



CRAVER'S COMMENTS

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**PLEASE SEND US YOUR EMAIL ADDRESS SO WE CAN DELIVER THIS NEWSLETTER VIA EMAIL.

THINGS TO BE PROUD OF

THREE OF MY GRANDCHILDREN HAVE NOW SCORED GOALS IN CAMERON. AUSTIN, MY OLDEST, WAS THE FIRST. HE DID IT DURING A COACH K SUMMER BASKETBALL CAMP. THEN, 11 YEAR OLD JUSTIN AND 8 YEAR OLD NOAH RECEIVED PRIZES FOR SCORING GOALS DURING TIME-OUT CONTESTS RECENTLY AT ONE OF THE DUKE WOMEN'S GAMES. I WONDER HOW THAT EFFECTS THEIR AMATEUR STATUS?

DID YOU KNOW?

A YEAR AGO, RALEIGH/DURHAM WAS NUMBER ONE ON THE LIST OF SMARTEST PLACES. NOW, ACCORDING TO ANOTHER SOURCE, BIZJOURNAL, DURHAM RANKS NUMBER FOUR AND RALEIGH RANKS NUMBER TWELVE. I GUESS WE DID NOT SCORE AS WELL ON OUR TEST THIS YEAR. 22.5% OF DURHAM AREA RESIDENTS HAVE A BACHELOR'S DEGREE AND ANOTHER 21.8% HAVE AN ADVANCED DEGREE. WHO'S SMARTER, YOU ASK? BOULDER, CO. (ONCE DESCRIBED BY ONE OF MY CLIENTS AS EIGHT SQ. MILES SURROUNDED BY REALITY) IS #1, FOLLOWED BY ANN ARBOR, MI. AT #2 AND WASHINGTON, DC. AT #3. THAT #3 RANKING JUST MEANS YOU CANNOT ALWAYS EQUATE BEING SMART WITH HAVING GOOD SENSE.

NEW CONTRACTS TO EFFECT BUYERS AND SELLERS

A five year project of the North Carolina Association of Realtors® and the North Carolina Bar Association has produced a new Offer to Purchase and Contract that will go into effect on January 1, 2011. The new contract will be a "due diligence" style contract, not unlike documents used in commercial real estate for years. There will be advantages to both Buyers and Sellers in the new agreement. The main purpose of the changes is to eliminate problems that have consistently occurred under the existing format.

Changes for Buyers include:

- Buyers will be able to negotiate a due diligence period in which to investigate the property in order to determine whether or not they want to proceed to a closing.
- During this due diligence period, the Buyer will be responsible for determining, but not limited to, the following types of information: loan qualification, inspections, insurance availability, surveys, covenants, zoning, and any other discoveries the Buyer needs to obtain to make an informed decision.
- If a due diligence fee is negotiated and paid to the Seller, the amount is credited to the Buyer at closing.
- Buyer has the right, upon delivering written notice to the Seller prior to the end of the due diligence period, to cancel the contract for any reason whatsoever and have their earnest money returned.

Changes for the Seller include:

- Granting the Buyer a definite time period, the due diligence period, knowing that once the due diligence period has concluded, the Seller can be reasonably assured that the sale will close.
- If the sale does not close, the Seller will be able to retain the earnest money in most cases.
- There is no longer a list of repairs that the Seller must make in order to keep the contract valid. All repairs or alterations are negotiable.
- Seller must be able to produce a clear title at closing. Failure to do so will result in the Seller not only returning the earnest money to the Buyer, but the due diligence fee as well. The Seller will also be liable for all reasonable costs incurred by the Buyer for their due diligence.
- Seller has the right to negotiate and retain a due diligence fee in exchange for granting a due diligence period.

Other key changes include:

- Elimination of the Seller's right to sue the Buyer for breach of contract. Recent court cases have cited the Seller's retention of the earnest money and continued possession of the property as sufficient compensation. This factor most likely will cause an increase in earnest money deposits.
- The marketplace will determine the amount of due diligence fees as well as the length of time the Seller agrees to grant the Buyer for a due diligence period.
- There is a new definition in the contract for Closing. The tradition of meeting at the attorney's office for the closing has been redefined as the Settlement date. Keys are not to be passed at Settlement, nor are proceeds to be dispersed, until the closing process is completed in accordance with a well defined set of guidelines.
- The new Listing Agreement will be personal and direct about the amount a Seller owes on their property and how long they have owned it.

It is the hope of NCAR and the NC Bar Association that these new forms will make the buying and selling process run more smoothly for both parties in future transactions. I am proud to have been part of the contract and forms redesign, having served and chaired the Forms Committee as well as having been on Joint Forms with the NC Bar Assoc. lawyers.

YEAR END REVIEW

For a lot of us, this could be a very short article. The good news is that the Triangle real estate market was among the very best in the nation. The bad news is that the rest of the country had a very bad year, thus setting a low standard. Our third quarter statistics in the Triangle show a year to date gain in sales of 1.1% over last year, but last year was bad. The

remarkable statistic was a year to date gain in the average sale price of 1.7%. Both of these stats were primarily due to the first time home buyer's tax credit affecting the first part of the year. If the powers that be had made this tax credit available to all home buyers for the entire year, we would be seeing the beginning of a recovery. Another interesting statistic is that the normal mix of resale homes versus new homes on the market in our area has been 50-50. Today, new homes only represent about 20% of the inventory. When we do recover, new homes will be in short supply, high demand, and very pricey.

Reuters year end economic review is rather sobering. They expect the economy to be better in 2011, but they do not expect a recovery for three more years. They are predicting that one million homes will be seized by banks next year due to the fact that five million home owners are behind 60 days or more in their mortgage payments. The good news for us is that they named five markets they thought would have a positive year. Along with the Raleigh/Durham area, the other four were Austin, TX, Salt Lake City, Oklahoma City and Omaha. Are the folks in the "Heartland" sending a message to the rest of the country?

Reuters also warned of rising interest rates and inflation on the horizon. If you go back a few Newsletters, you will find that you heard it here first. With today's prices and interest rates, now is still the best time to buy that new home.

MERRY CHRISTMAS

For those of you that think I am not politically correct by wishing you a Merry Christmas, you are right. My family, however, celebrates Christmas, so the very highest wish we can offer you is a Merry Christmas. I also sincerely wish you a Happy Hanukah and Happy Holidays in general. We hope next year will be full of blessings, good health, and success in whatever you attempt.

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