquestioned and substantial value of the advice and counsel of financial service professionals, discount Internet-based stock brokers quickly drove substantial costs out of securities trades. Much of the information only financial service professionals could provide until several decades ago is available free today on the Internet, as is the case in real estate as well. Today a consumer can trade securities of virtually unlimited size over the Internet for as little as \$10 in a brokerage sector where the standard selling commission had previously been 1%. Because there was little market restriction on Internet commerce in the securities brokerage sector, nimble Internet stockbrokers quickly garnered 30% of the market before many of the large, traditional securities brokerages decided that it was better to join them than fight them. Today, many of the nation's largest stockbrokers provide their clients the choice of full service, full commission trading and discounted Internet trading, and as a result large full service stockbrokers have regained much of the business lost to the pure discounters. Despite the many similarities of the two sectors, none of the major real estate companies has as of yet adopted the type of business models that are at issue in this case as an alternative for their clients. If these alternative business models are successful, as Realcomp argues, why aren't their large members making them available to their clients, along with full service alternatives?

In the real estate brokerage sector, Internet commerce is saving real estate brokers and agents large amounts of time and money. By voluntarily permitting MLS members to share much of the content of the actual MLS listings on their own public websites and the public websites of other MLS member brokers and agents, the MLS dramatically increases the dissemination of those listings in this age of Internet commerce, and accordingly benefits buyers and sellers as well as MLS members. Because of the ease of Internet searches and plethora of local public websites with information and pictures of homes for sale, far fewer home buyers today trudge to real estate broker offices in order to wait while an agent prints out a list of all the complete MLS listings from the MLS database, which is accessible only through real estate agents and brokers. Instead, today's typical home buyer has already done home searches on the public websites of local brokers and agents and completed many of the other steps in the process before the buyer contacts a real estate agent, thanks to all the free information on the Internet.

In the process, MLSs have evolved from a database accessible directly only by MLS members into an important business-to-consumer tool, and the MLS's historic business-to-business function is diminishing rapidly in relevance compared to the public websites in terms of generating home purchase offers. While MLSs may continue to provide useful services to real estate professionals, it is the local public real estate web sites that have become the most powerful sales tool today. Those local web sites get their information on homes for sale from the MLS listings. The diminution in importance of MLS's traditional non public business-to-business functions on real estate transactions is akin to the decline in importance of the buggy whip on transportation as the public moved from horse and carriage to the automobile. Their main relevance is their ability to prevent the buying public from seeing their members' homes listed for sale should they choose to ignore that fiduciary responsibility.

Unlike other brokerage sectors, few of the Internet commerce savings in real estate transactions are being passed on to home buyers and sellers. Large sums of money are involved, yet as AHGA noted in the testimony submitted to the December 25, 2005 Federal Trade Commission (FTC) hearing on competition in real estate services (available at <http://www.americanhomeowners.org/AHGA/DoJ-FTC10-25-05.htm>) real estate commission rates are about 1.5% higher in the U.S. than in other developed countries. The gap between real estate commission rates and those in other countries continues despite a substantial increase in actual U.S. real estate commissions in constant (inflation adjusted) dollars as a result of dramatic home appreciation in the first half of this decade (even after adjusting for inflation and accounting for declines in home values over the last two years). This evidences the miniscule penetration of EA discount real estate brokerage models in the real estate brokerage marketplace as compared to discount models in other brokerage sectors.

Although real estate commission rates have not changed significantly, other aspects of real estate brokerage have changed dramatically as a result of the Internet. Before they first contact a real estate agent, many home sellers and buyers (80%) go online and do much of the work attendant to home purchase and selling that formerly were provided by the real estate agent. For example websites of the American Homeowners Foundation and many other nonprofit education organizations and the websites of the FTC, DoJ, HUD, and many other federal state and local governments provide home sellers objective and independent information about the home purchase and selling process. These web sites help consumers understand all the pros and cons of various business models to sell their home. Much of this information, such as the positive benefits of using discount brokers, exclusive buyer's agents, etc. is not provided on the web sites of traditional real estate brokerage organizations or volunteered by most real estate agents. The consumer and government web sites often include information about policy debates that could affect the options of sellers. For example, the American Homeowners family of websites followed the efforts to pass a Michigan state law that would require home sellers to pay for services that they neither want nor need. The legislation was opposed by the FTC and consumer organizations such as AHGA and the Consumer Federation of America. According to the July 12, 2006 edition of USA Today, "... the (Michigan) association of Realtors has gotten a bill through the state House and a Senate committee and is trying to convince the governor — who threatened to veto it — that the bill would "make sure everyone can compete," says Rob Campau

of the Realtors association.” The similarity between Michigan Association of Realtors and Realcomp is that the leadership both organizations appears to be heavily influenced by large full service real estate brokers, and the association’s proposed state law and Realcomp’s EA rule both hurt consumers and undermine discount brokers.

Home sellers also typically go to the many local public websites of the many recognizable MLS member local brokers and agents in their area in order to get a sense of the selling prices of homes in their neighborhood and a sense of which brokers and/or agents are most dominant in their local market. For this reason presence on each others local public websites is also an important prospecting tool for brokers and part of the process of cooperation that drives the real estate brokerage sector. Real estate brokers and agents have also recognized the critical importance of public websites, which explains why virtually all brokers and a large share of successful real estate agents have them.

Before the Internet a home seller would have to contact a real estate agent to get a sense of home values in their neighborhood, and there was no automated tool that would make it easy for home sellers to identify which brokers/agents were most active in their area. The agent, selected without the benefit of that tool, would spend a substantial amount of time on a potential home seller to convince them to list their home with the agent. Developing a competitive market valuation of the homes value was an arduous task for the agent. Today many home sellers have online access to county or city data on home selling prices in many locales and all have access to a growing number of Internet home valuation web sites that help in that process. The home seller can get an idea of asking prices in his/her neighborhood by going to a public website of a local agent or broker, which helps agents and brokers because it enables home sellers to make decisions to sell their home without any need for time and effort of the real estate agent or broker.

Home sellers save real estate agents and brokers much time and expense in other ways as well. A home seller can easily compose a description of the home and email it to the real estate agent, along with all the other information needed for an MLS listing and their attached digital pictures for the listing. The home seller in such cases provides all of the content for his or her listing, saving the real estate broker and agent much time and effort. The real estate agent can then simply copy-paste the content into the MLS listing which the two intermediaries (the agent/broker and the MLS) then forward the homeowner’s listing directly to the MLS’s powerful array of local public websites, which is where most buyers today go to find homes for sale in areas where they want to purchase a home. In effect, the MLSs, which were solely business-to-business mechanisms prior to the Internet, have today morphed into consumer-to-consumer intermediaries in such circumstances.

Selling prices are very important in today’s depressed market. Many homeowners today don’t have enough equity plus savings to afford the typical 5-6% commission demanded by a full service broker, so they may face foreclosure if they can’t keep up with their payments and can’t find more economical sales tools. Many new discount brokers, like those in the Realcomp case, are willing to reward home sellers who do so much of the work by charging very modest flat fees

for listing the property. Since the real estate market in many areas is slow, virtually all home sellers today offer the same 2.5-3.0% commission to cooperating real estate brokers who bring them a buyer whether they use a discount broker or not. The discount EA brokers who testified in this case stated that almost all of their listings offer cooperating commissions in the same 2.5% - 3% range as the typical full service/ERTS listing. However home sellers who use a discount broker can still save quite a bit by paying the discount listing broker only a few hundred dollars instead of the 2.5-3.0% seller's commission typically demanded by full service real estate brokers.

Real estate agents and brokers are also saving a great amount of time and money on the buyer side as a result of Internet commerce. Before the Internet a real estate agent would have to spend a lot of time with a buyer to find out if the buyer could afford to buy a home or afford to buy a home in the price range they had in mind. If the home buyer's goals were realistic, the real estate agent would then spend even more time searching the local MLS (at that time a business-to-business tool accessible only to MLS members) and deliver to the buyer the cryptic printouts of all MLS listings in a defined area that met the buyer's price, home configuration, and other criteria. The process was very cumbersome and time consuming, and even more so if the prospective buyers lived in a distant location.

Today over 80% of home buyers use the Internet in the home purchase process and the percentage is growing rapidly. According to research by the American Homeowners Foundation, the National Association of Realtors, and other organizations, many of today's buyers go to the Internet first and do much of the work attendant to buying a home that formerly required a real estate agent's assistance before buyers contact a real estate agent for the first time. According to NAR's Profile of Home Buyers and Sellers for 2007, 48 percent of all buyers go online before contacting a real estate agent either to view houses (32 percent) or to find information about the home-buying process (16 percent). The NAR report shows that there has been a steep drop in the number of buyers who found their property with a real estate agent vs. on the Internet. Only 2 percent of the buyers found their property online and 50 percent found their property through a real estate agent in 1997. In 2007, 29 percent of the buyers found their property online and 34 percent found the property through a real estate agent. NAR's report showed that the Internet was more useful than working with agents. The Web was "very useful" for 78 percent of buyers compared to 70 percent who reported agents were very useful according to NAR's report. A 2006 study by the California Association of Realtors revealed that Internet buyers spent an average of 5.8 weeks researching home purchases before contacting a real estate agent. The Internet is supplanting the traditional real estate agent as the point of consumer education, also saving time for real estate brokers and agents. For example, a home buyer will often visit websites of organizations such the American Homeowners Foundation and many other nonprofit education organizations, and the websites of the FTC, DoJ, HUD, and many other federal, state, and local government agencies that all contain free objective and independent information about the home purchase and selling process. Through the myriad of independent websites offering free information on home buying and selling, home buyers who have the time can potentially learn more about the process than most new real estate agents need to pass their state real estate licensing exam. Unfortunately the industry has not always welcomed the consumer education

efforts of government agency websites. Although we are unaware of any information provided by the organization provides consumers on the benefits of discount brokers and many other important issues relevant to real estate transactions, the NAR in its October 17, 2007 OPERATION TIP-OFF PUBLICITY ALERT to its state organizations (*Justice Web site: Few facts, much fiction*) stated that " We can't speculate on why the Department of Justice chose to put up a Web site in an unprecedented attack on an entire industry and favors one business model over all others. Speculating in the media will only give DoJ free publicity for its feeble attempt at fairness.

These educational web sites help home buyers understand other important subjects that they won't see on the websites of traditional real estate organizations or hear from traditional real estate brokers, such as the risks of dual agency (which are one of the greatest sources of consumer lawsuits against real estate brokers and agents) as well as very low compliance with required real estate disclosure laws. NAR's General Counsel Laurie Janik has reacted to declines in compliance with disclosure laws (only 30% at first meeting; 22% not at all), observing that "These statistics say that people are being sloppy. They need to take agency disclosure requirements seriously; it is a critical element of consumer protection. I don't think it is good for practitioners or consumers that the trend line is going down. We aren't going in the right direction -- compliance is worsening." Ms. Janik's views comport with those of former NAR Chief Economist and best-selling author Dr. John Tuccillo, who was quoted in RISMEDIA on June 22, 2007: "With the expansion of the number of Realtors, the level of competence has fallen to its lowest point ever".

Many of these government and consumer organization web sites also explain the pros and cons of various buyers' representation models, such as exclusive buyers' agency, which is not provided on the web sites of traditional real estate brokerage organizations or volunteered by most real estate agents. The web sites often include information about policy debates that could affect the options of buyers. For example, some of them keep track of state laws promoted by traditional full service real estate brokers that prohibit home buyers from receiving real estate commission rebates. Home buyers and sellers also benefit from learning the most frequent causes of legal disputes between homeowners and real estate professionals (In NAR's 2005 Legal Scan of thousands of lawsuits 20% of the thousands of consumer lawsuits related to home sales transactions were related to agency violations - primarily undisclosed dual agency and fiduciary duty violations - and 24% were related to other disclosure violations). All of these educational efforts not only help educate consumers but also save time for real estate agents and brokers as well.

The many local public websites of recognizable local brokers and real estates are essential to home buyers. That is where the home buyers go to look at homes offered for sale, and the hundreds of local public websites get their information from their local MLS. The home buyers go to them to get a feel for pricing of the kinds of homes in the neighborhoods they are interested in. The prospective buyer can then quickly go to any of hundreds of other public web sites where they can use free software tools to calculate how much they can afford in mortgage payments, and compare the interest rates of large numbers of mortgage providers, all in advance of

contacting a real estate agent. If things look good after that exercise, the prospective buyers can compile a list of promising properties and proceed to contact the listing agents or other agents they might want to ask to represent them. As a practical matter, the buyers have no reason to contact any of the sellers, since most are ERTS listings, so there are no savings for sellers to pass on should a buyer contact the seller directly. The status (ERTS vs. EA listings) isn't disclosed on public websites and the home seller's contact points aren't disclosed, so it would be hugely cumbersome and nearly impossible for a buyer to identify and contact the few EA sellers on public websites. In part because of all these time savings, real estate agents today spend much less of their time servicing clients. According to one recent study, many real estate agents spend as much as 90% of their time prospecting for new clients, which does not in any way benefit existing clients.

Most buyers stay in the same area where they currently live (The median moving distance for home buyers is 13 miles according to the National Association of Realtors). Typically a buyer will go online, do a Google search on a term like "homes for sale Mayberry, KY". Then the buyer will scroll down through the thousands of results until he/she sees a recognizable local real estate brokers or agent's website and click on that site. The buyer then determines their search criteria and views the listings that meet those criteria. In many cases a home buyer is able to prequalify themselves financially and narrow their interest to a small number of homes before they first contact the real estate agent. This saves those brokers and agents a substantial amount of time.

Obviously things are not always so easy for real estate agents and brokers. Many home buyers and sellers still do need, and benefit greatly from, the services of a skilled full service real estate agent. This is particularly true for the declining number of older home buyers and sellers who aren't as familiar with Internet commerce as their children and grandchildren. Nonetheless home buyers and sellers are unquestionably assuming more of the efforts and responsibilities in real estate transactions, thanks largely to the benefits of Internet commerce. This trend will only continue in the future. Despite these facts, American homeowners have yet to share the financial savings that are accruing to the real estate service profession as a result of Internet commerce.

One thing that has not changed pre and post Internet are the desires of home buyers and home sellers. With very few exceptions almost ALL home sellers want their listings exposed to as many home buyers as possible. It is reasonable for sellers to expect that their agents/brokers (and organizations that their agents/brokers control, such as Realcomp) will carry out their fiduciary duty to take all reasonable steps to assure that this happens. All home buyers want to see ALL listings, regardless of listing category, that meet their price, home configuration, and other criteria. Those listings include both Exclusive Right to Sell (ERTS) and Exclusive Agency (EA) listings. In an ERTS listing, the home seller is obligated to pay the listing broker the full commission even if the home seller finds the buyer. In an EA listing the home seller is only obligated to pay a commission (or an additional commission in cases where a non-contingent listing fee was prepaid to a flat fee broker) if the listing or cooperating broker or agent find the buyer. Home buyers searching on public websites can't tell the difference because the EA/ERTS

